



City Council Minutes November 18, 2003

The City of Cortland, New York

COUNCIL MEETING #21
November 18, 2003
Regular Business Meeting
City Hall
7:00PM

PRESENT: Mayor Mary E. Leonard
Alderman Faraoni, Tobin, Morey, Guido, Quail, Partigianoni, Testa, and Hennessy

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

7:00 – Public Hearing on the Consideration of proposed revisions to the Code of Ordinances (Local Law #4 of 2003).

Nancy Hansen of 14 Yong St. thanks the Council and the Mayor for initiating the code revisions. Members of this panel have put in many hours of discussion about the elements in the code that would be of the best interests and benefit to the City of Cortland. The proposed revisions will streamline many of the provisions of the existing document. The Code will more accurately address the current issues of the community. An important addition to the Code is an expansion of the role of the planning commission as they will now review site plans. The work of the planning commission should relate to the content of the Master Plan since that is the document that charts the course of the City. The changes or additions to the code relating to signage of property maintenance are positive ones and are intended to promote a clean, safe, and attractive community. Limitations to the size of rental signs and for sale signs are positive changes. By adopting the New York State Property Maintenance Standards well maintained properties will approve the ascetic quality of the City as well as address the overcrowded apartments. Requirements of parking of passenger vehicles and regulations addresses abandoned or unsafe buildings will presumably enhance the quality of life for Cortland's residents. This proposed document will provide the Code Office with the necessary leverage to ensure compliance for the provisions of the code. The college adds to the economy of the community both as an employer and by the enrollment of a large number of students. As with many college towns there are associated problems. Many residents have been concerned about the inappropriate behavior of students in residential neighborhoods. I would advocate the coordination of a judicial system between the college and the City. It would improve communication and provide mechanism for students who cause problems and damage properties. They would be held accountable. The college judicial system should be a part of the package of materials to be provided to all incoming students. I believe the quality of life issues are most important and that we all want this community to be attractive, clean, and safe not only for our current residents but also for families, businesses and industries who may consider locating here. Thank you for your time and she urges the Council to approve the proposed document.

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Tova Sturmer of 68 Lincoln Ave. has lived on Lincoln Ave. for over 10 years. During that time she has watched Lincoln Ave. slowly go down hill. There are roughly 40 homes in her section and only half are owner occupied and out of that are only 7 are families with young children. House that were once apts. or families are now student housing. She wants to state for the record she likes the City of Cortland and understands how important it is to the community. She likes most of the student population that attends the college. What she doesn't like is as soon as the students decide to live off campus; they think they can do whatever they want with no consequences attached to it. The majority of the landlords do care about the community. Most of the landlords do not want to have to repair their property due to reckless students so they do try to control it. She wants there to be stricter controls on rental property. She does not want the landlords to be able to turn a three bedroom house into something that houses six or more people. She thinks they should keep the rule of four or more non-related people living in a place but we need to toughen up everything else. Some families that live in rental properties might have more than four family members living there. That can be addressed in the code. There could be a stipulation in the code for children under 18. The Master Plan for the City that was put into effect around 1990 spoke about density of the neighborhood. Ward two is the smallest ward in the City and the density has put it to 2,500. Why are we adding more people to this? I understand the new Code will help but it will still address the issue of population. One resolution that could be used is that all leases should be registered in the City. Some sort of data base could be created. The parking issue needs to be addressed. The students should be accountable for their action. Every party should be investigated because underage drinking is occurring. The students think this is a big joke at our expense. Another issue is where these people park when they are partying. She has seen people park on the wrong side of the street and leave their cars for hours. She has seen students park on peoples property and the cars cannot be towed off the property. If the home owner tells you the car is parked illegally, you should be able to impound it. She has been told that there are not enough police to patrol the neighborhood. The city police should have a list of student housing and patrol the roads. All the students need to be held accountable for their actions by the City and the college. It's ridiculous that such a small population has control over our City.

Anne Doyle of 70 Lincoln Ave. would like to know what the procedure is for enacting the code. Why couldn't we have a copy of this new code on the internet or several copies in the library so we can have time to read it?

Tom Michales of 22 Williams St. has been a resident of Williams St. for 20 years. The home they purchased was rented to college students. At that time the neighbors were under the impression it was a single homeowner that resided there. This totally had changed overnight. This same problem has occurred to the same resident at 69 Church St. They thought a couple had purchased this place but the house is now being rented to college students. He hopes that some consideration can be given to the point where the actual homeowner can regain their properties back and have a say in this. Before we jump into something, let's take that into consideration.

Vivian Bosch of 49 W. Court St. talks about the family definition in the Poukeepsie. Any number of unrelated individuals can live together in any house in the City as long as they share in common kitchen, bath areas, and common living space. In contrast the proposed definition in the Poukeepsie code lists a variety of specific criteria for this definition. There is an expectation that when four or more people live together it is the functional equivalent of a traditional family. A New York State Supreme Court Judge in Broome County Justice Patrick Monserrate shares

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this expectation when he ruled in an October 2000 court decision that “the functional and factual family equivalent standard for those who accommodate the needs of non traditional families in the 20th century”. It would fly in the face of common theft even in an era of evolving family standards to find a group of students who meet during college or barely know each other living together for at most two years as a functionally family equivalent just because they share a kitchen, a bath room, and the occasional meal together. This expectation was further reinforced in an October 2002 New York State Supreme Court decision when a Tompkins County judge ruled on a situation where roomers shared two bathrooms, 1 kitchen, 1 living room, had separate bedrooms and did not own cars. Justice Walter Relahan stated that this was surely a depiction of a rooming house despite the owners self serving opinions that they come to us as a group or family. Cortland code revision committee has already chosen to use part of the Poukeepsie Code the clause that states 4 or more unrelated sharing a single family dwelling has the burden of proving that they are a functional family as taken from the Poukeepsie Code. The difference between Cortland’s proposed definition and Poukeepsie’s is what constitutes that proof. Mr. O’Neil, zoning consultant, who at the committee explained that the committee included the four or more clause because the Poukeepsie code works. Since we know it works lets use Poukeepsie’s complete definition of family instead of only one part of it. When making your decision please consider the long term effects that each of the provisions would have on our neighborhood and ultimately on our City as a whole. The zoning code states that the purpose of an R1 residential district is to enhance and protect the single family neighborhood. Poukeepsie’s definition better supports this purpose. It will allow us to maintain the balance in our neighborhood. We know that Poukeepsie’s definition works. Please consider adopting this in our code.

Marjorie Inana of 41 W. Court Street speaks in support of what Ms. Bosch said. This new zoning code would affect the Hill neighborhood but could potentially affect any of the neighborhoods. Any number of people that share common living space can be considered a functionally family. We need to have criteria that define a functional family. I do not agree with the code lawyer who says we have to leave it up to the judges to provide common sense. I do not think that I want to trust a judge to make a decision that tells me what a functional family is. I think we actually need criteria. I hope people think about their neighborhoods and support an idea of specific criteria for a functional family rather than think anyone can share living space and have separate bedrooms and be considered a functional family. I think that’s ridiculous. I’m interested in protecting the R1 neighborhood.

Raymond Malbone of 27 Pleasant St. feels what he is going to say is a footnote to Vivian Bosch's statements. One way or another for the last 20 years he worked on various committees of the City and various associations. The Code Committee worked on trying to get a clear code. The Poukeepsie code spells out in a clear way so that everyone can understand and it can be enforced when it comes to a functional family.

Patricia Malbone of 27 Pleasant St. strongly supports the functional family definition in the Poukeepsie code.

Rosemary Taylor of 9 Graham Ave. wants to thank the Council for taking the time to do all this work. She has lived at 9 Graham Ave. for 50 years and has enjoyed it very much. We like to see West Court Street in the way it approaches the college. We like the areas around the college that are nice residential areas and we would like them to stay that way. If you could have a definition of family that would keep us in a residential area where we are now R-1 it

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would be nice. If you bring in a mixture of people maybe it's fine in the house but there is also a yard to take care of. We would like someone in the house that appreciates the yard and how it looks, a garden or flowers. Sometime you can have four unrelated people in a house and they are not going to have that kind of care with there property. Whatever you do I hope you take all of this into consideration and help us keep the area around the college on the hill as attractive as it is now.

Phyllis McGinley of Clayton Ave. feels you don't have to be a genius to go down Lincoln Ave., Maple Ave, and the bottom of Clayton Ave. and see the destruction that has taken place in some very beautiful homes. When I moved here in 1958 those homes were lovely. They are not anymore. The yards are a mess and my yard is a mess. The Code Office called me because during the night they throw beer bottles and cups in my yard. We put a lot of money into our homes. We want to see that the rest of the City is also maintained. I have called the Code Office several times because I have seen people going in and out of the house which is supposed to be R-1. The Code Office states they cannot prove there are more than three people. We need someway to control this.

Bill Kline of 12 Arthur Ave. states as a member of the Planning Commission of the City of Cortland and also having sat on the committee that did the code revisions shares the views of the majority of the people here. This is a dangerous issue. There will be many things that will be changing that will have consequences at a later date and will need to be changed. This particular issue of three unrelated people living in a single family house is something that once sets in and if we have deterioration of many of the big houses on the hill, its conceivable that you could have 20 kids living in some of those houses. Maybe some kind of a committee in cooperation with the college can carefully examine this. There has to be a creative solution.

Katy Sillman of 30 Clinton St. notes this is her first house. The people that owned it before us only lived there a year. As soon as school started up, we understood why. I have lived in a lot of group houses. I could not afford to own a house on my own. My husband and I lived in an apartment. I understand the income the students live on. I have nothing against them. I'm interested in my neighborhood and the people that live there. My 84 year old neighbor just fell in the street and hurt herself. Students stopped and helped her get out of the road and up to her house. She was very appreciative. I'm her neighbor and I am going to go over and see how she is and to help her out. She is not saying that if there were four or more living there and they had a totally different lifestyle would behave that way but I wouldn't want to ask 20 something year olds to behave like a 40 something year olds. I want more people that are devoted to each other and to the neighborhood. I don't want to live at the bottom of Clayton Ave. That's why I bought where I bought because I thought it would be different enough. Now my big fear is with this code I am going to wind up like that. That turn over cant be good for the community.

Mike Dexter of 10 Cedar St. states fortunately he does live in an R-1 zone in the City. That has been R-1 his entire live. I certainly want to agree with Ms. Bosch and Ms. Taylor about the points they have made. One of the things he questions is it is a one family area. If four or more became a single unit family I guess it would open up to many others using single family houses in an R-1 area. The other things I have noticed after walking the streets as much as I did over the last number of years is there seems to be a question as to how many people are living in a house. I go by the number of people on the mailbox. If there were 5, 6, or 7 names on the mailbox I would assume those people lived in the house. I agree with concerns of the people that have spoken. I'm sure there are people in the City of Cortland who lived on Lincoln Ave.,

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Maple Ave, Homer Ave., Court Street, and Central Ave. who all thought they lived in a one-family area and are not one-family areas. So I guess things can change over a period of time.

Tim Garon, a City resident speaks in support of what Mr. Melbone says. The college is growing and will have thousands of new students as the college grows over the next decade. The thing about Cortland is the diversity of the neighborhood and saving the old homes and make sure they are not gutted and protecting the neighborhood. I don't want to see one section of the town strictly for the students and another section that are just where the folks from Cortland live. This is a really dynamic town and as the college grows to make sure that we have a mix of people from Cortland who live here and some people like me who just moved here and work at the College and then there are students also living in the neighborhood so there is a nice diversity.

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

PLEDGE OF ALLEGIANCE TO THE FLAG

PUBLIC COMMENT

There was no one to speak.

MINUTES of October 21, 2003

RESOLUTION #155 of 2003 – Approve the minutes of October 21, 2003.

By: Alderman Hennessy

Seconded: Alderman Faraoni

Approved: Ayes – 8

Nays – 0

BILLS

Bills are received.

MAYOR'S REPORT

Some of the things going on in the City primarily involve the armory. She is not sure if anyone has had a chance to speak to Jim Sponaugle about what is going on but it is turning out to be very useful for us. It's going to have costs associated with it but she thinks the Council has some idea as to what we need to do in terms of the utilities and upgrades. One of the nicest things that have been made available is training so that when Jim Sponaugle does training he no longer has to load up the truck and carry all of his equipment. There are classrooms already set up there. We have the arrangements with the Fire Department for the HAZMAT materials to be stored there. We are going to save money on not having to rent the extra space any longer and there are many number of uses as Andy mentioned the other day when we discussed this. It seems like we need six armories for everyone that wants to do things there. I'm hoping we have some good relations in doing that. We did meet with members of the school district to talk about how we might share some services and hopeful we can do something that is mutually beneficial to us. I had asked Jane if she gets a chance to go over and take some photos and

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maybe they can be on the website and see what work has been done. It is not in wonderful shape but it is coming along. The other real property we talked about acquiring was stalled for reasons unrelated to the City. We think those issues have been straightened out and we hope to acquire that property fairly soon.

A reminder that only yard waste is allowed to be dumped at the DPW. If you talk to your constituents that's the only thing that is permitted.

There was a NYCOM conference that addressed the legislative planning for the Conference of Mayors and efforts are underway. One of the most significant things and is something the community needs to be aware of, is that on everybody's mind is the issue of the pension contribution and the big bill we received and how we are supposed to manage to do this and keep our budgets in line. There are lobbying efforts underway to at least stager when the payments are made, change the structure of the payments, etc. People are pretty angry about getting stuck with this large amount that people are expected to pay and not given much of an opportunity to figure out how to do that. The other thing is there are new efforts underway to try if not change the status of properties that are not now taxable. To come up with some sort of contribution that might be made for properties that are not on our tax roll that we still have to provide services for. Some efforts are underway to try and encourage the legislature to do that. As you are aware in the City we have the college, the County Office Building, churches, library, any number of properties we do not collect any property taxes for yet we provide services.

With regard to the disaster drill, it occurred to her and she spoke to some other municipal people about this; our Code does not have a chain of authority besides the Mayor and the Deputy Mayor. We have nothing in terms of what to do if something were to happen in the event of a disaster. Other communities have mechanism where the Common Council will meet, the most senior member, the ward, etc. will be in charge. Given the way things are and we need to be prepared for whatever might occur, you might want to put some change to the code to put some other chain of authority in there in the event that something were to occur.

WARD REPORTS

Ward 1 –Alderman Faraoni

He has addressed all the problems in his ward and the ward seems to be in good shape.

Ward 2 – Alderman Tobin

He commends Pete Testa and Tom Gallagher for the cleanest mayoral election in quite some time. You do the City proud by the campaigns you ran. He thinks the negative letters days before the election serve no interest to the City of Cortland. Negative politics do not play well in the community and he thinks the results are in the people who were elected back to the Council.

Ward 3 – Alderman Morey

The ward is quiet. She has issues she will discuss with the various departments. She will get back to the Council at a later date on those issues.

Ward 4 – Alderman Guido

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He met with President Bitterbaum a couple weeks ago regarding Davis field and some of the concerns the residents especially on Pearl Street have. He promised he would do his best to keep the folks over there informed. One of the things that was mentioned in the college paper was constructing a recreation center that would be running late into the evening. That was one of the concerns. With the states financial issues they have now, it is not in the foreseeable future that something of that magnitude will be built.

Ward 5 – Alderman Quail

He would like to add an item on the agenda for the 5K run. He would also like to add the discussion of budget workshops. There is a 5th ward meeting November 20, this Thursday at the Moose Club. Ron VanDee will be there to discuss the County budget. He attended the Public Safety meeting. He had several issues that affect the 5th ward. Some of the things that were talked about was putting a stop sign on Sunnyfield Dr. and one of the particular ones was the Northcliffe/Pendelton area and a consideration of a stop sign at Valley View Drive and Pendleton in a northerly direction. If anyone has concerns about this he would appreciate a phone call. Although the accident rate is quite low, the number of potential accidents that happen have been quite a few. He attended the Cortland Memorial Hospital grand opening of the new emergency room. It was amazing. I hope we never have to use it but it is a really nice facility that we should be proud of. They have brought us into the 21st century. The digital x-ray machine is amazing. He congratulates the Cortland High coach, Dan Law who was selected as coach of the year. They won there first ever league championship. They finished 15 and 4. It was a very successful year for Dan Law. The Chamber of Commerce dinner was a good time. Some of the winners were Marietta, McNeil, YWCA, Lucky's; volunteer of the year award was John Reagan. Mr. Jim Yaman was given community service recognition. He has not heard anyone say anything about the Cortica Jug but it was an amazing game. Congrats to SUNY Cortland. A fifth ward resident John Banewietz returned from Afghanistan. He also spent time in NYC and Kuwait. He would like to take the time to thank him and welcome him back to the community.

Ward 6 – Alderman Testa

All quiet in the 6th ward.

Ward 7 – Alderman Partigianoni

He received a letter via the Mayor's Office that they will do a study on Clinton Ave. to maybe synchronize the two lights. He attended that annual small fry dinner. There were close to 200 10, 11, and 12 year old football players. Congratulates Jim Yaman and Marietta. March 29th is a big day for the Partigianoni family. Carol and he will be renewing their vows at St. Anthony's church with a short reception to follow in the basement.

Ward 8 Alderman Hennessy

The holiday lighting contest is coming. As she is looking at retirement at the end of the year the landscape and beautification committee has graciously agreed to run the contest. It will be the same idea. People can either nominate their neighbor or nominate themselves. Forms will be available on the internet but not right away or at the library and Mayor's Office. All of the

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entrees will be received by December 10th. The weekend of December 12-14th we will ask people who have entered to keep their lights on between 5:00 and 8:00PM so the judges can go around and get a good look at what the display looks like. The winners will be announced at the December 16th Common Council meeting. If there are any questions Jane at the Mayor's Office can help.

AGENDA

Item No. 1 – Consideration of the adoption of Local Law No. 4 of 2003 which amends a number of sections of the code of Ordinances.

By: Alderman Partigianoni
Seconded: Alderman Hennessy

Alderman Tobin would like to start by amending Chapter 300 family definition. He wants to include the terminology from what has become known as the family definition from the Poughkeepsie code. This is page 4. He would like to amend this and put in the definition that was taken from the Poughkeepsie code.

Attorney Dirk Oudemool states the third department appellate division did not deal with the buttons. They have only dealt with the issue of presumption. The three or four prongs in the Poughkeepsie case and you can also have in mind Judge Meldrim's decision and the several prongs in the Binghamton Code have never been judicially reviewed by an appellate court. The only thing the appellate courts have done is say the concept of what is a functionally family is a constitutional issue. It's a totality of circumstances. How the people within the unit interact, their relationships to one another. Then to approve one standard for non-traditional families and not impose the same standard for traditional families is unconstitutional. We do not have any court in an appellate jurisdiction that has ever approved these enumerated things. Now very clearly there are certain things a person with common sense would take into account. The one that he finds particularly troublesome in the whole title is not transient or temporary in nature. That is a very serious issue. If your community intends to say eliminate students from certain areas of the City, I wish that had been stated to the committee. If so we might have approached it a lot differently. Instead what was said was that we have problems in this area, how can we address them. We have housekeeping issues, parking, and a number of specific issues. No one ever said grab us a law that excludes the students from this area around the university.

Alderman Tobin states we are not saying students. We are talking about the functional equivalent of a traditional family. We are just trying to have a situation that's been in place since 1988 related to no more than three unrelated. Prior to 1988 there isn't a whole lot we can do because we did not have a family definition. Trying to take that right away from people would be similar to an eminent domain process and we would have to take that right away.

Attorney Oudemool, Esq. states it is clearly unconstitutional the courts have said you cannot come up any number and restrict the number of people that live within a single family unit unless you imply it across the board to functional as well as traditional. The court never discussed the buttons. The court only discussed the presumption. The court never said that those particular criteria are appropriate criteria. It said they were in the law but there was no question about that. The issue on appeal was limited solely to the question of whether or not it was constitutional to place a presumption that the level of four people living within a single family

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dwelling who were non traditional. The buttons were not in the court case. The buttons are in the law that was never challenged. Binghamton is very concerned about theirs and they are going to change theirs. I think it is very clear that to come close to constituting a functional family that there are certain basic inherent things in that. One is the commonality of usage of the premises. Secondly, the sharing of expenses is something I think any judge would use as an indicator. The duration of the people within the unit I say is a misleading issue and is going to take you nowhere and will cause trouble. Can students qualify or not qualify, I am of the opinion as an attorney that if it is done correctly by them it can. We had one person who was at the meeting who noted he used four separate leases. I said that was clearly illegal. In my view there must be a single lease. Alderman Testa asks if something can be drafted to satisfy the people in the neighborhood. Dirk states he understands the issue very well. It is one of ownership and occupation. I think we all know that neighborhoods which are occupied by owners result in better housekeeping than a neighborhood where you have transient people coming and going. How do you promote and advocate owner occupation of property. When you come to the issue and say that students are one form of functional family and four young people who just graduated from college or young professionals that want to live together are not considered a different class of people. The point here is what are we truly trying to accomplish. Are we trying to promote owners and occupations? I am a strong believer of a sense of community. I did not get that there was a small adverse reaction to the many numbers of students that occupy these homes below the university. What I got was the sense that we were dealing with issues involving maintenance, parking, and issues about improper conduct.

Alderman Hennessy notes there are problems but she does not feel anyone wants to exclude the students. It's reducing the number of people in the building. It's not students vs. someone else, it's how many people are going to be in that single family house. Dirk explains if you apply to the non-traditional family the law says then you must apply that to the traditional family. So if you have a three bedroom house and you say you can only have three people living in that house, that's going to take you to a wrong conclusion. If you say a three bedroom house can sustain six people, you can't be arbitrary.

Alderman Hennessy notes if you look at the way this is set up with three separate points about what a functional family would be, the third one ends with the statement "such persons must present with the zoning officer sufficient evidence to the contrary in order to overcome such a presumption" that being they are not a functional family. Would it be possible to add criteria at that point rather than trying to redraft. Dirk states he has no problem doing that but thinks you ought to make it clear that it's not a question of hitting four out of five buttons but to put down more language that would give you a sense of the things you want to look at. Dirk is a firm believer that if this is a rental unit, it should be a single lease and all persons should be responsible under that lease.

Alderman Tobin talks about the signs. Page 49, the signs should come down by April 1st instead of July 1st. He feels three months is enough time to take their rental signs down. Alderman Hennessy thinks this is changing the signs into compliance. Alderman Tobin does not agree. He feels this should be three months instead of six months. Alderman Hennessy states they could be putting signs up on a residence. She notes in some residential districts not everything there is a residence so you could have a situation where you have some sort of business where the sign is not in conformance with the new code and therefore when they replace the sign it would have to be in conformance.

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Attorney Oudemool notes both of these are correct. Mr. Tobin's idea of rental signs attached to the buildings are no longer legal under the new code. This would allow them to stay in place for six months. Mr. Tobin would like this reduced to 3 months. Alderman Hennessy is talking about a sign that is in a residential district that may be illegal in terms of the new code. This is a constitutional issue because this is a taking of property. If you are inclined to shorten the period of time then make some kind of a record based upon your knowledge and experience of the signs that are out there that would become illegal under this new code that you believe the investment of the owner of the sign is so nominal that it would not impose undue hardship upon him to replace it within a three month period of time as opposed to the six month period of time. We have a required amortization period constitutionally in New York when we phase out things that are normally grandfathered.

Alderman Testa asks if someone offers a property for sale or for rent and it doesn't sell within the three to six month period do you have to take the sign down. Dirk explained we are not saying that you can't have it up for a year. What we did was under the present practice was putting on the structure itself and painted sign that stayed there 12 months a year that said student housing available. That sign is illegal. We said any for rent or for sale sign in a residential district must be a temporary sign in the front yard. If the property is still available there is no limitation to the duration of the sign.

Alderman Tobin notes many of the signs currently are illegal. Alderman Quail addresses the political signs on page 45. He reads the current code. He is against the 8 square foot sign in a residential district. Most of the code is 5 square feet. He feels the days should be 30 days instead of 45 days prior to the election. He feels a sign should not be any larger than 3 square feet. He would like it changed to 3 square feet which is 2' by 18". He would like to see it 30 days. He feels the second sentence should be done away with. He asked if we want to limit how many signs per house. He would like to see 4 signs per lot. Alderman Morey is concerned about the 30 days. The primary is more than 45 days before the election. Alderman Morey feels they should be up pre-primary until the election. Alderman Faraoni feels this is too long. The Council decides to only change the size of the sign in all the districts.

Alderman Tobin reads some information from the New York State Dept. of State Counsel's Office. They did criteria on families. He reads the Memorandum. "Such an approach has met with success in the courts. The appellate division upheld the City of Poughkeepsie's definition of family in that it violates the due process clause". A discussion regarding how to change the local law is discussed. Alderman Tobin would like to put this on the table tonight in its revised form. He asks the Council to vote on this at the next meeting. A discussion ensues regarding where people live as part of the family definition. Alderman Testa asks about members of the household residing in the area. He doesn't feel it should make a difference where they live.

Corporation Counsel notes this is the final form in which public notice was given. The Council decides to amend it tonight and vote on it in the final form at the next regularly scheduled meeting. The Mayor is concerned that when you say "must or shall" when referring to those buttons it could cause some difficulty. Attorney Oudemool notes if you adopt number four with its six buttons that no students will ever qualify in all of your student housing where the neighbors are concerned. It will be illegal. There is no way students can meet those six items. Alderman Faraoni wants to look this over completely before putting it into final form. Alderman Partigianoni feels this document looks good and he is leery to make any changes to this. Attorney Oudemool hope that the Council is careful and think about it in a broader view because

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it isn't going to be you or me interpreting this. It is going to be a judge and not one level of judge but three levels. Litigation is not what you want. You want something that the communities support and stand behind and has very little controversy and very little enforcement. This has to be something everyone can live with. He is very leery of the stability and if you say this is not intended to exclude students his view is that it is. Alderman Tobin states this is not the issue. Alderman Morey wants to know how his code is not going to take us down the same legal paths. Attorney Oudemool states this also could but he is saying that he personally believes from the standpoint of the constitutional issue of what constitutes a functional family. I think it is conceptually possible that the way students get together and live in common could meet that test. If you get involved in enumerating these particular things they can be clearly determined to be targeted to prohibit students. He agrees with some enumeration. Four is troublesome. He has no problem with one, two, and three. If we think through it and talk through it we could come up with something. Alderman Tobin notes the City Court Judge has asked for criteria and he settled out of Court because there was none. Alderman Morey feels this provides a better quality of life for students and bring it to where it needs to be. Alderman Tobin states he has spoken to other attorneys that don't share Attorney Oudemool's opinion. The Mayor asks if Attorney Oudemool can make some revisions. He agrees and will have something by Friday. He will email the document to the council members.

MOTION WITHDRAWN

By: Alderman Hennessy
Seconded: Alderman Partigianoni

Approved: Ayes – 8
Nays - 0

Item No. 2 – Consideration of a Resolution authorizing the elimination of parking on the east and south sides of James Street, a distance of 875 feet from Tompkins Street.

Item No. 2 is removed from the agenda.

RESOLUTION #156 of 2003 – to accept a grant in the amount of \$28,000 and authorize the amendments to the budget to increase revenues from state aid and to appropriate the funds to the Fire Department. (A510 Estimated Revenues, A3347 State Aid, Fire \$28,000.) (A960 Appropriations, A3410.20601 Personal Protective Equipment \$28,000.).

By: Alderman Hennessy
Seconded: Alderman Partigianoni

Approved: Ayes – 8
Nays – 0

Item No. 4 – Consideration of the Mayor's appointment of Sandra Aloï to the Department of Public Works Commission.

Alderman Faraoni would like to wait until January. The Mayor explains it is her appointment and he can vote no if he chooses.

Nov. 18, 2003

By: Alderman Hennessy
Seconded: Alderman Partigianoni

Denied: Ayes – 2
Nays – 6 (Faraoni, Tobin, Morey, Guido, Quail, and Testa)

MOTION DENIED.

RESOLUTION #157 of 2003 – Authorize the use of certain city streets on December 7, 2003 from 10:00A.M. to approximately 12:30P.M. to stage Alyssa’s 5KRun/Walk.

By: Alderman Morey
Seconded: Alderman Hennessy

Approved: Ayes – 8
Nays – 0

Item No. 6 – Scheduling of budget workshops.

The Council determines workshops will be on Tuesday November 25, 2003 at 6:00PM. Alderman Quail wants the department heads to appear. The Mayor notes if he wants department heads there he should request that of them. He would like to schedule all of them. The Mayor states it takes up too much of their time and they were delighted not to have to be present this year. Alderman Hennessy feels in the past when the department heads came in they did not have the answer to the Council’s questions. Alderman Tobin notes department heads can also be called with any questions.

MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS THE AQUISITION OF REAL PROPERTY.

By: Alderman Testa
Seconded: Alderman Hennessy

Approved: Ayes – 8
Nays – 0

MOTION TO COME OUT OF EXECUTIVE SESSION AND INTO THE REGULAR SCHEDULED MEETING.

BY: Alderman Faraoni
Seconded: Alderman Hennessy

Approved: Ayes – 8
Nays – 0

RESOLUTION #158 of 2003 – Authorize an appropriation of \$2,000 for the purpose of acquiring an option on a parcel of land.

Nov. 18, 2003

By: Alderman Morey
Seconded: Alderman Hennessy

Approved: Ayes – 8
Nays – 0

Adjournment.

By: Alderman Hennessy
Seconded: Alderman Faraoni

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 REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF CORTLAND, HELD ON THE 18th DAY OF NOVEMBER, 2003. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.

WILLIAM J. WOOD – CITY CLERK