



City Council Minutes September 17, 2002

The City of Cortland, New York

COUNCIL MEETING #16

September 17, 2002

REGULAR BUSINESS MEETING

Cortland Senior High Auditorium

7:00PM

PRESENT: Mayor Mary E. Leonard

Alderman Faraoni, Tobin, Morey, Guido, Partigianoni, Quail, Testa, and Hennessy

Staff present: City Clerk, William J. Wood, Corporation Counsel Mark Suben, Director of Admin. & Finance Andrew Damiano

PUBLIC HEARING

7:00 Public hearing opened regarding Scrap yard license application for 119-1/2 Pendleton Street.

Tom Michales feels there should be some sanctions imposed because Mr. Contento has not complied with the laws. The taxpayers of this community do not want to undertake another cleanup of this site. There are safety concerns as well as appearance. He feels the Council should consider the license only if Mr. Contento were bonded. By doing this it would insure the City that if any environmental problems existed, Mr. Contento would be liable, not the taxpayers.

Alderman Morey states Mrs. Ferro has looked for a certificate filed by Mr. Contento but everything filed is listed under Contento Auto Sales Corp. Mr. Barney states that is the legal name. A question arises as to what the name the business is listed under. Mr. Barney states the business is conducted under Contento Auto Sales, Inc. Alderman Morey states Mr. Contento can call a tow company and they will remove the vehicles. Mr. Contento knew he could deal with the abandoned vehicles in the proper fashion and that is what he has done. This problem exists around the City and the Code Office has called him in the past to remove vehicles. Mr. Contento states he didn't know you could call a tow company and they would remove a junk vehicle from your property. Alderman Faraoni asks if Mr. Contento would consent to a soil test for oil. Mr. Barney states this will require more money and it's an unnecessary expense. Alderman Hennessy asked for an Environmental Assessment Review. Mr. Barney notes he does not object but it will be an expense. Alderman Tobin reads a portion of the Code and the IDA contract and feels this contradicts what Mr. Contento is doing. Mr. Tobin is concerned this will make the City tortoise interference (this author believes it should be tortious interference) with the existing contract to allow for a scrap yard? We would be allowing some of the same things that are not allowed by the IDA contract by tortoise interference (tortious interference) Mr. Barney feels the ordinance is very restrictive as to the definition of a junkyard. The discussion ensues as to how many inoperable vehicles make up a junkyard. Mr. Contento notes he wants to take metal and put it into a container and get rid of it. He doesn't care what you call the business whether it is recycling, scrap yard, or junkyard. He doesn't want cars. Alderman Tobin states there is not a license process for what he actually is applying for.

Sept. 17, 2002

Alderman Morey asks what the difference is between the demolition business and dismantling operation. She reads a copy of the letter, which is attached hereto and made a part thereof. Mr. Barney explains the demolition business is not of cars but of buildings. She asked if he takes any parts of cars? Mr. Contento replies if it is metal such as a hood of a car. Alderman Testa asks why are we concerned about the IDA contract? If Mr. Contento has a contract with an outside party, how are we a party to that? Paul Slowey said two weeks ago Mr. Contento was not in violation of that agreement. Alderman Partigianoni asks if the stipulation can be added that if the license is granted it should be for only what the applicant requested. It doesn't matter what it is called. You can only do what you say your intentions are. Mr. Contento agrees. He is not fond of the term junkyard and he will call it whatever you want. Alderman Quail asks about the name on the application. Corp. Counsel Suben states it's basically the definition vs. the label. Mr. Barney has submitted the application properly and in accordance with the City's definition. The scrap metal will be in containers other than when they are sorting. Mr. Contento states he has changed the way they are handling it and it has been working so as not to have the piles too high. It's properly handled and properly disposed of. It is not left on State Land or in the ditches. Alderman Partigianoni asks Mr. Contento if the Council issues you a permit will you (Mr. Contento) be able to make a living from this business? Mr. Contento says yes.

Alderman Guido feels Mr. Contento should submit to the soil test. He does not want this to be another Rosen Site. This permit is not renewable every year. It does not come back to this Council on a regular basis unless a violation was raised.

The application has been amended to eliminate the word Junkyard.

Alderman Morey wants to see everything off the ground. Mr. Contento explains that people drop their load and it may be on the ground for a short period of time while it is sorted.

There was no one further to speak; therefore the public hearing was closed.

Mayor Leonard calls the regular meeting to order followed by the Pledge of Allegiance to the Flag.

PUBLIC COMMENT

Ann Hotchkin asked that an item be added to the agenda. She explains the tree fund program and the streets it has helped in the past. Over the last few years they have not received a grant. This year the application consists of Prospect Terrace, Maple Ave., Chestnut Street and South Franklin St. This application needs to be submitted by September 30, 2002.

RESOLUTION #92 of 2002 –The City of Cortland is hereby authorized and directed to file an application for funds in an amount not to exceed \$3,500.00, and upon approval of said request to authorize the Mayor of the City of Cortland to sign said application on behalf of the City for such financial assistance to this municipality for the Department of Environmental Conservation Tree Planting Grant.

By: Alderman Hennessy
Seconded: Alderman Tobin

Sept. 17, 2002

Approved: Ayes –8
Nays – 0

MINUTES

Approve the amended Common Council minutes of September 3, 2002.

By: Alderman Quail
Seconded: Alderman Testa

Approved: Ayes – 8
Nays - 0

BILLS

Alderman Tobin wants to eliminate the \$75.00 conference registration for Code. Alderman Morey wants to know why this didn't come before the Council. She states the Council made the resolution and now it is coming on the bills. Corp. Counsel stated his opinion on this. Alderman Morey feels Corp. Counsel's opinion does not overturn the Council's resolution. Alderman Morey wants to have this item added to the agenda.

MAYOR'S REPORT

Mayor thanks the school system for hosting the Council. She attended the opening ceremony for the stadium. It is going to be a real bonus to the community. Celtic Fest was fabulous. Cecile Scott, John Mc Nerney and staff, and Jim Sponougle should be congratulated for their efforts. The Mayor discusses the security of City Hall and City Court. The lions share of the cost will be bourn by the State. It will change the environment that we will be working in. People will have to pass through a metal detector to enter the building. The official proposal will be here in October. She has met with Chief Nichols and Sheriff Price regarding dispatching and pre-arraigned prisoner holding. We are looking into ways other communities are handling it. The Hazmat agreement is almost complete. The Mayor thanks Steve Muka for taping the meetings.

WARD REPORTS

Ward 1 – Alderman Faraoni

The first ward is in good shape.

Ward 2 – Alderman Tobin

Thanks Steve Muka for taping the meetings. He thinks he has done a commendable job. He thinks the resolution regarding travel was a viable resolution. If you choose to not obide by it, it may constitute the use of public money which would be a class A Misdemeanor.

Ward 3– Alderman Morey

Sept. 17, 2002

Thanks the school for hosting the meeting. She hopes the resident who called her will call back regarding animals. She had a call regarding fluoride. She attended the Rotary miniature golf tournament. She attended the ceremony at the stadium. She attended the football game the next day. Celtic Fest was wonderful. Thanks Steve Muka for taping. Voices her disappointment of the bills. She asked questions which were directed to Andy which was then directed back to Corporation Counsel. She never did get a direct answer. She doesn't appreciate those departments undermining the Council. She didn't receive anything in the mail other than Corp. Counsel's memo.

Ward 4 – Alderman Guido

Thanks Steve Muka for a great job. Thanks Code Enforcement for helping him with some matters. Thanks the City Police Dept. and Public Safety for taking care of parking problems.

Ward 5 – Alderman Quail

Thanks the school for hosting the meeting. He had a ward meeting. He is concerned about people speeding on Owego Street. It is a two-lane street with no sidewalks. He has received a letter from the Lieberman's regarding fluoridation. They reference a state law. He asks Corp. Counsel if he was aware of this? He asks Corp. Counsel if water fluoridation must come before the Council based on this law. Corp. Counsel states in his opinion no. Corp. Counsel states this is a law. The question is, "does it compel the issue to come before the Council"? Corp. Counsel Suben states no because we don't own the water board. It is an independent water board. The citizens of the City of Cortland own the water board. Alderman Morey asked if Counsel is representing the water board or the Council. Thanks the Code Office for taking care of a number of issues. He complained about receiving someone else's junk mail instead of his own. The Mayor explains these are flyers that are simply distributed to the Alderman's mailbox. He questions the money allocated for the trapping of skunks. The Mayor explains the police department was the contact and they would contact the trappers.

Ward 6 – Alderman Testa

He attended the presentation of the check regarding the River Trail. It was very well attended. He attended the Cortland State ceremony. It is a first class facility. Thanks Mike Preston for his help on Kennedy Pkwy. He has complaints regarding trash left out.

Ward 7 – Alderman Partigianoni

He attended the ceremony at Cortland State. With facilities like that, we can see events coming to Cortland. He also attended the 1890 House ceremony.

Ward 8 – Alderman Hennessy

Her next ward meeting will be October 7, 2002 at City Hall at 7:00PM. She has received calls about skunks. Alderman Morey states there is no discussion as to how the money is to be allocated. She wants to know who authorized the distribution of this money.

AGENDA

Sept. 17, 2002

Item No. 5 – Consideration of a Resolution permitting the closing of the municipal parking lot adjacent to Market Place Mall from 1:00PM to 9:00 pm on October 3, for the purpose of holding a downtown jazz concert, “Cortland Main Street Music Series,” and food/beverage vending.

Garry VanGorder gives a brief explanation of the event. This will not be a street closure, just the parking lot next to the mall. These hours were also recommended by the Chief of Police. Cleanup will also be done by the committee.

RESOLUTION #93 of 2002 - Permitting the closing of the municipal parking lot adjacent to Market Place Mall from 1:00PM to 9:00 pm on October 3, for the purpose of holding a downtown jazz concert, “Cortland Main Street Music Series,” and food/beverage vending.

By: Alderman Tobin
Seconded: Alderman Faraoni

Approved: Ayes –8
Nays – 0

Item No. 1a – Consideration of the following actions relating to the license application submitted by Gerald Contento to operate a scrap yard at 119 ½ Pendleton Street.

RESOLUTION #94 of 2002 – To declare the City of Cortland Common Council as the lead agency for the SEQRA process.

By: Alderman Partigianoni
Seconded: Alderman Testa

Approved: Ayes – 8
Nays – 0

SEQR is reviewed.

Number 6 on the front is altered. A copy of the SEQR is attached.

C1 – yes. Ground water could be affected.

C2 – yes. Water, Aesthetics.

D. – yes. Potential toxins, hazardous materials, Aesthetic, and ground water.

Andrew Damiano states Mr. Contento has been operating at the site for 12 years. There is no evidence of ground water contamination. The water board monitors the water quality in the aquifer. Alderman Hennessy states we don't know how fast the ground water moves. She is more concerned about materials on the ground.

RESOLUTION #95 of 2002 – To determine this application needs the full Environmental Assessment Form as a result of a positive declaration in the SEQRA Short Form Review.

By: Alderman Hennessy
Seconded: Alderman Guido

Approved: Ayes – 6

Sept. 17, 2002

Nays - 2 (Testa, Partigianoni)

Item No. 2 – Presentation by representatives of Niagara Mohawk regarding the company's tree-trimming policy.

Alderman Hennessy states the reason this came up was because of the stretch of Church St. between Port Watson and Central Ave. Those trees grow through the power lines. Alderman Morey asks if they can be very selective when cutting these trees. The representative explains most of these trees were planted approx. the same time so unfortunately they are all the same age and have grown to the same height. NIMO needs to move forward because of safety concerns. These limbs are in the wires. Alderman Morey wants to see what other municipalities are doing. The Mayor asks what does this Council want NIMO to do? Alderman Hennessy states the trees are very close together and any trimming will probably compromise the life of the tree.

Item No. 3 – Discussion regarding the taping of Common Council meetings.

A discussion ensues regarding who has taken the course and who is qualified, the rate of pay, comp. time, etc.

RESOLUTION # 94 of 2002 – To allocate not more than \$100.00 to cover the month of October video taping of the Common Council meetings.

By: Alderman Quail
Seconded: Alderman Faraoni

Approved: Ayes – 8
Nays – 0

Item No. 4 – Discussion regarding the creation of the position "Data Processing Administrator".

This would be a created position. Alderman Tobin asks Dave Stathis why we need our current system instead of networking P.C's? Dave Stathis explains some programs are run on the AS400 but in Municipal environments it is difficult to find software because Cities run so differently. There are a number of programs that run off the server. Mr. Stathis explains that this City spends very little for what they get. Andy Damiano wants to secure Dave Stathis's position with the City. The City owns all the software and machines. Andy feels we need to be prepared in case certain individuals are not employed with the City. He feels this is the prudent thing to do, which is why he approached David Stathis. He would like the Council to give him some sort of positive feedback so he can move forward with this process.

Carol Sonnacchio states in the 20 years she has been with the City, she has heard hundreds of horror stories from other Municipalities. The system we have in place has not changed. Dave Stathis is on call 24 hours a day, 7 days a week. Andy explains if he is a salaried employee we do not have to pay him hourly when he is called in.

By a show of hands (6-2, Morey and Tobin voting Nay) the Council is in favor of proceeding and authorizes Andy to move forward.

Sept. 17, 2002

Item No. 6 – Continuation of the discussion regarding rental signs.

Alderman Quail holds up a sign, which is 4 square feet, and a sign that is 2 square feet. Corp. Counsel states we are working with a Consultant and he feels size is a good way to control this. He suggests we keep moving on the process and instead of doing this piece meal; we want to look at the whole picture. All of the signs need to be addressed in order to be fair. Alderman Quail does not want to wait 6 or 8 months. Corp. Counsel will convey this to the Consultant.

Item No. 7 – Discussion regarding the introduction of administrative fines for the violation of Section 241 of the Codes of Ordinances.

Alderman Quail wants to address certain section of the Code. He is concerned about garbage and having to call the same landlords 3 and 4 times. There should be a fine imposed. Grass clippings are another issue. Corp. Counsel explains due process and the judicial proceedings. You can have those kinds of remedies in addition to the process. Sec. 220 sub. 4 are discussed. A discussion regarding billing the property owner for cleaning up properties and fines. These property owners are being cited and being sent to Court. A discussion ensues regarding how long garbage should sit outside. If this is to be changed, Corp. Counsel can draft a local law to change that section.

The words trash removal will be added and also the fine should be raised to a number higher than \$25.00. Sec. 245-8.

Item No. 8 – Discussion on Travel

Alderman Morey asks why a resolution was passed and not honored? Alderman Faraoni asks if this was appropriated in the budget? Amy Bertini explains this is for credits. There will be incidental costs. Alderman Morey states the process needs to be followed. Alderman Morey states this isn't one person or one department. Why wasn't the process followed? Andy explains when the Council adopts a budget it does not stipulate what conferences someone can go to. A discussion ensues regarding Andy's duties and the wishes of the Council vs. the advice of Corp. Counsel. Alderman Morey states Andy does not have the authority to supersede the Council. Alderman Tobin states you cannot take away the resolution. The Mayor asked what would this Council like to do. Alderman Morey states the Mayor cannot override this system. Alderman Morey wants this on the next agenda. Alderman Morey feels the Mayor thinks she has the power and authority to supersede the resolutions.

A motion to adjourn has been made and seconded.

Motion denied.

Alderman Morey stated she is a little nipped that the Mayor would like to adjourn.

Alderman Quail asks that the travel arrangements be put on the agenda to discuss the approval process. Andy explains how the approval process works. The employee asks the department head, the department makes the decision if it is adequate and Andy determines if there is money in the training budget. Alderman Morey asks why the resolution was disregarded. Alderman Morey states Corp. Counsel is crooked at this point. Corp. Counsel has asked not to

Sept. 17, 2002

make personal attacks. A discussion regarding which departments needs Council approval and what departments don't. Alderman Morey wants to know what travel goes on before it happens. Alderman Tobin states the potential exists that some people travel when it is not necessary. Alderman Testa wants to know where people are going? Andy feels that no one is traveling unless it is necessary for his or her job. Alderman Morey states that is his opinion. Alderman Morey states we cannot elect you or anybody that will supersede this Council's resolution.

Adjournment

By: Alderman Morey
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

I, WILLIAM J. WOOD CITY CLERK OF THE CITY OF CORTLAND, NEW YORK DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A MEETING OF THE COMMON COUNCIL OF THE CITY OF CORTLAND, HELD ON THE 17th DAY OF SEPTEMBER 2002. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.

WILLIAM J. WOOD – CITY CLERK
