

JULY 24, 2006

5:00 P.M.

At 5:00 p.m. a **regular meeting** was held by the Sandusky City Commission in the City Building Commission Chambers, 222 Meigs Street, with City Commissioners Brett Fuqua, Dave Waddington, Craig Stahl, Dannie Edmon, Dan Kaman, Dennis Murray and Brian Crandall in attendance; as well as the Charter Officers of City Manager Mike Will, Law Director Don Icsman, Finance Director Ed Widman, and the Clerk of the City Commission B. Joyce Brown. It was an open meeting.

President Kaman asked that Mr. Fuqua offer the **prayer** and requested that everyone remain standing for the **Pledge of Allegiance to the Flag**.

The Clerk called the **roll** with the following Commissioners present: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall.

Mr. Fuqua moved that the **minutes of July 10, 2006** be approved as written and suspense with the formal reading of same. Mr. Murray seconded the motion. Mr. Crandall stated he wouldn't be voting on July 14th, but he would vote on July 19th. The Clerk called the roll and with all Commissioners voting "Aye", the motion carried.

Mr. Fuqua moved that the **minutes of the special meeting of July 14, 2006** be approved as written and suspense with the formal reading. Mr. Murray seconded the motion and with the exception of Mr. Crandall voting "Nay", the motion carried.

Under **Audience Participation on Agenda Items Only**, Mr. Bob Warner, 1011 Third Street, asked if there was anything in the agreement on using local help from the City of Sandusky for the development of that property (Item 7)? Item 10 he had been in the painter's union for over 30 years now and he worked under the terms of an agreement of a contract. He didn't know if we were allowed to change the Charter like that, but if we are, they were making a step in the right direction.

John Ginty, 5055 Providence Drive, said he was happy the City was diversified in these deposits and maybe they can also deposit to our local credit unions. Item #2 what was the total cost and what budget? The next four items were change orders and most were deduct so he was happy to see that. Item #7 he wondered how much City money is going to be involved and what budget? Item #8 in order to develop that building that someone wants to store boats in, they have to have it changed to get the boats into it. Item #9 he asked how much was coming out for this project and where do they stand on the list on the worst streets in town that the study showed? Item #10 it was hard to comment on something you can't see, but he hoped tonight it would not be approved or disapproved until people have an opportunity to look at it. He thinks there's various ways to ensure good management.

PRESENTATION – The Tree Commission members of Ellen Amstutz, Jim Martin and Mike Pisarsky, presented a **\$1,000 check for money raised at the Stars & Stripes Celebration towards the Greenhouse Endowment**.

CURRENT BUSINESS

Mr. Waddington moved to accept all communications this evening. Mr. Fuqua seconded the motion and it was carried.

ITEM#1 – Communication submitted by Edward Widman, Finance Director.

Discussion - Mr. Edmon congratulated the Finance Director on doing such a great job on spreading the City's money out and looking out for our money. President Kaman said he would also point out Mr. Widman and his department got a nice award from Betty Montgomery.

ORDINANCE NO. 06-063 - Authorizing the Finance Director to designate the Charter One Bank, Citizens Banking Company, Fifth Third Bank, Keybank, National City Bank, and U.S. Bank, as depositories of the active and interim deposits of the City of Sandusky, Ohio, for the period commencing August 23, 2006 though August 22, 2011. Moved by Mr. Crandall, seconded by Mr. Waddington to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice with the following response: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. The motion passed.

ITEM#2 – Communication submitted by Jeffrey W. Rosekelly, P.E. Project Engineer.

Discussion - Mr. Waddington said portions of the work near the schools should be completed prior to the beginning of the school year. The project has a completion date of September 30, 2006 and he thanked them for that consideration.

ORDINANCE NO. 06-064 - Enter into a contract with Maple City Concrete, LLC of Norwalk, Ohio, for the 2006 Sidewalk, Curb & Gutter and Approach Project.

Moved by Mr. Crandall, seconded by Mr. Murray to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice with the following response: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. The motion passed.

ITEM#3 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

Discussion – Mr. Waddington said the City worked with the contractors to salvage old equipment and it was \$20,000 savings by actively pursuing salvaging rather than just letting the contractors keep, demo and sell for scrap. That would probably cover #3, #4 and #5 for less expense. Mr. Crandall said for Mr. Ginty these change orders are deductions and he would vote yes on all four. Mr. Edmon said he was glad to see we were getting change order deducts instead of going the other way. Mr. Murray said he would congratulate the Engineering staff on a total \$8 million in contracts that have been brought in for \$7.1 million. Allowances are essential parts of contracting, and Kathy was doing an outstanding job.

ORDINANCE NO. 06-065 - Approve the Second & Final Change Order for the Plumbing Branch of Work being performed by Wilkes and Company of Huron, Ohio, for the Big Island Waterworks Electrical Improvements Project and to deduct the contract amount by \$25,925.00.

Moved by Mr. Edmon, seconded by Mr. Crandall to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. Passed.

ITEM#4 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

ORDINANCE NO. 06-066 - Approve the Ninth & Final Change Order for the General Branch of Work being performed by Mosser Construction, Inc. of Fremont, Ohio, at the Big Island Water Works Electrical Improvements Project and to deduct the contract amount by \$269,159.00.

Moved by Mr. Edmon, seconded by Mr. Crandall to be passed under suspension of rules in full accordance of City Charter Section 14. The Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. Passed.

ITEM#5 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

ORDINANCE NO. 06-067 - Approve the Third & Final Change Order for the HVAC Branch of Work being performed by Marlin White & Sons, Inc. of Fremont, Ohio, for the Big Island Water Works Electrical Improvements Project and to deduct the contract amount by \$80,842.00.

Moved by Mr. Waddington, seconded by Mr. Edmon to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. Passed.

ITEM#6 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

ORDINANCE NO. 06-068 - Approve the Fifth & Final Change Order for the Electrical Branch of Work being performed by All Phase Power and Lighting of Sandusky, Ohio, at the Big Island Water Works Electrical Improvements Project and to deduct the contract amount by \$448,157.00.

Moved by Mr. Edmon, seconded by Mr. Crandall to be passed under suspension of rules in full accordance of City Charter Section 14. The Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. Passed.

ITEM#7 – Communication submitted by Gary Packan, Assistant City Manager, John Lippus, Downtown Development Manager.

Discussion – Mr. Fuqua said there has been no plans of yet on the development as to this property, but he was sure that staff will make every effort to ensure that local workers are used when that time comes.

Mr. Murray said Mr. Ginty's, these funds come from a loan fund that we have available to this purpose and we ultimately would be repaid these funds. And to

address Mr. Warner's, in this case BAND can't take any further action now until they produce a contract agreement from us. That would be the opportune time to work in provisions that address the local workers.

Mr. Crandall said BAND has definitely been a good asset for the City. It was his hope that we would have an on-going working relationship with BAND to help our area neighborhoods in conjunction with the City.

ORDINANCE NO. 06-069 - Approving an Economic Development Agreement with Bay Area Neighborhood Development Corporation, relating to the acquisition and development of property located in the City, ratifying, confirming and approving the expenditure of funds related thereto. Moved by Mr. Murray, seconded by Mr. Fuqua to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. Passed.

ITEM#8 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

Discussion – Mr. Waddington said on the coastal permit lease application form, the Shore Structure Permit Application for professional engineers may not be needed and he was wondering depending on what? Mrs. McKillips said it was actual professional engineer depending upon exactly what work needs to be done there at the shore. The Corp of Engineers is requiring a set of drawings by a professional engineer.

Mr. Murray said his concern about the promise of the railroad to cooperate with us in terms of development of the Bike Path later on. He would like to nail that down at this point. He had no question about the railroad's good faith, but their problem was that people move around within the railroad organization and you never find them again. They could be in another part of the country with different responsibilities. Mr. Will said he would clarify. This transaction has the railroad involved because they were the ones involved in the submerged lands lease about the property, which was in water. We have obtained a letter in this case from the property owner, who says even if you don't get anything by way of a Bike Path through the railroad portion of that property, we will allow your easement to go through our portion of the property to get over to past where the Georgia Pacific property is. So there are two avenues they can take to get through there; one is through the railroad's, what's preferred because it's right on the waterfront; and if that doesn't work, then Mr. Donaldson's client, he has agreed to allow it to go through their property.

Mr. Fuqua asked how much does that take the Bike Path off track if in fact we would have to go around the railroad's property? Mr. Will said eventually it would have to meet up with the railroad property at the end of it anyway. So it brings it right back to the place where you would end up when you get past Georgia Pacific property. So it would move it back away from the water some amount, but there would be no structure built in front of it so you would still have water visibility.

Mr. Murray asked what was his comfort level with the enforceability of the promise that has been made? And normally it was some kind of a lease that could be recorded on some property. Although it takes a long time to accomplish, but a written promise in that form that isn't recorded, he's not sure how terribly enforceable that is. Mr. Icsman said he's not sure who he responded to by e-mail, but they were using a conservation easement for all the properties along that that abuts the Path Way, Gary (Packan) and he have been working on that. And the form has been approved. It if would be altered by the property that you were going to apply it to, so they were using the same form of easement for the same time period because the client he believed was securing some of the money to help with this. So they were going to be using that form and we would present that to them to sign. He was right. He don't believe though, correct him if he was wrong Gary, that we have anyone actually sign one yet. We have not recorded any. Mr. Packan said no, we're waiting for the grant actually to be approved before you do that. Mr. Murray said he didn't want to bog this process down, but if there was a reason to move expeditiously, then by all means. But if we can file the application or the application for the submerged lands lease presently, and then before that becomes effective come back around and nail these couple things down because that would be equally good. If he was comfortable with that, then he would vote in favor of it. Otherwise he would probably move to table it. Mr. Icsman said well he believed the City Manager what he says, but he also shares his (Mr. Murray) concerns with the railroad. He has had experience with the same thing with the railroad in his head and here, and he feels the same way. They had attempted that under wraps because of the overpass, but

now we had the overpass funded so he could tell him he agreed that the railroad could be problematic. But he didn't know what extent that Mike may have and feels comfortable. Mr. Will said it might be helpful also to hear from Mr. Donaldson and he might have another viewpoint that he was not expressing to everybody yet. Everything was pretty slow in dealing with us with the conservation easement to go along that way in the first place, but they have rapidly picked up the pace in working with Mr. Mike Donaldson and his client. So there's flexibility there. He takes a lot of comfort in knowing that it doesn't require to strike a deal with the railroad to get through this part. These are the people that should be able to make sure of that.

Mr. Mike Donaldson, representative of property owners, CMSC, Ltd. He would like to address Mr. Murray's concerns. They were only involving the railroad to the extent they have to be a formal applicant on their submerged lands lease. They have a lease from the railroad for shore portions of the property. There was a dispute between the railroad and State of Ohio as far as how much the railroad actually owns there. The railroad maintains they own 80 feet out into the water. Of course the State of Ohio says otherwise. They actually do believe they have a valid lease with the railroad for this land portion. All they were really seeking here is the water portion, which he don't think in any way would interfere with the pathway. During their first meeting with Mr. Will this became a priority. They understand it and they told him then and they were telling this Commission now, they will do what it takes to get your pathway past them. Now they can't control the railroad. He's only their technical agent for purposes of the submerged lands lease. He does not represent them generally. They represent again the property owners, the old Georgia Pacific property.

President Kaman said he was uncomfortable with the last two letters that also state that they were working on the resolution and they did not believe any portion of the submerged lands lease area will interfere in any way with the extension of the pathway. But they will take at this opportunity to reiterate our top commitment to finding a successful solution if it doesn't. They were stating in their letter that they will work with them if it doesn't work out.

RESOLUTION NO. 036-06R - Adopted pursuant to Section 1506.11 of the Ohio Revised Code finding and determining that based upon the representations and application filed by Norfolk Southern Railroad for property located at 400 Broadway Street, the use and development of the territory so described, a Submerged Lands Lease may be entered into by the State's Director of Natural Resources. Moved by Mr. Crandall, seconded by Mr. Waddington to be passed under suspension of rules in full accordance of City Charter Section 14. Thereupon the Clerk called the roll twice as follows: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. The motion passed.

ITEM#9 – Communication submitted by Kathryn K. McKillips, Director of Engineering Services.

Discussion – Mr. Crandall questioned the project and Mrs. McKillips said this is actually the final project that we started before the University of Toledo survey was done. From this point on, all projects would be following the actual survey list. And hopefully this fall would actually be the final version of the Davis Management Group and at that time he hoped to get it on the website available for the public to see.

RESOLUTION NO. 037-06R - Declaring the Necessity to Proceed with the proposed 2006 Resurfacing Program; approving the specifications and engineer's estimate of cost thereof; and directing the City Manager to advertise for and receive bids. Moved by Mr. Waddington, seconded by Mr. Fuqua to be passed under suspension of rules in full accordance of City Charter Section 14. The Clerk called the roll twice with the following response: Yeas: Fuqua, Waddington, Stahl, Edmon, Kaman, Murray, Crandall, 7. Nays: 0. The motion passed.

ITEM#10 – Contract to be submitted by Commissioner Dennis E. Murray, Jr.

Approving an employment contract with Michael J. Will as City Manager of the City of Sandusky. (Contract to be distributed to Commissioners and Charter Officers before the meeting.)

Mr. Edmon said he would request an executive session on Charter Officers, City Manager, on Item 10. Mr. Crandall seconded the motion. **Discussion** - Mr. Murray said he thought this was an issue that needs to be addressed in a public forum and he would oppose having an executive session on this issue. Mr. Stahl said he would ditto Mr. Murray's comments. Mr. Crandall said he would just like to have a copy of the agreement here. Mr. Murray said the agreement was distributed by e-

mail and it has not changed at all and Mrs. Joyce Brown put a hard copy in their packets. Mr. Crandall said he did receive that, but then he heard there had been changes. Mr. Murray said there have been no further changes.

Mr. Fuqua said with all due respect, he didn't see the necessity of the executive session. This was something that would eventually, once it's either passed or failed according to all other Commissioner's vote, the public was going to find out about it anyway. So any discussions that take place, he feels should be taking place in open forum. Mr. Edmon said in Section 11 of this contract as it was proposed by Mr. Murray, he said that any discussion about the City Manager should be done in executive session. So now he found it kind of ironic that he doesn't want to go into executive session to talk about it. Mr. Murray said for that particular provision deals with any discipline or criticism to deal with that in executive session. And he would know that the Register made a request of the draft of the contract and they did post it on the website. So the public certainly, those members of the public that were interested in this issue, it was on line. Thereupon the Clerk called the roll with the following response: Yeas: Edmon, Crandall, 2. Nays: Fuqua, Waddington, Stahl, Kaman, Murray, 5. **The motion failed to hold an executive session.**

ORDINANCE NO. 06-070 – Approving and authorizing the execution of an Employment Agreement between the City of Sandusky, Ohio, and Michael J. Will, and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the City Charter. Moved by Mr. Fuqua, seconded by Mr. Waddington to be passed under suspension of rules in full accordance of City Charter Section 14. **Discussion** – Mr. Murray, Mr. Fuqua and Mr. Stahl made remarks concerning Mr. Will being an outstanding City Manager.

Mr. Edmon said he had questions on this thing, first of all it says that the City Manager's base compensation was \$97,000. When he was hired in '95 he was told not to get a raise, how did he get up to \$97,000? Mr. Murray said when this contract and this concept were first put out, he e-mailed it to all of his colleagues and he did not receive questions. The questions he did receive he responded to. And he does not think it's appropriate that someone should raise these questions the first time in this forum, you would have to answer them, but... Mr. Edmon interrupted and said Mr. Murray you could have very well have went into executive session. Mr. Murray said it could have been answered before then. The compensation was somewhat presumedly where a previous Commission changed the compensation and increased it to \$97,000. That was not when he was on the Commission. It was his understanding that it's Mr. Will's credibility. Mr. Edmon said being on that previous Commission he never remembered that happening. Mr. Edmon said it kind of sounded funny for Mr. Murray to say that he didn't want our Finance Director or our Law Director taking risks, but our City Manager to take risks. They all three would have to take risk if one of them takes risks, because they were all working on the same thing. Mr. Murray said he thought that was a rhetorical question.

Mr. Edmon said in Section 3 on compensation, it talks about the raises. Now is it going to be an employee yearly evaluation where he gets a raise, plus the evaluation on his job performance and then he gets another raise or were those going to be combined for one raise? Mr. Murray said combined.

Mr. Edmon said he was miffed at the fact that Mr. Will is our best asset that the City of Sandusky has, but we feel the need to give him some kind of compensation if he's not working here any more. And if he is that great of an asset, he was sure he would be able to find a job. And that is not an insult to Mr. Will because he does think that he is a very bright person and he thinks he's very capable. He just don't see where we find the \$50,000 in the City's budget especially when our all-star finance team, who scrubs the numbers regularly that we hear about every meeting, tells us that they're putting up all kinds of flags about our financial condition. Mr. Murray said the \$50,000 would be paid out only, well first of all, over time. And secondly it would only be in the event of the termination without cause and if we didn't have a good reason for firing, we would pay out that compensation. If there were a legitimate reason for terminating the contract early, then we would not have to pay out that compensation. He would trust that Mike would continue to do his job effectively and that won't be an issue. Mr. Edmon said he agreed with that and the Charter already calls for if we terminate someone, that it could be handled that way and we don't have to pay out anybody a severance package if we terminate the way it sits right now with our City Charter. This seems to be an attempt to sidestep the Charter in his opinion. Mr. Murray said it was a very common provision in other

cities with similar Charters and no one was attempting to sidestep the Charter. They checked with our Law Director and outside counsel and this is legitimate. Mr. Edmon said those were all the questions he had for now.

Mr. Crandall said he loved the democratic process and that is that not everybody agrees. He just wanted to go on the record as kind of outlined by, and if he was in error he appreciated it, correct him, a couple of months ago Mr. Murray drafted a letter of reprimand that they all reviewed and finally came to an agreement on. A while later, a motion was made and rejected, to remove a reprimand from the file. And then now they're offering the City Manager a contract, when it's there outlined in the City Charter. He's witnessed first hand the administrative staff be let go at a moment's notice. He recalled three of them being called in on one day being discharged. Two were lucky being hired back in lower paying jobs and now have union protection. Certainly he is a union advocate and he was for job security, but also when he looked at the City Charter, he's just questioning also what he has been able to review. They all lived in the democratic process and the voters a while back voted to not have a strong Mayor form of government. Maybe that's what they need to reconsider, is putting that on the ballot and seeing exactly what the citizens want, to see if they have changed their minds on the strong Mayor form of government. If he didn't like Sandusky, he wouldn't live here and he would have a for sale sign on his house a long time ago. And the people that have responded to him that have wanted things done in his neighborhood, they got it done and that's what he is for. That's what he is all about. He's not about the City Manager or the Finance Director or the Law Director. He's for what are we doing for our people and the number of calls that he receives, a lot of people feel that they are not getting what they deserve. And he would, in all good conscious, he would rather be in charge. He read this agreement, but like he says, he likes the democratic process and everyone has their own opinion on having their say. But he believed from this moment forward, because obviously he told Mr. Murray when he called him last Sunday, he said obviously the votes are already there or nobody would be calling him, but he thinks all the administrative staff should be reexamined for their qualifications. All staff without any contractual agreements, they should look at everyone right across the board. And with that being said, he could ask the question.

Mr. Fuqua said number one this contract in no way, shape, form or fashion goes against the City Charter. And he was sure with the expertise that we have in our legal department, with the expertise that Mr. Murray has drafted this contract in, if it was against the City Charter, we wouldn't be discussing it. Since the Mayor/Ward System was brought up, he does believe that in the last election that we passed concerning that that was resoundingly defeated by our citizens. So obviously they don't want it, and this contract does not constitute a strong Mayor/Ward System. All it does is give our City Manager some stability and some security. He don't see where that's a problem. And staff is as far as he knows, is being reexamined. And if they're not, somebody please let him know because he thinks the last three or four meetings that has been discussed. Mr. Edmon said it was just voted on and they talked about doing an evaluation and they actually voted on it. Mr. Fuqua said exactly and they are being reevaluated. Mr. Edmon said no, they are not. It was voted down. Mr. Fuqua said no, they were not being reevaluated by an outside person or outside entity. They were being evaluated, but it is going to be done in-house. The Clerk called the roll twice with the following response: Yeas: Fuqua, Waddington, Stahl, Kaman, Murray, 5. Nays: Edmon, Crandall, 2. **The Ordinance passed.**

Under the **City Manager's Report**, Mr. Will thanked everyone for their support. He said they should have received information related to the **Milan Road Route 250 Pedestrian Bridge cost information and estimates related to reconstruction and rehab or even demolition costs**. They've also received information built on the amount of pedestrian traffic that used the structure when it was active. That was just one time when they had things counted for how much it was being used. And they also had information on the rationale behind the potential construction of the bridge. At this point he didn't know if they were ready to decide anything with that, but he just wanted to make sure they were not holding this or waiting to take action as soon as they decide which way they want to go with that. They will then take action from there. President Kaman said they would like to bring this stuff back tonight and bring it to resolution.

Mr. Edmon said it said that they took a count to the number of people. First he would like to know how long ago was it when they took those counts? Mrs. McKillips said they took counts in-house, but she can't find documentation to show that. The previous Project Engineer for the City, back in early 1990, took a count in order to determine whether or not it would be appropriate to apply for a Stage II Grant. And by his notes and through his memory, they believed that the count was not high enough in order to apply for that Stage II Grant. But as far as the before and after school target, it was in that time frame a couple of hours in the morning and a couple of hours in the afternoon.

Mr. Edmon asked how long has that bridge been in bad repair? Mrs. McKillips said before 1990. Mr. Edmon said way before 1990. So would it be a good time to count how many people are crossing if it already looked like it was going to fall down? Mrs. McKillips said yep. Mr. Edmon said he wasn't getting on it. Mr. Fuqua said reading the letter, Mr. Peters of the Bus School Garage, stated that one of the reasons that he believes that the pedestrian traffic failed because the advent of the busses now carrying little children from the neighborhoods to the schools. He questioned if that pedestrian bridge is still needed now as it was back in the '70's since they do have transportation to the schools.

Mr. Stahl said he really cared about kids and safety and he did a lot of traveling and drove over a lot of railroad tracks. Did we have any knowledge as to how many pedestrian bridges exist between Cleveland and Toledo? Mrs. McKillips said she did not know that. Mr. Stahl said they could find out how many of these bridges do exist and how do the other communities handle this.

President Kaman said his feelings are with the letter from Mrs. McKillips and Mr. Peters here about the busses, when that was built there was no bus service and now there's two busses. He just feels they need to move on to other things and he personally would like a vote tonight to let it go until a point comes where we either take it down or have to actually finish it. Nobody is telling us from ODOT that we have to repair it or we have to have it open. We know that it is not handicap accessible. **So he would put a motion on the floor that they vote tonight to let this item go until Engineering brings it back and tells us we have to either demolish it or upgrade it.**

Mr. Edmon asked in the last 30 years has anyone been hit by a train over in that area? Someone said yes. Mr. Edmon said one life was worth fixing it.

Mr. Crandall said he would appreciate letting staff work on this. Mr. Fuqua asked did Mr. Stahl put that in the form of a motion? Mr. Stahl said no, but he will. Mr. Murray seconded and with all Commissioners voting "Aye", the motion carried.

Mr. Will said the **Citizens Police Academy** would be at 6:00 p.m. on September 6th applications were in the City Manager's office and at the Police Station. President Kaman asked were there questions of the City Manager?

Mr. Crandall questioned the timeline of the **new Planner being hired**. Mr. Will said they were very close to having that finalized and because it will involve rearranging some jobs that they have, they were going to finalize some job descriptions. Mr. Crandall asked was that all in-house? Mr. Will said there was potential for one piece to not be in-house, but the existing opening of that Planner was not filled anyway. There was a little delay with Mrs. Rudolph's announcement to go to the County.

Under **Old Business**, Mr. Waddington said they could let the public know now that they finished the administrative legislation for the **Taxi Cab ordinance and that would start tomorrow and be in effect tomorrow**. A brief discussion ensued.

Mr. Fuqua said with the actions that were taken tonight, he would like to bring to the floor again in a motion to remove the letter of reprimand from Mike Will's records. Mr. Murray asked could he make a comment. President Kaman said there was a motion on the floor. Mr. Murray said he had a second as soon as he commented. Discussion please, he voted in favor of the last time and wish so again now, except now isn't quite the right time for you to talk. There is a little bit more amongst themselves to figure that out. So he does request and would urge his colleagues to wait until another day to do that, and perhaps consider withdrawing that motion just for today please. Mr. Fuqua said since he asked so nicely. Okay, he would withdraw his motion. Mr. Murray withdraw his second.

Mr. Waddington said after they wrote Congresswoman Kaptur about the City's concerns on **affordable heating** and the number of people on fixed incomes and families slightly below the property levels, she wrote back and sent along an Energy

Assistance Program to with help utilities. He would be holding town hall meetings for anyone interested before winter to help those that are eligible for heating assistance.

Mr. Crandall said the news article and the subsequent phone conversation with Mr. Chris Tulupan, it was upsetting to know the number of shut off notices and the **problems that he has had with tenants concerning the water consumption**. He believed they were about to take a good step forward concerning the process of improving our neighborhoods. Mr. Tulupan has a number of properties. He even inquired of his record as far as housing violations and they were next to zero. If they could come up with a happy medium or a \$500 fee that would be paid by that landlord to put this matter to bed. He knew they've adjusted other water consumptions on other properties. Certainly his isn't small, but he is a small business owner. So he would like to make a motion that we accept a proposal in-kind from Mr. Tulupan. He talked to him and made his frustrations too. So we accept a \$500 payment, waive the other fees, carry on and come up with a firm solid basis through the Law Department and Finance on how we can start shutting people off when they don't pay. Certainly he sympathizes with people in today's economic climate, but also you have people within the business community and if you look at the number of rentals, they were out to make money too. But they were not out to make money too, but they can't keep spending and spending when they're no penalties against the tenant.

Mr. Waddington said he had been tracking this and the Law Department, but they need to figure a way so this doesn't happen again. They can't let something go up to \$1,000 with the water. It was no one's fault. But they should have something built in. He doesn't know what that number is, that should be up to staff where it is shut off. You write a letter out, you have ten days to come down and talk. He looked at tenants and they have rights too and you just can't go out and shut their services off.

Mr. Icsman said he and Ed and he have met about three times in the past week and Mr. Will was involved once. There were two issues; one was on the payment for the past due bill and what should that amount be if anything. That was not an issue that he was told to solve nor would he have the authority to. That was Mr. Will and Mr. Widman's decision much the same as they had a similar situation with Mr. Sortino, only in a different context, but in a commercial setting rather than a landlord/tenant. But with the landlord the only recourse would be to come to the Commission if he wasn't happy with that solution. The other solution was going forward as to the notice provisions that we're going to provide. He did talk to Mr. Tulupan and told him after a meeting together, that we do have maybe some minor changes that he's already talked to Ed and Mike about. And they were comfortable with the notice that goes out to the landlord and the tenant and that they were going to have a certain period of time to do some things in response to the delinquency. And if they don't, we will have to turn it off. And he thought the problems that Mr. Tulupan had was that our people were erroring on the side of protecting the tenant. Maybe they felt as though they didn't feel comfortable when there was someone in there turning off the water, but as they talked about last week the due process. But it doesn't mean you get free water. It just means you get due process. And so he thinks we covered that and we'd be giving sufficient predetermination notice to people now and Kathy's people that go out feel comfortable in turning off the water and there won't be any violations of anybody's rights and hopefully we won't get sued. He thinks they can take care of that and he was going to share that with Mr. Tulupan and Ed and Mike tomorrow. He worked on it over the weekend, but it is done. So he thinks that will solve the staff problems. So there were two problems and the one he did work out and the other one was really what Mr. Crandall he thinks was thinking about as to that amount, if any, should there be any adjustments. The law allows you to, but it doesn't mean you have to. So it was really up to them.

Mr. Widman said that's still the difficult part he guessed, you would need several different dollar amounts because we have customers with volumes all over the place. Obviously, if you would look across the water, they use an awful lot of water. But their threshold for that type of a large user has to be significant. They have a different threshold for a duplex. They have landlords that own rental complexes where there are numerous units there. So he didn't know if there was a way to calculate with a formula, a certain percentage when an account becomes delinquent. He does thank the elimination of the door tag, which was never authorized by ordinance. And maybe Mr. Tulupan was guilty of being overly involved in what he's doing. The newspaper article was accurate in saying he requested on several

occasions for us to turn it off because he was getting the delinquent notice. Then we had to look at our Housing Code. There was a section that said that he has an occupied unit he has to, the service has to remain on. Mr. Icsman said Mr. Widman, he respectfully disagreed with him Ed. It doesn't mean, he knew what he was going to point to because he wrote that Section, that Environmental Health Housing Code. What it means is you get due process. It doesn't mean that you can't turn the water off. He thinks that's a stomach issue that he hopes we can take care of. We just do notice, that does not mean you get free water. It means you get due process before we turn off your water. And that would satisfy your concerns. It would satisfy the landlord's concerns and it satisfies the tenant's concerns. And about the number, he don't think it's a number. He thinks it was a delinquency that triggered this, it's not a number because like Ed said, you cannot have one number that was going to fit. It should be if you were delinquent, this was going to trigger this notice, the final shut off or termination notice and that's going to be it in these situations where the landlords and tenants both get the notice. President Kaman said we have to just make sure we do it and it doesn't fall through the cracks. Mr. Stahl said he was sure he (Mr. Tulupan) was not the only one that disagrees so this body doesn't turn into the Water Court of Appeals. And trust your staff.

Mr. Widman said it was definitely well documented, lots of water that went into the ground, disposed revenue. He don't know how you calculate a fair fee. Mr. Stahl said he just had the feeling that they hire staff to do a job. They do the job correctly under the guidelines that they give them. He knew other people that have water issues and it hadn't worked out the way that they really wanted and they called him and he said their only recourse was to talk to staff. And Mr. Tulupan, he hears his situation, and he said he had sat down with Mr. Will and talked about this? Mr. Tulupan said yes, he had. He sat down and he did fall through the cracks of the system. By Mr. Widman's own admission he said well we do have flaws in the system. He could not turn the water off and he kept the water on until \$1,140.00. Now if he can turn it off his question was, and it's never been answered, if you can turn it off at \$1,140.00, why couldn't you turn it off at \$500.00? That was a fair question to ask and it was never answered to him. They sent him 11 deliveries, this is a shut off notice. He was saying thank God, they were finally going to shut it off. And they never shut the water off. So what he was saying was this. It took the profit of one full year off of this single-family home. It took the positive cash flow of one full year because he didn't make a decision or somebody didn't make a decision.

Mr. Murray said let him make a suggestion. It would be a tenant based-approach. With the computerization that we have, and he didn't know the facts that notices went out and then they weren't acted on, but obviously something else needs to be looked at there. He wondered if they could have a situation that percents could be adjusted, but they could say at 250% of the last year's average monthly billing, the normal billing cycle time. If there is an outstanding balance of 250%, then we would send out a shut off notice. At 300% is an excellent cycle, then it's an automatic shut off and you follow through with the shut off warning. They could tinker with it, but use the percentage based approach based on the last 12 months. Mr. Widman said it was something that they could run through this programmers that they try to do within our own reporting capabilities that we have today. But whether they feel if there was any problem with that because the rental units are not always going to have the same people, but they can try it.

Mr. Edmon said he guessed his question goes back to why can't you put water in the tenant's name, other cities do it, why can't we? Mr. Widman said probably because their ordinances authorizes it, ours currently does not. They've done some research on that. Those that allow it were somewhat reluctant. They're not exactly excited about it, but they have to live with it. Mr. Edmon said it seems to him what we were doing was using the landlords as a way to collect. And he didn't know if that was necessarily the right way to go. Mr. Icsman said there isn't any agreement, except he thinks that in order to start it to work, the Commission is interested in solutions to one of the problems which was the macro of the notice and not shutting it off. He would go back to what he said last meeting, that if you do that, and you can, you are building some more due process rights than right now those rights go to the customer, who is the owner by ordinance. If we change that, the tenant can become customers, those due process rights will attach to the tenants, which will increase the likelihood that you will not get a swift solution. You are going to have to fill in more due process to tell tenant and now the customer contractually, they get a

whole lot more rights to have that water continue to be on than they would now as the user. But not the customer or not, they don't have the contractual relationship so it is going to slow things down he concluded as opposed to speeding them up. A lengthy discussion ensued.

Mr. Waddington said he would like to suggest, he feels like from everything he's heard and dealing with this over a week, he feels like this process in his opinion, he's just one of seven, fell through the cracks. They were caught up between the elimination of this and he would suggest just maybe like a minimum of 25% of the bill. Just for good faith that, he was just going to throw that out, to help out a little bit because he does feel, he was not going to say that we were responsible, but in response. Mr. Widman said he believed Mr. Crandall already made the motion.

Mr. Stahl said he really wanted to know, they talked about working as a group and working with our staff, our jobs as advisory jobs and staff works with the people, clearly defined by our City Charter what we do and we aren't the Water Appeals Board. He asked Mr. Will and Mr. Widman what they felt on this issue? Mr. Widman said at this point from what he's seen from dealing with lots of cases, of course we do not have to recommend any reductions, but they know if you start doing it, floodgates. Mr. Tulupan said and that's the reason he's not doing it. Mr. Widman said and also if you read the ordinance, which Mr. Tulupan has been given a copy, there's no provision in this ordinance to allow the administrative person to make that type of credit. He has to live with the law.

Mr. Will said with what Ed says, there's not a mechanism for us to do that. It's pretty clear that there's an underground storage leak or a leak that's undetectable in some way, shape or form, so that we have the authority or to grant the authority through this body to take care of and handle those issues up to a certain level. It is not clear at all that they have the authority to do that in this particular circumstance. He thinks that it's reasonable that if they've made some sort of mistake along the way that they should be able to take care of that. He's not sure that they have the authority to do that either though. Mr. Stahl said he thinks they have made some sort of mistake Mr. Will and... Mr. Will interrupted and said he don't know, he don't think so. But he wouldn't know. Ed would know.

Mr. Fuqua said he had no problem with discounting Mr. Tulupan's bill if that's what he has decided. If his colleagues decide, he's totally in favor, but they do have to remain cognizant of the fact that this may have a ripple effect like Mr. Widman said and he was just wondering where do they draw the line. He's glad this was brought to the forefront because it may not happen again just because of this issue. But if it does, then the next resident or next business that comes before the Commission that wants a reduction, where do we draw the line and say okay, that's it? We just have to keep that in mind that this may and it could, happen again.

Mr. Stahl said he had an incident very recently. Mr. Widman talked to the very person that was in his family that operates a business and had a leaky toilet. The leaky toilet resulted in a \$500.00 water bill for that month. Right Mr. Widman, what was the decision of the City Water Department, with no influence of Mr. Stahl he may add, what was the decision that was not granted then? Mr. Widman said there was no assistance for toilet leaks. Mr. Stahl said but that was the law. Mr. Tulupan said he was absolutely willing to go along with the law and he was absolutely ready. All he was saying is it's a simple thing. Why at \$1,100.00 and not at \$500.00? That's all. He means the shut off notices were sent. He couldn't go down and shut it off. She said no. You can't shut it off. They're living there. This young lady's been living in the same house for 14 years, paying her bills, paying her bills, the same tenant. She's gotten absorbent bills. Somebody just had to write it down as a leak somewhere. She got behind. Now it got to \$397.00, shut it off. The only one tool that a landlord has with this system is for the tenant to pay and they shut it off. Now you turn it back on. But he would like to know how many single-family homes have they let go to \$1,140.00? He'll bet you there's not many. That's all.

Mr. Edmon said he would like to keep Mr. Icsman in this conversation. It seems we're talking about a point of law and we're asking the non-lawyers now. He's the first person to question the lawyers for anything, but he would like to keep him involved in the conversation and asking other Charter members without his input, he don't think it's the right thing for us to do.

Mr. Crandall said he believed when people went to the polls, they voted for a voice and when something goes wrong, he knows the number of calls that he gets and he knew that Mr. Tulupan was one of them. And he thanks him for bringing that to our

attention because that's something that needs to be cured and now they noticed that there is a flaw in the system that has to be corrected and from this point on, here's the process. Instead of shut off, shut off, shut off, and now that you're doing it early on, forget the red tag. Shut it off. But here we go \$1,100 later and that was the resolution he proposed. So we can stop it now with Mr. Tulupan and correct the system, give him a credit for bringing it to our attention because without him we would have never known. He could have very well went and paid it and said nothing.

President Kaman said so Mr. Widman, Mr. Icsman and Mr. Will, you guys were going to continue to work on this so you can put this to bed and hopefully have a policy and a plan in place? Mr. Icsman said he wanted to say they have. He thinks they are almost to a solution on the issue of notification and satisfactory improvement in how to make sure that this kind of thing doesn't happen. That at some point whatever the number is or however you trigger it, there will be efficient due process built into this notice and then the turn off will happen. And it will, but the number will be at least \$500 or \$300 or whatever it'll be, a certain number will be triggered and this will take care of that. The other thing, he don't think there is anything else that he could do. Like he told Mr. Tulupan, that is not his decision, and Ed and Mike made that decision on the actual amount of \$1,000.

Mr. Fuqua said if he's not mistaken, he believed they currently have a motion on the floor that they never voted on. President Kaman said they were still in discussion. Mr. Stahl asked could he make a suggestion of a meeting before the next City Commission meeting, he, Mr. Widman, Mr. Will, Mr. Icsman and Mr. Tulupan? Mr. Tulupan said that's been happening for the last month. That's fine, but Mr. Widman was a strong-willed person and he feels that he should be following this and that and doing what he should be doing. But nobody will admit to the fact that this single-family home should have gone to \$1,100 before it was shut off. Mr. Murray said he would also suggest that they have one more round of meetings and he agreed with Mr. Crandall and Mr. Waddington, some form of credit is appropriate. It wasn't a mistake in terms of how it was handled, it was a systemic step to take, something is wrong with our system. It's not the fault of any one person. And that's the person who is the next 100 people that come to the Commission and ask for water credit are always told no, but on this particular one for bringing it to us. President Kaman said there was a motion on the floor, **Mr. Crandall's motion was to accept the payment of \$500 and call that complete. It has been seconded, would the Clerk poll the Commission. The Clerk called the roll and with all Commissioners voting "Aye", with the exceptions of Mr. Stahl and Mr. Murray voting "Nay", the motion carried.** Mr. Tulupan said gentlemen the system works. Thank you very, very much.

Mr. Crandall said on Friday he didn't get the message left on his machine. He left a number where he could be reached with the Clerk and she said the Manager said he would take care of that. **In the City Charter specifically says special meetings that they would be notified in writing to that person and if you're not home, it would be left at your door.** He apologized to the citizens for missing that meeting and just for the record he would be opposed.

Under **New Business**, Mr. Waddington said Thursday night at 7:00 p.m. in the Commission Chambers they are holding the **first Pipe Creek Watershed meeting**. And in light of all the recent flooding, this meeting will be open to the public.

Mr. Edmon said the **LPG Community outside Houston teaches our youth how to play golf**, which donated about \$7,000 to our golf course, is having a **fundraiser collecting used cell phones and ink cartridges**. It is a good cause and saves our environment at the same time. He gave the places where they could drop them off.

Mr. Fuqua questioned Assistant Chief Lyons concerning a resident that had **three children in his car that were cornered on another car by a vicious dog** and he was disappointed with the answer that he got from calling the Animal Control Officer. The Assistant Chief gave an explanation.

President Kaman and others wished Margaret Rudolph well in her new job as Personnel Manager for the County and stated that she was an excellent employee.

Mr. Crandall said he had given everyone **information on replacing the camera equipment that broadcasts the Commission meetings**. It was imperative to let citizens know that a couple of things have changed and the quality that comes across their screens wasn't the best quality. And he thought with Mr. Hahn's expertise, it

would behoove them to see how they can purchase new equipment and try to find a way at a later date to fund it. This was for information only. A discussion ensued.

Mr. Crandall said a news media person asked him a question and he told them to look at their packet. He was informed that they don't get it until Friday after 3 o'clock. He believed if his packet was available on Thursday, anybody that would want to come down, they should be able to **pick up their packet** when they were available in the Clerk's office. President Kaman explained that was changed a while ago because they got their packets earlier than what they normally did. And they got them before the press did because often times they would not have their packets read and the press would be asking questions about material and they would be caught off guard. So that was when that was set up. A discussion ensued.

President Kaman said **House Bill 609 was on the floor to support the Ohio Commercial Fishermen**. If it passes, it would ban Ohio commercial fishing in the State of Ohio and there were over 1,000 Ohio jobs at stake. The jobs that once belonged to the United States would be lost to Canada and fish prices would increase. *He would like to make a motion tonight that we have Mr. Icsman draft a letter to our State representatives urging them to vote "no" on House Bill 609. Mr. Crandall seconded the motion and with all Commissioners voting "Aye", with the exception of Mr. Murray "abstaining", the motion carried.*

Under **Audience Participation**, Mr. Tom Yeager, 512 Mills Street, commented on the street sweeper and how it covered its territory; the property at the foot of Mills Street over to the last boat ramp that needed to be cleaned up; and the blinking sign barricades that contractors used. Mrs. McKillips gave explanations.

Mr. Andre Grant, 1900 block of W. Jefferson Street, questioned the future use of the property at the foot of Mills Street and the need to be cleaned up. He stated that Mr. Will was doing a good job and he thought Assistant Chief Lyons would have done a good job, but they let an insider come in for the Police Chief's position.

Mr. Thom Darden, 1402 Wamajo Drive, stated the City and the Commission had a call for unification because there was a tremendous amount of work to be done.

Mr. David Prophet, 508 Taylor Street, thanked everyone for supporting the Junior Golf Program and their fall community center raised \$7,000 in 2005 and \$10,000 in 2006 for passes for the kids to play on the golf course.

Mr. Barry Riddle, 1338 Fifth Street, asked if on Mr. Tulupan's water problems did he receive a bill the same way as the person renting the property? Mr. Widman explained that Mr. Tulupan had requested the bills go to the property occupant and he was copied on the delinquent notice. Discussion ensued.

Mr. Bob Warner, 1011 Third Street, commented on the Route 250 Overpass and if they can't fix the Pedestrian Bridge, was there any way they could put a crossing underneath where the arm comes down with the lights on it.

Mr. John Ginty, 5055 Providence Drive, thanked Margaret Rudolph on her new job and for serving on the ADA Committee. He asked did someone get with Ohio Edison about the trees that were being trimmed for better solution? He would like staff to look at the Jefferson/Decatur Street stoplight, which was partially obstructed by a tree. And on Tiffin/Shelby people didn't have a chance to react at that stoplight when they come around that corner. Also our Cable TV problems on Channel 8 with losing the picture and the voice and how long do we have to wait for a correction because they were a monopoly? Someone from the City needed to talk to Mr. Deville or Buckeye Cable on how it will be corrected. Mr. Will said he would check Mr. Pisarsky on the trees.

Mr. Tony Russ, 712 S. Lightner Road, Pt. Clinton, questioned when applications would be ready for the taxi cabs to start? President Kaman said tomorrow morning.

Mr. Packan gave an explanation on the trees.

Mr. Will gave information on the Natural Gas Opt In Program. A discussion ensued.

The President returned to the table and it was moved by Mr. Fuqua to adjourn the meeting. It was seconded by Mr. Stahl and the meeting adjourned at 7:14 p.m.

ATTEST:

B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

DANIEL J. KAMAN, PRESIDENT
SANDUSKY CITY COMMISSION