

CITY OF CANAL FULTON

September 7, 2004

REGULAR COUNCIL MEETING

Mayor John Grogan called the September 7, 2004 City Council meeting to order at 7:30 PM in Council Chambers at City Hall.

PLEDGE OF ALLEGIANCE

CALLING OF THE ROLL

Present: Linda Zahirsky, Nellie Cihon, Diane Downing, Victor Colaianni, and Robert Szanto (Mr. Mouse arrived at 7:35 PM.)

OTHERS PRESENT

Marge Loretto, City Manager; Dale Kincaid, Law Director; Chief Mike McNeely, Police Department; Joan Porter, The Repository; Matt Rink, The Independent; Joe Komara, Buckeye Energy Group; Ray Martinez, FirstEnergy; Bret Stephen, Rochelle Rossi (residents).

CORRECTING & ADOPTING THE RECORD OF PROCEEDINGS

Mr. Szanto made a motion to approve the August 17, 2004 City Council meeting minutes; seconded by Mrs. Downing. **Discussion:** Correction noted to last page: Mrs. Downing seconded the motion to hold a Special Council meeting on August 24, 2004 – not Mrs. Cihon. **ROLL CALL: Yes – 4 Abstained – 1 (Mrs. Cihon due to being on vacation.)**

Mr. Szanto made a motion to approve the August 24, 2004 Special City Council meeting minutes; seconded by Mrs. Cihon. **ROLL CALL: Yes – 5**

Mr. Szanto made a motion to approve the August 31, 2004 Special City Council meeting minutes; seconded by Mrs. Cihon. **ROLL CALL: Yes – 4 Abstained 1(Mrs. Downing due to only being there 15 minutes)**

CITIZENS' COMMENTS ON AGENDA MATTERS – None

JOE KOMARA – BUCKEYE ENERGY

Mr. Komara answered questions per Mr. Kincaid's request regarding the Canal Fulton Natural Gas Aggregation Program on how it functions and passed out a notice that everyone in Canal Fulton would be receiving. Mr. Kincaid's issue surrounded verbiage not in the contract that had to do with the two-year signing agreement. Mr. Kincaid asked Mr. Komara about the opt-in agreement. He read Mr. Komara's paper, "This agreement shall be of a term of two years, unless earlier terminated by the mutual written consent of both parties," and he stated there was no provision in the contract for the dissolution of the opt-in agreement if we have an opt-out agreement. He understood that people who opt-in this winter are going to be stranded with this contract and we are going to have two programs going on next year for a period of almost two years. Mr. Komara passed out an explanation for the scenarios. Number one, Canal Fulton and Stark County would enter into a contract with Direct Energy for an opt-in program that begins Nov. 1, 2004. The current residents who are Dominion East Ohio customers can decide to stay with Dominion East Ohio and not opt-in to the City program. Number Two, the current Dominion East Ohio customers can opt-in to the City program with Direct Energy. Number Three, customers being served by an alternate provider may stay with that provider or terminate the contract; however, there maybe an early termination fee and then they can get into the City program also. Next year in 2005, if the voters approve legislation to establish an opt-out program, which means everyone is covered. If it fails, there won't be an opt-out program. However, if it does pass, those in Direct Energies' opt-in program will continue for two years, until the program terminates. That's if the ballot initiative fails; there won't be an opt-out program. Those who enroll right now - if it fails - they'll just go ahead and stay in it. There are no early termination fees. If market conditions change, such that the price is no longer attractive or residents are not saving money, they can elect on their own to cancel the contract with no fees whatsoever, and at that point they would be returned to Dominion East Ohio. The current .mcf fee has not been determined yet.

Mr. Kincaid stated Mr. Komara's verbiage in the sheet that he passed out with the three options was not in the contract and that was his objection to it. He stated the agreement is an agreement between us and Direct Energy and the Memorandum of Understanding that Mr. Komara passed out is from Buckeye Energy Brokers, but that understanding under Number Three - which addressed his concern - was not reflected in the contract. He went on to say the contract says nothing, no amendments or changes to this contract are in effect, unless signed by both parties (it's a normal integration clause), and that's what he's been looking for during the last months. It is not in the contract that the City is proposing to sign with Direct Energy; it's an understanding. Mr. Kincaid asked that the verbiage be put into the current agreement as an addendum at the end before the City signs it. Mr. Komara will get back to the City regarding same. Mr. Mouse asked Mr. Komara to let the City Manager know what the rate will be for Canal Fulton when he finds out tomorrow.

CITY OF CANAL FULTON

September 7, 2004

REPORTS OF ADMINISTRATIVE OFFICERS

Senior Citizens – Mr. Cihon reported on several leaks in the roof at the NW Senior Center (in the main room over the fireplace, a couple spots in the office corner, entranceway leaking resulting in the carpet being pulled up - wheelchairs having a problem coming in and out without the carpeting).

Community Service Coordinator – No Report

Fire Chief - No Report

Police Chief

- Cody Butzer pled guilty to one count of felonious assault in Summit County today; Chief Hill expects our cases with him will be in Massillon; his sentencing will be later this month.
- Pit Bull on the west side of town killing cats; County dog warden presenting information to Massillon prosecutor to file charges against the owner.

Engineer – No Report

Finance Director

Mr. Rodino passed out the July 2004 Monthly Reports. Mrs. Zahirsky made a motion that Council receives the July 2004 Monthly Report; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

Mayor – Mayor Grogan congratulated the Northwest Schools on their Excellent Rating education-wise from the State (Number Three in Stark County)

City Manager

Northwest High School Waterline

The Northwest High School waterline has been completed. Now the school system has to run their lines from the street to the buildings. This project went just like planned.

Cherry Street Sidewalks Project

This project has been started. City employees have removed the flagstone/slabs. The contractor is due in any time.

Backup Generator for West Side Fire/Police Communications Equipment

The generator is up and running. We have to put a new gas line in now.

Milan Street Water and Sewer Line

We had a preconstruction meeting with Wenger Excavating September 2, 2004, and construction should start shortly; estimated completion is 90 days after the actual contract is signed.

Parks – No Report

Law Director

Mr. Kincaid stated we inspect licenses and regulate garbage/refuse trucks and tow trucks. Sue Menefee had contacted Mr. Kincaid with the concern that some of the trash haulers (10 or 12 of them in the City) are and some of them are not getting their licenses, and she felt it unjust. Mr. Kincaid looked at Chapter 741 on Garbage and Refuse Collection, which does three things: inspection, licensing with an insurance certificate, and then general rules about pickup times and noise. Mr. Kincaid suggested “junking” the provisions for inspection and licensing and just going with the general rules about not spilling stuff, don’t make a lot of noise, etc. The Clerk of Council was asked to give a copy of Chapter 741 to Council members in the next Council packet.

Mr. Kincaid stated that Chapter 749 – Tow trucks was a similar thing, and that we just don’t need the City Manager be issuing licenses for tow trucks and examining insurance certificates. The Clerk of Council was asked to give a copy of Chapter 749 to Council members in the next Council packet.

PURCHASE ORDERS & BILLS

P.O. 4057 in the amount of \$6,000 made out to CTI Environmental, Inc. for Amendment #2 to contract for additional engineering services for Phase I of the Canal Fulton Community Park Improvement Project. Mrs. Cihon made a motion to accept P.O. 4057 in the amount of \$6,000 made out to CTI Environmental, Inc.; seconded by Mrs. Zahirsky.

ROLL CALL: Yes – 5 Abstained – 1 (Mr. Mouse)

CITY OF CANAL FULTON

September 7, 2004

P.O. 4058 in the amount of \$4,000 made out to J.D. Striping & Service Inc. for 2004 pavement markings and painting. Mrs. Cihon made a motion to accept P.O. 4058 in the amount of \$4,000 made out to J.D. Striping & Service Inc.; seconded by Mr. Colaianni. **ROLL CALL: Yes - ALL**

BILLS: \$415,305.18 Mrs. Zahirsky made a motion that Council acknowledges receipt of a copy of the bills in the amount of \$415,305.18; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

NEW BUSINESS

Acceptance of Sidewalk – Colonial Hills, Phase 13

Mr. Kincaid stated normally if you accept an allotment that has streets in it, it has to be done by resolution, but there are no streets involved; this is just accepting the sidewalks for maintenance purposes.

Mr. Colaianni made a motion to accept the sidewalk-Colonial Hills, Phase 13; seconded by Mrs. Cihon. **ROLL CALL: Yes - ALL**

OLD BUSINESS

Mr. Mouse thanked Dennis Mayberry stating, "He made it up to our allotment; he hot-patched some of our holes for us. So, let it be duly recorded and noted. Send our thanks along to Dennis. We're all thrilled up there." Mrs. Loretto said he appreciates a "thank you" occasionally.

OTHER BUSINESS - None

CITIZENS COMMENTS (Open Discussion, Five-Minute Rule)

REPORT OF COUNCIL PRESIDENT – No Report; there is no Executive Session, as the agenda noted.

REPORT OF STANDING COMMITTEES – No Report

ADJOURNMENT

Mrs. Cihon made a motion to adjourn; meeting was adjourned.

Patricia A. Schauwecker, Clerk of Council

Mayor John Grogan