



## City Council Minutes December 16, 2003

The City of Cortland, New York

**COUNCIL MEETING #23**  
**December 16, 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.

7:00PM – Consideration of Local Law No. 4 of 2003.

Ward Dukelow of 143 N. West St. Homer speaks with regard to the definition of family. He has rental properties in the City of Cortland. He has both student and non-student properties. He wants to discuss the proposed definition and the impact on non-student families. He rents to families that may or may not be considered traditional. He would be hard pressed to be able to rent to non-traditional families in a house that would have 3 or 4 bedrooms. Your saying that a family group can be considered to be one that is permanent and stable. I rent to groups that may be there for 10 months or 3 years. How is he supposed to know as a landlord how long these people are going to be there? Another example of a stable family is the presence of minor children. He has a single family 4 bedroom home in the City of Cortland. In the past he has rented to professional people with no children present. Does this mean he shouldn't rent to them because there are no children? The same thing applies to some other things in this code. The problem that is causing this definition is because of students and the disruption that they cause but in an effort to come up with a solution to this problem you are causing other problems.

Scott Chatfield, Esq. has been specializing in zoning and planning for the last 30 years. He has been involved in statutes, reviewing, interpreting, etc. He has had a half dozen cases involving the definition of family over the years. He has been asked this evening to come and address the merits of the proposed local law as it relates to the definition of family. Particularly the criteria contained in the Poukeepsie Code which he understands the statute to put forth. He wants to compare this with the language of the proposed statute that was prepared by Dirk Oudemool at this board's request. He has been advised you have been advised that the Poukeepsie statute has been challenged and upheld. Some of you are under the misconception that that challenge upheld the standards which you are seeking to incorporate into the statute. That is not the case. What was upheld was the creation of the presumption. The question was the constitutionality of the creation of the presumption with regard to students in terms of factual and functional family. The problem he has with respect to the standards utilized as to whether or not a group of students living together to be a factional and functional equivalent to a family. Is the permit stable requirement as well as the ownership of appliances? To a lesser extent the notions because of the arbitrary capricious nature of the standards resemble the size and

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structure of traditional family. We all know that no governmental entity has the authority to regulate unrelated individuals living together as a factual functional group or family unless those same regulations are applied to a biological family. In other words, it is not governments business to tell people how they can associate in a single family home so long as they wish to live together as a factual functional family. If the courts lay out a clear set of standards by which we all could rely that would have solved our problems. But that did not happen. In interpreting the intent and the applicability, he thinks it is reasonably comfortable and that other people in this field would concur with him that we are treading on very dangerous ground when you single out a particular group. When you single out students or for that matter factual and functional equivalents of family different than a biological family for a regulatory process you are treading on thin ice. Your creating a potential problem by the permit and stable language to the extent that that is the criteria utilized to determine whether students are living together as a factual functional equivalent of family. Like wise he is not sure if the ownership of appliances has any governmental purpose behind it. If you're looking to see whether a group of individuals are living together as a factual and functional group or family, the proposed statute submitted by Mr. Oudemool does the job very well. Mr. Chatfield reads some excerpts from the Poukeepsie code which can be challenged. He explains if you are relying on what you've been told that were fine with the Poukeepsie standard because it was upheld it is not the case. Not as it relates to the standards for determination as to whether a factual or functional equivalent to the family exists. The last paragraph of Mr. Oudemool's proposal states, "4 or more persons occupying a single family dwelling unit unrelated by blood, marriage, or adoption shall be presumed not to be a functional family". Note there is no limitation in his proposal to exempt students. It doesn't create the presumption applicable only to students which clearly violate the constitution. There are a number of people who have reviewed the proposed standard and tested it but he thinks really as legislatures you need to in the overall public interest and within the framework of the constitution and your oath of office to adopt some regulation that won't do violence to the constitutional principles. We also have to remember that students and the university is a large part of this community economically, and socially. This is in part a college town. Earlier he was working with the Code Enforcement Office in an attempt because he understands the problems that may arise from student housing. He suggested alternatives and approaches that with a cooperative action by the City, the University, landowners, and students would be able to get a handle on a significant portion of the problems without the necessity of driving a wedge between that portion of the community and the portion of the community that are traditional families living in and around the University area. He feels that also would be something that is worthy of your attention and worthy of your efforts. Where it has been tried it has been successful. There is an interest in all parties. His clients don't like paying him to sue municipalities. He is sure your taxpayers are not real pleased with having to spend taxpayer's money to defend law suits. It is far better to work things out. The Poukeepsie statute basically says university students, landlords lets go to war. Let's find out if it is constitutional, let's get involved in litigation, let's create problems. If that's the judgment of the council so be it. There is a better way to do this.

Alderman Quail asks if Mr. Chatfield is a City resident. Mr. Chatfield states no, he is hired by landlords, the Shannons, to speak with regard to this matter. He is involved in a couple of proceedings which are on hold right now in City Court. He is familiar with this topic.

Ravi Desai of 26 W. Court St. addresses the Council. The City hired an attorney to help draft the code. We spent money on this attorney and now we are ignoring what he has done specifically with the definition of the functional family. If you have a house having 2000 square

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feet, 6 bedrooms, two bathrooms and a dining room and you rent that to three people, what do you think is going to happen? They will get three more people in at the landlord's expense. There are already several multifamily houses that students are living in. This is going to invite lawsuits that the taxpayers will have to pay for. Why does the lame duck common council have to make this decision today at the last meeting of the year? Why can't we wait until the new members of the City Council come in?

Patricia Malbone of 27 Pleasant St. asks the Council to please adopt the new building code. She thanks Ken Tobin for his work at the City.

Raymond Malbone of 27 Pleasant St. urges the Council to adopt the revised building code.

Sandy Gay of 52 Clayton Ave. has lived at this location for 31 years. He supports the new revised zoning code. The new code will help to identify the four member family and to keep the density in our area R-1 residential.

Katy Silliman of 30 Pleasant St. is in favor of adopting the currently revised zoning code. She wonders who the minority is, single family home owners of Cortland. She doesn't see how they are the minority.

Elizabeth Fraser of 15 ½ Graham Ave. is currently a renter on the hill. She is currently looking for a home. Population density does impact quality of life. This decision will influence where she chooses to live. She supports the revised building code.

Bharati Desai of 26 W. Court St. has lived there for 16 years. She owns student housing. She strongly believes that by adding "permanent and stable" wording in family definition (this author cannot understand the remainder of this sentence). Mr. Oudemool was hired by the City and it is his opinion that the Poukeepsie law will not work in Cortland. We have two different economies. Poukeepsie is close to New York City. The Cortland downtown depends on the students. When the students are not here the downtown will look like a ghost town. She believes that if you have enough room in the house you should be able to put more than 3 or 4 people in the house. If your house is not good looking from the outside or inside they will not rent your place. Your property will stay empty. If you want to stay in the business you have to put more money to make your property more attractive to the students. She has put new siding, new carpets, new windows, etc. If she only puts three students, then three bedrooms will be empty and they will put three students in there. The owner is going to suffer. You cannot put a lock on the door. The students will end up collecting money from them. The landlords will not spend the money on upkeep. This will not work in Cortland. How can you define permanent? There will be a lot of problems. We should be disciplining the students if they are the problem. The landlord doesn't want their property destroyed either. She wants her property to be nice so she can attract the best students. If you use the word permanent she will not have enough money to maintain her property. She feels it is discriminating towards the students. Public funds have been used to hire this lawyer. Why do we hire him?

Marjorie Inana of 41 W. Court St. speaks in support of the proposed local law.

Rosemary Taylor of 9 Graham Ave. speaks in support of the new definition. The house next door to her just sold and she is pleased it is a family with two boys who are students at Cortland State.

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Steve Muka of Evergreen St is a landlord and rents to students occasionally. He mainly has 1 and 2 bedroom apartments. He is not one of the landlords that have a large house with 5 or 6 students in it. He has followed the rental housing market for quite a while. He is concerned about property value. He is worried that if no more than three students can be in a house even if it is a large house like 5 or 6 bedrooms it is going to create problems. We should be dealing with the students that are acting up and discipline them in a more effective manner. He considers the rental market and property values very fragile. He thinks if a message is out there that the City in some way is not supporting property owners, market values are going to go down. It is interesting what is going to happen. A while back rental property had about a third of the taxable assessment in the City and that is down to about a quarter now. This means single family home owners are paying more than the share they used to. He wants to make sure that what the Council is doing doesn't harm the tax base. This could cause problems that will hurt the entire community. He is concerned also that if something the City does creates less student housing and the college needs more, a concern is they might build another dorm which is not taxable property. Then when times get tough in the community, there are fewer students in the market to fill the rental housing that is paying property taxes. This will cause vacancy and bankruptcy. He was wondering if increasing noise violation fines depending on the time of night might help instead of trying to control all students and all landlords. Another thing is almost all of his rentals are month to month so you don't have to go to court to get someone out. If a tenant is acting up then here is your months notice and maybe that could be implemented with the students somehow. He is thinking about what happened over on Lincoln and Maple Ave. They decided they didn't want that many students over there. The college built Pineview in Cortlandville. After that there were a lot of vacancies on Lincoln and Maple Ave. and things got pretty bad and they even had a block grant that addressed some of the housing needs. He thinks it got bad because the rental market is delicate. Even something like Pineview can shift things and then you have vacancies and investors walking away from things.

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

## **PLEDGE OF ALLEGIANCE TO THE FLAG**

## **PUBLIC COMMENT**

### MINUTES of November 18, 2003 and December 2, 2003.

By: Alderman Hennessy  
Seconded: Alderman Morey

Approved: Ayes – 8  
Nays – 0

**RESOLUTION #166** of 2003 – Approve the minutes of November 18, 2003, and the amended minutes of December 2, 2003.

By: Alderman Hennessy  
Seconded: Alderman Morey

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Approved: Ayes – 8  
Nays – 0

Alderman Quail asks that the last paragraph on page 7 be changed. Change is noted and made. Alderman Morey makes a correction on page 5, noted and made.

## BILLS

Bills are received.

## MAYOR'S REPORT

This will follow the ward reports.

## WARD REPORTS

Ward 1 –Alderman Faraoni

Wishes everyone a happy holiday. Thanks Chris Bistocchi, Geno Sonnachio, and the DPW crew for the fine job they did this weekend. Chris also cleaned some spots in Dry Creek that were ready to cause a problem. This cost the City approx. \$500.00 dollars. Alderman Faraoni spoke to Jim Yaman with regard to the cost and Mr. Yaman sent a check to the City for \$500.00. He thanks Mr. Yaman and wishes him happy holidays.

Ward 2 – Alderman Tobin

Mr. Tobin states this is his last meeting. He has been an Alderman for 14 years. This will be his 27<sup>th</sup> year of association with the City of Cortland through athletic endeavors and commissions and Council meetings. Through the grace of God he has been able to attend every council meeting since he has been on the council. He thinks this is over 300 consecutive meetings. He thanks his wife Vicky who is in the audience. He thanks his children, Jason, Terry and Erin for also being there. He thanks his mother, brothers, and sisters for their support over the years. Mostly he would like to thank the electors of the second ward who gave him the opportunity to serve his community and to experience first hand the trials and tribulations of representative government. He would also like to thank the department heads and employees of the City for whom we derive the services we have come to expect. He also thanks the members of the various commissions, members of the zoning board, and the community development office who devote countless hours to make our community a place of pride. He notes he was never a good party politician but would rather say he was a people's representative. The people we represent are much more important. He was blessed with having a great constituency and it made him the alderman that he was and he has tried to represent the second ward as well as his home town with integrity and honor. Finally, he would like to say it has been an honor to serve with the Council and we, the Mayor have reached out to the community and asked their input there by instilling the spirit of community participation. He hopes the lasting living legacy of this administration and council would be the affirmation of the revised zoning code tonight which is an excellent document produced by a committee of concerned citizens. It has been a nice ride, sometimes bumpy but a nice ride.

Ward 3 – Alderman Morey

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She will be having a ward meeting the second Wed. in January. It will be at the YWCA at 7:00PM. She wants to let everyone know that there are certain sections of Groton Ave. that when the snow gets plowed there is no right of way between the sidewalk and the street. She has had one or two calls about that. She asks everyone to be patient. She was driving in the 2<sup>nd</sup> ward tonight and noticed a huge pothole on Maple Ave. in the Parker School section. There is a water drainage problem on Forrest Ave. that she is going to address with Chris Bistocchi. She thanks the departments for their hard work during the storm.

#### Ward 4 – Alderman Guido

He asks everyone to keep the sidewalks clean especially for the elementary students who will be walking to and from school. Everything is fairly quiet.

#### Ward 5 – Alderman Quail

Crows are in the 3<sup>rd</sup> and 5<sup>th</sup> wards. He participated in Allysa's Run. He reads the thank you card from Sabrina Clark thanking the various Common Council members for their donation to the family of Allysa Marko. The family is grateful for living in such a caring community.

#### Ward 6 – Alderman Testa

Colgate University his old alma mater is 15-0 and will be playing Chattanooga TN. It goes to show you what a small school of 3000 students can do when they put their mind to it and still be students. He has had one complaint because a car has been parked in a parking lot for almost a week. He called the police and was told they couldn't do anything about it. He spoke with Amy and she doesn't have any jurisdiction either. It is a sad state of affairs when someone can come and park their cars in your parking lot and you have no recourse. He has tried calling some people to have the cars removed but he could not find anyone willing to do it.

#### Ward 7 – Alderman Partigianoni

Congressmen Boehlert was at Marietta celebrating their renovations, the upgrade of their facilities, and increase in the employment. He has had a couple of calls on the recycling center. He got married again two weeks ago Sat. celebrating their 50 year anniversary. He will be out of town two weeks in January to celebrate this affair.

#### Ward 8 - Alderman Hennessy

This is also her last meeting but she is going to stand by her tradition in being brief. She has received several calls over the past couple of weeks regarding snow removal and restoring of funds for the library. She would like to thank the people involved in the holiday lighting contest for all their hard work.

### MAYOR'S REPORT

The Mayor reads the winners which are attached hereto.

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This is the Mayor's last meeting. The Christmas tree lighting was a big success. She thanks Jane Hodgkin and Jim Sponaugle, Santa, the high school volunteers and St. Mary's school and choir. It was fun and cold. The PBA had their holiday party last evening. The Buckbee Mears closing was not unexpected but it is really a disappointment. She is happy to see that Tompkins Cortland Community College is putting into affect some programs to help with retraining. As you all know there is going to be an adverse effect on water and sewer rates. The budget reflects that already. The Mayor is hopeful in years to come the City will be able to work cooperatively with other economic development entities to attract businesses to that site. Representatives from our code office have been working with SUNY Cortland on standards for student housing. There have been efforts underway to come up with either standardizing the way the ratings are done or making sure the housing is safe and appropriate for the students.

She would like to thank everyone who worked on the code revision committee and there were a lot of you. She appreciates the input from the neighborhood representatives. She thanks Dan Dineen, Amy Bertini, and Mark Suben for the work they have done in pulling all this together. The Mayor agrees with Alderman Tobin by saying if this is able to be put into effect, the change will be efficient and will allow code enforcement to be done appropriately and will be a very good legacy for this Common Council. Personally she wishes to extend her thanks to the department heads and to the staff of the City and to the members of the union. During her two years as Mayor she has found them to be without exception. They are wonderful, devoted people. A lot of this goes on behind the scenes. A special thanks to Andy Damiano who has been absolutely wonderful to work with. To all of you, she extends her best wishes to everyone staying in office and for those of you who are retiring, she hopes you enjoy yourself. She hopes that you succeed with the projects that we started especially the facilities renovation and finding a new home for the fire fighters. She has every confidence that this will be carried through and have something be complete and do something that will be very important for the City of Cortland. You have all of her support in that endeavor.

## AGENDA

Item No. 1 – Consideration of the following actions relating to proposed Local Law No. 4 of 2003:

**RESOLUTION #167** of 2003 - Declaration by the Common Council to assume lead agency status for the SEQRA process.

By: Alderman Tobin  
Seconded: Alderman Morey

Approved: Ayes – 8  
Nays – 0

The SEQRA is reviewed.

The Council agrees that a negative declaration is made in the SEQRA process.

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**RESOLUTION #168** of 2003 – Approve of the adoption of Local Law No. 4 of 2003 amending the Code of the City of Cortland.

By: Alderman Tobin  
Seconded: Alderman Quail

Alderman Quail notes a great deal of time was spent going through a number of meetings and through the code revisions. The magnitude of the changes that we have, he doesn't believe we can wait. There are a number of really good things we are looking at in this code. If we wait we are going to look at another council and bring the new people up to speed. He doesn't think we can wait on this. Alderman Morey states the revision committee has worked for a year on this and has done an excellent job. We have been talking about these revisions for the last two months. Alderman Hennessy states that even though this isn't the perfect code there might be some things she doesn't totally agree with. It's such an improvement on what we have now, we need to move ahead.

Alderman Partigianoni feels that the unruly students need to be disciplined but the Poukeepsie definition of functional family is not the answer to all the frustration we have heard. He is deeply concerned about the kind of message we are sending to the college, our biggest employer and to the good students. What kind of message are we sending to the high school people coming to Cortland? We can sit here and say this is not against students, every single person we have talked to says students. This proposed action does not take into consideration the good model students. It doesn't take into consideration the good landlords. Most of the advocates of the Poukeepsie definition believe this addresses the density problem and it probably does. Anti social behavior will be eliminated. This Poukeepsie definition is not going to stop anti social behavior. We have taken two issues and run them together. If we get too restrictive, where will the students live? Is this enforceable? It's ambiguous. It is going to go to the judge. The code we have now addresses basic safety. The new code will include quality life maintaining. The housing code will not stop anti social behavior.

Alderman Guido agrees with a lot of what was said. This is just the beginning. This is something the incoming administration and council can work with the college on. A brief discussion ensues regarding certain people living in a single family home.

On the question.

Roll call vote.

Alderman Faraoni	Aye	Alderman Quail	Aye
Alderman Tobin	Aye	Alderman Testa	Aye
Alderman Morey	Aye	Alderman Partigianoni	Nay
Alderman Guido	Aye	Alderman Hennessy	Aye

Approved: Ayes – 7  
Nays – 1 (Partigianoni)

**RESOLUTION #169** of 2003 – Authorize the adoption of the 2004 Wastewater Treatment Plant Operating Budget and establishing a domestic rate of \$1.68 per unit.

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By: Alderman Hennessy  
Seconded: Alderman Faraoni

Approve: Ayes – 8  
Nays – 0

Alderman Guido asks what the increase was. Director Damiano states .08 cents per unit. A discussion ensues as to whether to increase it to .10 cents but it will be hard to predict at this time.

**RESOLUTION #170** of 2003 – Authorize the adoption of the 2004 Water Fund Operating Budget and establishing a domestic rate of \$1.58 per unit.

By: Alderman Faraoni  
Seconded: Alderman Quail

Approved: Ayes – 8  
Nays – 0

**RESOLUTION #171** of 2003 – Authorize the adoption of the 2004 General Fund Budget, as amended, and establishing a tax rate of \$13.893 per thousand dollars of assessed valuation.

By: Alderman Quail  
Seconded: Alderman Hennessy

Mayor Leonard notes there have been discussions with the employees and with the Police union regarding the impact especially with the crime situation we are facing. We are hopeful that we may be able to find the funds to hire people to fill the positions. Alderman Quail notes we are trying to come up with creative solutions.

Clerk Wood states there are approximately 250 employees in the City of Cortland. He has been here for 16 years now and he has never seen anyone’s pay cut without a reduction in responsibilities. We have a person that has been a long time employee, Jodi McLyman, the Deputy City Clerk. This is unfair to her, sends a bad signal to other employees, and he hopes this board will do the right thing and fair thing and put the money back. Alderman Morey notes the Mayor reduced the salary and the Council gave back as much money as they could. The Mayor states she reduced the salary because she was under the understanding that the person who is in the position now would not remain in that position. Clerk Wood states if a new person was coming in then he could understand the reduction. A brief discussion ensues. Alderman Quail states next years Council can address the issue. The budget is on the table.

Roll Call vote.

Alderman Faraoni	Aye	Alderman Quail	Aye
Alderman Tobin	Aye	Alderman Testa	Aye
Alderman Morey	Aye	Alderman Partigianoni	Aye
Alderman Guido	Aye	Alderman Hennessy	Aye

Approved: Ayes – 8

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Nays – 0

**RESOLUTION #172** of 2003 – Approve the request by Constance Feissner of 205 Groton Ave. for a renewal of her permit to harbor animals at her home.

By: Alderman Morey  
Seconded: Alderman Faraoni

Approved: Ayes – 8  
Nays – 0

**RESOLUTION #173** of 2003 – Authorize the Mayor to enter into an agreement with the Cortland School Crossing Guard's Association for the period January 1, 2004 through December 31, 2005.

By: Alderman Quail  
Seconded: Alderman Hennessy

Approved: Ayes – 8  
Nays – 0

Item No. 7 – Discussion regarding crows.

Alderman Morey states we do not control the air space above Cortland unfortunately. The only way to keep the residents of Cortland comfortable is to keep the birds moving. These noise makers do move them around the City. They don't normally go back and roost in the same places the noise crackers have been set off. She would like to ask the Council to appropriate \$500.00 so that we can reload.

**RESOLUTION #174** of 2003 – Authorize the transfer of \$500.00 from account A1990.400 (Contingencies) to account A3120.415-01 (Police-Contractual) to purchase the ammunition for the crow problem.

By: Alderman Morey  
Seconded: Alderman Hennessy

Approved: Ayes – 8  
Nays – 0

The Mayor acknowledges the retirees, Alderman Tobin, Alderman Testa, and Alderman Hennessy. Alderman Quail acknowledges Alderman Tobin with a award ceremony. Several people speak on his behalf. The Council acknowledges all the retirees and wishes them well.

**Adjournment.**

By: Alderman Morey  
Seconded: Alderman Hennessy

Approved: Ayes – 8

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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 16th DAY OF DECEMBER, 2003. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.**

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**WILLIAM J. WOOD – CITY CLERK**