

CITY OF CANAL FULTON

July 1, 2003

REGULAR COUNCIL MEETING:

Mayor Shawn Kenney called the July 1, 2003 Council Meeting to order at 7:30 p.m. in City Hall Council Chambers.

PLEDGE OF ALLEGIANCE:

CALLING OF THE ROLL: Present: Nellie Cihon, Bill Dane, Diane Downing, Linda Zahirsky, Robert Szanto, Mike Mouse, Mayor Shawn Kenney.

OTHERS PRESENT: Marge Loretto, City Manager; Debbie Kerr, Finance Director; Dale Kincaid, Law Director; Julie Scheurer, The Independent; Bob Hill, Fire Chief; Doug Schwartz, Canal Fulton Police Officer; Sue Reid, First Energy; Fred Fleming, Park Board; Rochelle Rossi, Dennis Downing, Ray Coffman, Victor Colaianni, Bret Stephan, all residents.

ADOPTING/CORRECTING OF MINUTES:

The Mayor asked for approval of the minutes of the June 17, 2003 regular Council meeting. Mrs. Zahirsky made a motion to approve the minutes of June 17, 2003. Mrs. Cihon seconded the motion.

Discussion: Mrs. Downing stated that on Page 3, Paragraph 6, she had asked the Mayor why CTI was the company doing the survey for water to the schools. She said the Mayor said that they were on the approved State list and the City could choose from that list. She said this was not reflected in the minutes. Mrs. Reiter said she would add that correction to the minutes.

Roll: Yes – 5. Mr. Mouse had not yet arrived.

SPECIAL RECOGNITIONS:

The Mayor stated that he would like to recognize Sherry Reiter, Marge Loretto, Johnson Belford, Bret Stephan, Nellie Cihon, and Cliff Wilson for the fine job they did on putting together the Olde Canal Days Festival.

Mrs. Loretto said they also need to give credit to Dan Loush who walked in off the street and offered his services and turned out to be a tremendous help. She said he and Mr. Stephan did a fantastic job.

Mrs. Reiter said she wanted to add that without Mrs. Loretto's leadership ability and hard work, none of this could have been accomplished so well.

Mr. Szanto made note that Councilman Mouse has arrived.

CITIZENS COMMENTS ON AGENDA MATTERS:

REPORTS OF ADMINISTRATIVE OFFICERS:

Senior Citizens.

No Report.

Community Service Coordinator. No report.

Fire Chief.

Chief Hill stated that he would like to reiterate the Mayor's sentiments regarding Olde Canal Days. He said the fireworks went extremely well.

He went on to state that back in November when the Mayor, President of Council, and he had the joint meetings with the Township, they agreed to bill the City's residents when they had to come into town. He said it was agreed that they would share the money. He said the Mayor bent over backwards for that agreement.

He said that two or three months into this year he had the Finance Director talk with their finance clerk to see if they had started billing. He said they have not. He said now they are six months into the year and they are still not billing.

Mr. Mouse asked Chief Hill if he had talked to Dave Stull. The Chief replied no. Mr. Mouse asked why he has not talked to him. Chief Hill said it is not his place to tell him how to run his business. He said the Mayor and Mr. Szanto made the agreement with the Trustees, not Mr. Stull. The Chief said he does what the Mayor and Council tell him to do and the Trustees

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should be telling Mr. Stull what to do. He said he would never tell another fire chief how to run his business.

The Mayor said he thought the Trustees felt that some additional paper work needed to be done. He said they had really just forgotten about it. He said he will contact the Trustees in writing regarding this matter.

Police Chief.

Officer Schwartz stated that there was no report other than Olde Canal Days went very smoothly.

Engineer/Streets/Public Utilities. No Report.

Director of Finance.

Mrs. Kerr said all Council should have received the finalized audit report from the State Auditor's office. She said the City did well. She said she is taking classes, which will give her a C.M.F.A. certification. She said that stands for Certified Municipal Finance Administrator.

Report of Mayor

The Mayor stated that he would like Council to approve the appointment of Bob Wagner to the Park Board. He said Mr. Wagner is very familiar with the parks and ball fields. Mr. Szanto made a motion to approve the Mayor's appointment of Bob Wagner to the Park Board. Mrs. Cihon seconded the motion. Roll: Yes – ALL.

Mr. Fleming pointed out that Mr. Wagner would be a Northwest School representative and the School Board will have to approve this appointment. The Mayor said he will contact the School Board.

The Mayor said there is a vacancy on the Historic Preservation Commission. Mr. Stephan held the position on the Commission as an owner of an historic home in the district. The Mayor said Mrs. Sandra Hayes, who lives across the street from Mr. Stephan has volunteered to take over his position. She also lives in an historic home in the Historic District.

Mrs. Cihon made a motion to accept the Mayor's appointment of Sandra Hayes to the Historic Preservation Commission. Mr. Dane seconded the motion. Roll: Yes – ALL.

City Manager's Report.

Mrs. Loretto said the new map turned out very well. She said she knows they all have received copies in their boxes. She also said there is a new Massillon Municipal Jail Contract that will need to be signed.

She also said the Public Library's construction will begin sometime in July.

Mr. Szanto said he had a question regarding the Massillon Jail contract. He asked Mr. Kincaid if he has seen it and approved it. Mr. Kincaid said he had just received it and will look it over before anyone signs it. He asked that Council approve it, contingent upon his review.

Mr. Mouse asked what the numbers have been for the last five years for booking fees. Mrs. Kerr said she did not know that off the top of her head. Mr. Mouse asked her to get those figures and give them to Mr. Kincaid.

Parks.

Mr. Fleming stated that the Summer Recreation Program's registration is at 60, with the majority coming from Lawrence Township. Mr. Mouse asked what the breakdown was. Mrs. Reiter said the breakdown was 25 Canal Fulton children, 35 Lawrence Township children.

Mr. Fleming noted that there is still one vacancy on the Park Board that needs to be filled.

Mr. Fleming then stated that he had noted on the agenda that there is another ordinance regarding open space fees. He said there is Ordinance 17-03 on the agenda this evening for its third and final reading regarding open space. He said he had taken the new ordinance and compared the two and went through both and made notations in red. He passed out copies of this document to Council.

He first referred to Section 2 of the new ordinance. He said a line was added that stated that industrial developers shall pay a fee in lieu of land. He said this has been proved in court to be unconstitutional. Mr. Fleming said Streetsboro had a problem with that and was sued. They had to make restitution for all the funds they had collected.

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Mr. Mouse asked if Mr. Fleming had the court case for that. Mr. Fleming said he did not. Mr. Mouse asked him to get it. Mr. Fleming said he would have to refer to Mr. Kincaid on that.

Mr. Mouse stated that he authored the second ordinance. He said the Mayor asked him to write a new one because Mr. Mouse had concerns about the original one. Mr. Mouse said the original ordinance focused on fees and that he has heard the lament in recent years that the City lacks land.

Mr. Fleming said the focus on fees is because the City parks need money. He said they need to buy one big parcel of land. He said he has no problem after that of leaning toward substitution of land instead of fees.

Mr. Fleming then referred to Section 3, which was Section 4 A in the original ordinance. He said the original had a 5% land transfer and the new one has a 20% land transfer.

Mr. Mouse said when he looked at green space, he found the most favorable was the City of Green, which has 25%. He said he knocked it down to 20% for Canal Fulton.

Mr. Fleming said he understands there is a lawsuit in the works with Green regarding this.

Mr. Fleming said in Section 4 of the new ordinance, the Park Board and Planning Commission are completely out of the process. He said it is in the City Charter that the Park Board and Planning Commission have specific responsibilities regarding the recommendation of legislation, etc. to City Council.

Mr. Mouse stated that the original ordinance has the Park Board making the decision between land or fees. Mr. Fleming stated that was not true. The Park Board makes no decisions, they make recommendations. They go through the Planning Commission to see if they agree, and Council has the final word.

Mr. Mouse said, according to the real estate people he has talked to, the cost of an acre of land in Canal Fulton was between \$50,000 – 55,000.00. He said he took the lower number - \$50,000.00 – and divided it by \$200.00, it takes 250 homes to equal one acre of land. He said the original ordinance was very developer friendly. Mr. Mouse also stated the original ordinance was written by Fred Etheridge.

Mr. Fleming said Mr. Etheridge did not write the ordinance by himself. He said the Park Board as a whole put the ordinance together.

Mr. Fleming stated the flat fee of 15% of \$50,000.00 that Mr. Mouse's ordinance proposes in his ordinance would cost the homeowner over \$4,000.00 at that rate.

Mr. Mouse said the homeowners are not responsible for the fee. Mr. Fleming said if the developer is charged over \$4,000.00 for those homes, the developer is going to pass it along to the homeowner.

Mr. Fleming then referred to Section 5 B, which is 3B in the original ordinance. The original has a flat fee of \$200.00. He said there is no flat fee in the new ordinance.

Mr. Szanto stated Mr. Mouse's ordinance would not be levying the fee on the developer; it will come back to the homeowner.

The Mayor stated that they had an appraisal done on Lockhart's property and it was \$20,000.00 an acre, undeveloped. He said maybe a developed acre, with sewer, water and sidewalks may go for \$50,000.00. He said there is no way raw land in Canal Fulton is \$50,000.00 an acre.

Mr. Fleming then went back to Section 2 where it states in the new ordinance that the industrial developer shall pay a fee in lieu of land. He said he had been chairman of industrial development when he lived on the east coast. He said that industrial development is highly competitive. He said if the City hits them with \$7,500.00 an acre, they won't come here.

Mr. Mouse said his ordinance might be able to be modified, but he feels that the original ordinance (17-03) does not work well.

The Mayor said there is a Public Hearing at 8:00 P.M. on Ordinance 26-03 regarding electric aggregation. He asked if there were any members of the public who wish to speak on that ordinance. No one responded.

City Manager, Marge Loretto, did ask when a new house comes in, if it is automatically in the aggregation unless the owner ops out. Mrs. Reid said they are not automatically in. She said First Energy does a periodic enrollment, which would be available to the new homeowner or the new homeowner can call First Energy to enroll.

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Mrs. Reid said Council now needs to come up with the percent division regarding residential and commercial buildings.

Mr. Szanto stated that since many large businesses can negotiate their own contracts with suppliers, he favors giving the largest discount to the residents.

Mrs. Reid said there is a 6% savings for the City automatically. She said then there could be 6% for residents and 4% for business. She said the City could also go 6%, City; 5%, residents; and 5% businesses.

Mrs. Zahirsky made a motion to approve the 6% savings for residents and 4% for businesses. Mrs. Cihon seconded the motion. Roll: Yes – ALL.

Law Director.

Mr. Kincaid stated that zoning ordinances have to originate with the Planning Commission and have to go through a public hearing process and then have to be on file with the Clerk thirty days before the hearing. There also has to be an ad in the newspaper. He stated that, to a limited degree, Council can amend those ordinances by a super majority on the floor. He stated that should Ordinance 17-03 pass, there is no longer a vehicle on the floor to support Ordinance 29-03. He said at that point, it would have to be referred to the Planning Commission.

Discussion: Mr. Mouse suggested tabling 17-03 and he will go to the Park Board to write an amended version of 17-03.

Mr. Szanto said that Council should deal with 17-03 as it is and if Mr. Mouse wishes to go through the process with the Park Board and the Planning Commission and revise it, he should bring another ordinance at a later date.

READING OF ORDINANCES:

THIRD READINGS:

Ordinance 26-03: An Ordinance Authorizing the Adoption of an Electric Power Aggregation Plan of Operation and Governance for the City of Canal Fulton, and Declaring an Emergency.

Mr. Dane made a motion to pass Ordinance 26-03. Mrs. Cihon seconded the motion. Roll: Yes – ALL.

Public Hearing on Ordinances 17-03, 18-03, and 24-03.

No comments were made by the public.

Ordinance 17-03: An Ordinance Establishing Chapter 1114 of the Planning and Zoning Code Requiring the Mandatory Dedication of Land or Fees in Lieu Thereof in Order That the City of Canal Fulton May Meet the Open Space and Recreational Needs of its Citizenry.

Mr. Szanto made a motion to pass Ordinance 17-03. Mr. Dane seconded the motion.

Discussion: Mrs. Downing asked Mr. Kincaid if Mr. Etheridge's roll in authoring this ordinance, since he is a land development director, will that come back to haunt Council. Mr. Kincaid answered no.

Mr. Mouse asked if there was an ethical conflict here. Mr. Kincaid stated he would have to know what roll Mr. Etheridge played in the course of authoring the ordinance.

Mr. Mouse said he will request an ethics opinion from Mr. Kincaid if Ordinance 17-03 passes.

Roll: Yes – 4. Mrs. Downing and Mr. Mouse voted No.

Ordinance 18-03: An Ordinance Amending the Zoning Code of the Canal Fulton Codified Zoning Ordinances, in Order to Create a Light Industrial Zone (L-1) within the City, adding Chapter 1174, Entitled "Light Industrial Zone (L-1)".

Mr. Dane made a motion to approve Ordinance 18-03. Mrs. Downing seconded the motion.

Roll: Yes – ALL.

Ordinance 24-03: An Ordinance Amending Section 1133.03 (a) Relating to the Two-Year Maintenance Period for Private Construction of Streets in New Sub-Divisions.

Mr. Szanto made a motion to pass Ordinance 24-03. Mr. Dane seconded the motion.

Discussion: Mr. Mouse asked Mrs. Loretto what the difference in cost would be. Mrs. Loretto said this has no financial cost to the City.

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Roll: Yes – ALL.

End of Public Hearing.

Mrs. Cihon made a motion to adjourn to Executive Session to discuss Ordinances 27-03 and 28-03. Mr. Mouse seconded the motion. Roll: Yes – ALL.

Mr. Szanto made a motion to reconvene the regular session of the July 1, 2003 Council meeting. Mr. Szanto stated that during the Executive Session discussions were held regarding employee compensation and there will be legislative action taken this evening. Mr. Mouse seconded the motion. Roll: Yes – ALL.

Ordinance 27-03: An Ordinance Establishing New Rates of Pay and Salaries for Employees of Canal Fulton, Effective May 1, 2003, Repealing any Ordinances in Conflict Therewith, and Declaring an Emergency.

Mr. Szanto made a motion to amend Ordinance 27-03 to reflect a change of language from “annual salary” to “biweekly pay”. Mr. Dane seconded the motion. Roll: Yes – 5. Mr. Mouse voted No.

Mr. Szanto made a motion to pass Ordinance 27-03 as amended. Mr. Dane seconded the motion.

Discussion: Mr. Mouse asked Mrs. Kerr what the City's financial situation will be in 2004 and 2005. Mrs. Kerr said she passed out those estimates to Council on April 10, 2003. Mrs. Kerr said her estimated cash balances were based on contracts that were approved.

Mrs. Loretto stated that the General Fund cash balance estimate at the end of this year is \$344,000.00. She said the estimate for the end of 2004 is \$223,000.00 and the end of 2005 is estimated at \$89,000.00. Mrs. Loretto then broke it down by: Streets, \$150,000.00 at the end of this year, \$98,000.00 at the end of 2004, and \$44,000.00 at the end of 2005. Water: \$280,000.00 at the end of this year, \$217,000.00 at the end of 2004, and \$156,000.00 at the end of 2005. Sewer Fund: \$622,000.00 at the end of this year, \$578,000.00 at the end of 2004, and \$530,000.00 at the end of 2005.

Roll: Yes – 4. Mrs. Downing and Mr. Mouse voted No.

Ordinance 28-03: An Ordinance Amending Ordinances 7-02, 14-02 and 14-03 Establishing Rates of Pay for Various Part-Time Positions within the City of Canal Fulton, and Declaring an Emergency.

Mrs. Zahirsky made a motion to amend Ordinance 28-03 concerning the change in Section 1, starting with the Fire Chief at \$6,240.00. Mrs. Cihon seconded the motion. Roll: Yes – 5. Mr. Mouse voted No.

Mrs. Zahirsky made a motion to pass Ordinance 28-03 as amended. Mrs. Cihon seconded the motion. Roll: Yes – 5. Mr. Mouse voted No.

SECOND READINGS:

No Second Readings.

FIRST READINGS:

Ordinance 29-03: An Ordinance Amending Ordinance 14-75 Ordinance 14-75 Requiring the Mandatory Dedication of Land or Fees in Lieu Thereof in Order that the City of Canal Fulton May Meet the Open Space and Recreational Needs of its Citizenry.

Mr. Kincaid said this Ordinance is now out of order and needs to be referred to the Planning Commission.

Mrs. Zahirsky made a motion to refer Ordinance 29-03 to the Planning Commission. Mrs. Cihon seconded the motion. Roll: Yes – ALL.

PURCHASE ORDERS AND BILLS:

Purchase Order #3437 in the amount of \$4,300.00 to Ohio Edison for Centennial Village Street Lighting, Community Development Block Grant Match.

Discussion: Mr. Mouse asked Mrs. Loretto if she had gotten the information he requested regarding what the options were for Community Block Grants. Mrs. Loretto said she was sure she had given him the information.

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Mrs. Cihon made a motion to approve P.O. #3437 in the amount of \$4,300.00 to Ohio Edison. Mr. Dane seconded the motion. Roll: Yes – ALL.

Purchase Order #3446 in the amount of \$39,269.44 to Doheny Supplies for Sewer Camera with Monitor/Recorder, which is an approved budget item.

Mrs. Zahirsky made a motion to approve P.O. #3446 in the amount of \$39,269.44 to Doheny Supplies. Mrs. Cihon seconded the motion.

Mr. Kincaid said he felt this had to be bid out.

Purchase Order #3447 in the amount of \$22,263.92 to Northcoast Construction for emergency repairs to gazebos at Muhlhauser Park, including improvement of materials. This is an approved budget item.

Mr. Kincaid stated he had recommended that Council go forward on this without competitive bidding because of the dangerous situation regarding the gazebos.

Mrs. Cihon made a motion to approve P.O. #3447 in the amount of \$22,263.92 to Northcoast Construction. Mrs. Zahirsky seconded the motion. Roll: Yes – ALL.

Mrs. Cihon made a motion that Council is receiving a copy of the bills in the amount of \$86,363.11. Mr. Dane seconded the motion. Roll: Yes – 5. Mrs. Zahirsky was not present.

NEW BUSINESS:

Mr. Mouse asked Mrs. Loretto if the City's water rates have gone up because he felt his bill was rather high. Mrs. Loretto said no, the rates have not gone up.

OLD BUSINESS:

OTHER BUSINESS:

CITIZENS COMMENTS:

Mr. Colaianni said he had a suggestion regarding open space fees. He said the City of Stow and Boston Heights came to the company he works for to discuss this same issue. He said he agrees that the fees need to be increased in Canal Fulton, but he stated that those cities are basing their charge of the fee on the value of the home. He said they are asking for 2% on the first \$100,000.00, and each \$50,000.00 after that – 1%. He suggested Canal Fulton should use 1% on the first \$100,000.00, and then each \$10,000.00 after that – ½%.

REPORT OF COUNCIL PRESIDENT:

REPORT OF STANDING COMMITTEES:

The regular meeting was adjourned to executive session.

Sharon Reiter, Clerk of Council

Shawn Kenney, Mayor