



City Council Minutes
The City of Cortland
September 15, 2009

Council Meeting #18
September 15, 2009
Regular Session
City Hall
7:00 PM

Present: Alderman VanGorder, Benedict, Dye, Tobin, Quail, Feiszli,
Hamilton and Michales

Staff Present: Director of Administration and Finance Bryan Gazda and
Corporation Counsel Lawrence Knickerbocker

Mayor Gallagher calls the eighteenth Common Council meeting of the year to
order at 7:00 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

No one was present to speak.

Minutes of September 1, 2009

RESOLUTION #104 OF 2009 – Approve the minutes of September 1, 2009.

By: Alderman Quail
Seconded: Alderman Tobin

Approved: Ayes – 8
Nays – 0

Bills were reviewed and received.

There was discussion regarding the quarterly payment to the City Assessor for his overhead expenses that were in a contract with him. The contract is in effect until 2013, but the Mayor and Council had thought that these payments would be ending in 2010. Corporation Counsel Knickerbocker felt that the contract was until 2013. It was noted that it was a quarterly lump sum payment of \$24,000. It was noted by the Council that in 2010, the Council might ask him for a list of itemized

expenses and paying that as opposed to just a quarterly lump sum. It was noted that perhaps the number of hours Mr. Briggs works for the City should be spelled out and how much should the City be contributing to these expenses. Alderman Feiszli wants to check with NYCOM to see what similar sized municipalities are paying their part-time assessors.

Alderman Feiszli questioned the SPCA contract payment amount.

Mayor's Report

He met with the representatives of the YWCA and the Cortland Regional Sports Council. They're looking at some facility needs and wanted to know what the City had available. They were looking at the Armory and that's pretty full. He met with Jim Burke of the DEC at the Waste Water Treatment Plant to review the requirements for the operation of the treatment plant. He attended the BDC meeting for potential developers for the Rosen site; it's an ongoing process in the infant stages of negotiations at this point.

Ward 1 – Alderman VanGorder

It's been quiet in her Ward. She did receive one (1) complaint and she is working with the DPW and hopefully it will be resolved by the end of the week.

Ward 2 – Alderman Benedict

He checked on the progress of the bridge work at the corner of Homer Avenue and Madison Street. It looks like they are ready for steel and it's on order. He received some calls regarding the furniture left on the lawn and building materials sitting out on the curbs. He reminded people that sofas are to remain inside and they are not outside furniture. People need to take proper care of rubbish or they can be fined. He checked on the progress of the berm, it will need at least a preliminary archeological study.

He plans to do a study of people's losses in the last two major floods. He asked people to send him their lists of itemized expenses and the date of these losses, he will try to collate them and develop a study of how much was lost in the last two (2) floods and compare that to the cost of the berm. He would like to set up a time to visit the Water Works to see exactly where the berm will be placed. He wants to make it clear that this proposed berm is far away from Glen Street and other streets off of Groton Avenue and it is less than half the height of the C & S study proposal. He is glad to report that the police patrols are helping in the downtown area. Some businesses are grateful for that and would appreciate additional checks on Thursday nights.

The Hill Association is still concerned about the noise levels as students are returning from downtown and they are planning a meeting with the police chief.

He also received some complaints about barking dogs. He reminded people not to leave their dogs out for long periods of time if they have a tendency to bark. He also received a call about 19 W. Court Street. It appears that the owner is ignoring the will of the Planning Commission and he asked what could be done to prevent others from doing that. He suggested that they go back to working on the Code and finish the revision. He is concerned about people ignoring the Planning Commission's approval and adding more rooms. He noted that looking up from Main Street, that windows could be seen in the basement level, which weren't in the approved plans.

Ward 3 – Alderman Dye

He had a couple of issues with trees. He's meeting with a couple of residents on Groton Avenue and go down to Dry Creek. It seems that there are a couple of trees in that area which need to be taken care of. He noted that he will get their location so that he can get the property owner's names and contact them. He had a discussion with a couple of people about noise on Main Street. He told them that he would meet with them on the weekend. He was down there during the week and there were no problems at all.

Ward 4 – Alderman Tobin

He did a presentation up at SUNY Cortland along with Chief Glover from Code Enforcement. They presented to the students some of the details regarding the new rental registration program and how it may impact them. The recommendation that they gave students was that they ask for a CZO, so that they had a good idea of how many occupants a rental unit was allowed to have if they wanted to rent that unit. He also spoke with a new neighbor who had moved in about the reputation that house had in the past. It had been noisy at times and other neighbors had not been pleased about it. He tried to give the new tenants a forewarning to try to offset problems before they occurred. He is tentatively looking to having a Housing Committee meeting on Thursday at 7:30 PM at Port Watson Commons to try to figure out where to go next with that Committee.

Ward 5 – Alderman Quail

It's been quiet in his Ward. He thanked the police and the Code Office. He had a couple of issues in the past few weeks and they really came through on them. He has given everyone a copy of the letter received from Dave Briggs regarding the Senior Citizen's tax exemption. Basically if we were to follow what the County is doing currently it explains what the impact would be on the taxpayer. He would like to add that item to the next agenda to take a look at it at that point.

Ward 6 – Alderman Feiszli

She noted that Colony Drive and Morningside Parkway have finally gotten a binder course on top of it and the residents are very happy. Next year will be the top course on it and Chris Bistocchi of the DPW plans to run that two (2) feet into every driveway and feather it out so there won't be a bump.

There was an article in the Cortland Standard and as a result she received a couple of calls with concerns that the City was hiring a couple of police officers. She spoke to Director of Administration and Finance Gazda and the Chief of Police and confirmed that we were just replacing vacancies. We were not doing any additional hiring. The Environment Advisory Committee is meeting again next week. They have five (5) new members with various backgrounds; high school teachers, professors from the College with backgrounds in the environment and biology. On Sept. 26, 2009 from 10:00 AM to Noon is the annual Dry Creek Clean Up. She put an ad in the Cortland Standard and also on Channel 2 and the radio station. It is a good opportunity for youth groups to get together to do a community activity. They will meet at Pontillo's on Groton Avenue.

Ward 7 – Alderman Hamilton

It's been in his Ward. No problems. He is happy to note that the fourth item on the agenda is a consideration of a HOME grant for the East End. He will gather information on that for the home owners in that area.

Ward 8 – Alderman Michales

He had one (1) Code related issue. A resident on Cedar Street did not mow their lawn all summer. This property is also on the list of properties owing back taxes. He also received a concern today from a resident regarding the Buckbee Mears property being taken off of the tax rolls and placing this on the burden of our school taxes. He assured the individual that someone will have to pick up the tab on this property, but we'll be discussing that tonight later on the agenda. He also asked to place on the agenda for the next meeting to address damaged and blighted properties in the City. He wants to give the other Councilors an opportunity to research this. Many cities propose that they add fines to their code for dangerous buildings. We currently don't have that in our City Code. This will make the homeowner or property owner responsible for their properties so that they aren't sitting for two years. He proposed placing a fine of one thousand dollars (\$1,000) per quarter and this may make them move a little quicker to get their properties back to a habitable condition. He would like to discuss this at our next meeting.

Alderman Feiszli stated that she had brought that up before and suggested that they look at the Vacant Buildings Ordinance that she had distributed. It would give them some ideas on how to deal with this. Alderman Benedict noted that he had received concerns about the property on the corner of Court Street and Main Street. It's been empty a long time, but it could be a boost to the economy if it was

taken care of. Alderman Michales has received calls regarding that building also urging that something be done about these properties.

RESOLUTION #105 OF 2009 – Consideration of a Resolution to engage Ciaschi, Dietershagen, Little, Mickelson & Co, LLP to perform our 2009 financial audit.

By: Alderman Benedict
Seconded: Alderman Dye

Approved: Ayes – 8
Nays – 0

Alderman Feiszli asked that the Council go into executive session for contractual discussions.

RESOLVED TO GO INTO EXECUTIVE SESSION FOR CONTRACTUAL DISCUSSIONS.

By: Alderman Feiszli
Seconded: Alderman VanGorder

Approved: Ayes – 8
Nays – 0

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

By: Alderman Benedict
Seconded: Alderman Tobin

Approved: Ayes – 8
Nays – 0

RESOLUTION #106 OF 2009 – Consideration of a Resolution to reaffirm our procurement policy.

Alderman Benedict indicated that he had some questions and he asked Director of Administration and Finance Gazda to repeat his answers to those questions. He had one regarding page #2, number 5. Director of Administration and Finance Gazda explained that this procurement policy was developed by NYCOM years ago and is adopted by many municipalities. Basically all that he had done was obtain one of those basic policies and he adjusted the dollar amounts and added e-mail basically e-mails can be allowed to receive items. His interpretation of that item number 5 on page #2, is that most purchasers are department heads and no undue influence can be put upon them by anybody to change something. He feels that this is the meaning of that and that it's the best offer and that they are not

being unduly influenced by anyone to do that. Alderman Feiszli asked how many years it had been since the procurement policy had been updated. Director of Administration and Finance Gazda stated that it was last done in 1992. Alderman Feiszli stated that she had contacted NYCOM because she had a question about local procurement policy, where we would give local vendors the opportunity to bid on projects and she did receive a copy of a resolution. It is something that the Council definitely can do, but it's not in this procurement policy. She would like to discuss that further. She wants local businesses to be invited to bid. She also noted that NYCOM had just updated their procurement policy guidelines and e-mailed them to her. It's something that they are going to be putting in their book, so given that, she asked that the Council would table this until the next meeting so that she could review this information, share it with the Council and consider it for the next meeting. Alderman Quail asked that the Council accept this procurement policy as presented for this year and if the Council wanted, they could draft another for next year. Mayor Gallagher noted that the procurement policy should be adopted annually. There was further discussion regarding local purchases versus cheapest prices. Director of Finance and Administration Gazda noted that this had been a current finding in the internal audit so it would be a repeat if the Council didn't do something by December 1, 2009. He noted that it could be changed at any time and typically should be reviewed every year at the Council's re-organizational meeting. Alderman Feiszli asked if all of the Council had received copies of the changes. She also asked if they wanted to wait until next year to look at a local procurement policy or a resolution. Aldermen VanGorder and Benedict felt that they could adopt this resolution and then look at local procurement at the next meeting. Alderman Quail felt that in October they would be starting the budget timeframe and they all would be working on the budget and he felt that the budget should be their focus in October and that this could be looked at later, when that's done. He felt that the City had been working under this policy for seventeen (17) years and he wanted them to get rid of the audit findings and approve this. Alderman Feiszli asked the Council if they knew what the difference was between this procurement policy and the one that the City had been operating under. It was noted that it was the dollar amounts that had changed. Alderman Feiszli noted that she would forward the NYCOM document that she had received on e-mail to the other Councilors. She also noted that the changes in amounts due to inflation were fine, but she also felt that they should look at other changes such as a central purchasing. Director of Administration and Finance Gazda noted that was not something that would be included in a procurement policy, but was more of an organizational issue. He noted that the generic policy before the Council has been in effect for many, many years. Alderman Feiszli stated that her question was that when a Department Head made a purchase that there was no accountability and she felt that what this policy was saying was that the Council didn't have to question it. Mayor Gallagher and Director of Administration and Finance Gazda noted that the accountability was the budget. Alderman Quail stated that what Alderman Feiszli was referring to was an approval level and that is somewhat in there, but he has spoken with Bryan Gazda regarding that so that perhaps if there is a purchase over \$10,000

that the Mayor and Director of Administration and Finance Gazda would see it. That typically can be both in a procurement policy or it can be an addendum, an approval level, but there is accountability and that's called a budget. If the departmental budget is overspent, that would be reviewed annually. Alderman Benedict asked if the department head could spend over \$10,000 without consulting the Council if it was an emergency item. Director of Administration and Finance Gazda explained that generally if there was an emergency in the middle of the night and it wasn't practical to get a hold of the Mayor and the decision has to be made, within general municipal law it states that if someone breaks a policy they are guilty of a misdemeanor. This is one of the few times that actually within law that says if someone breaks a policy they are guilty of a misdemeanor and you don't see that very often in state law. If someone is abusing this policy, then there are repercussions in place, but if there's an emergency you need to let your department head make that decision. He also noted that typically you didn't find the department head making that type of decision at 3:00 AM in the morning, but perhaps a fire chief might need to do that. This protected the department head from having the Council bring them up on charges because they broke their procurement policy.

Alderman Feiszli asked about receiving a number of proposals and the ability to accept a proposal on page #2. Corporation Counsel Lawrence Knickerbocker explained that if they requested proposals and only two (2) were received, this portion of the policy would allow them to accept one (1) of those proposals and not have to go back out to bid in order to get three (3). Alderman Feiszli asked that it be changed in the policy to have the department head go to Director of Administration and Finance Gazda in the case of not receiving enough bids. Director of Administration and Finance Gazda stated that what he would like to do is go to a system of central procurement and he will take a look at that after he is finished with the budget.

By: Alderman Dye
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 1 (Feiszli)

RESOLUTION #107 OF 2009 – Consideration of a Resolution to consider tax-exempt status for Buckbee-Mears property.

By: Alderman Tobin
Seconded: Alderman Quail

Corporation Counsel Lawrence Knickerbocker stated that this had been discussed by Assessor Briggs. The idea being that the City has to make whole the County and the School District on unpaid taxes and this particular piece of property,

Buckbee Mears, has a large amount of outstanding taxes. The City, by doing this, would not be forgiving these taxes; they simply would be taking this piece off of the rolls for this tax year and it can be placed back on the rolls whenever the Council would pass another resolution to do so. The idea behind this is because the tax, right now, doesn't appear to be collectible based on the fact that we have an overseas company that is very difficult to locate. Even more importantly, this piece of property is an environmental problem and the City doesn't want to buy into that problem. In that way the City will not have to be paying the County and the School taxes for this property. This amounts to between a thirty thousand (\$30,000) to a forty thousand dollars (\$40,000) savings in this tax year. If the problems are resolved or if the City is able to track down this foreign company, the Council can always put this property back on the rolls again by resolution.

Alderman Michales asked if anyone had shown any interest in this property. Corporation Counsel Knickerbocker stated that no one was interested and that it's still an environmental problem. Alderman Michales stated that was what he wanted to point out, that it was essentially useless until some of these issues have been resolved. Corporation Counsel Knickerbocker stated that Director of Administration and Finance Gazda had received a telephone call and the City was hopeful that the lending institution, which holds the mortgage on this piece of property, will be coming forward and bringing foreclosure proceedings. Alderman Feiszli asked if anyone had contacted the School or School Board to see how this will affect their budget. Corporation Counsel Knickerbocker stated that it wouldn't affect them at all. He noted that if this property is taken off of the roll, it won't be plugged into their budget and that would be the same for the County for next year. He noted that it's not something the City would be taking away from them that they had an expectation of, but it does save the City some cash.

Corporation Counsel Knickerbocker and Director of Administration and Finance Gazda noted that this resolution should probably be amended to not only take it off of the tax roll, but to temporarily take it off of the in rem process because the City doesn't want to own this piece of property in its present state and that requires a resolution and that should be done at the same time. He reminded them that the statute is clear, they can put the property right back in to the in rem process and it doesn't forgive the delinquent taxes. All we are saying by doing this is that we are saying that we are not going to move forward on this piece of property to take it back at this time. With any luck, we are hoping that the mortgage holder, at least from their preliminary talk, will be forward and foreclosing on this. If they do, one of the provisos under a mortgage foreclosure is that they have to make the taxes whole. They would have to pay the City and make the taxes whole before they actually foreclose on the property. Alderman Quail noted that the former owners were already over \$500,000 in arrears on taxes. Corporation Counsel Knickerbocker stated that the mortgage company was owed a lot of money even though there's this potential environmental issue, a lot of it has been cleaned up and they are out substantially more than the City is and if they are going to try to ever get it back again and revitalize it, they are going to have to do it sooner rather

than later. They are also aware of the amount of delinquent taxes, so he guesses if the City removes it from the in rem process and then all of a sudden there's no foreclosure proceedings go forward, the Council can revisit their decision and decide we want to proceed. He urged them to consider the environmental issues if the City should take it back. He noted that the EPA is done with their work and they are waiting for a final report, but he believes there are mold problems still existing as well as some other environmental problems down there which the EPA doesn't clean up. Corporation Counsel Knickerbocker recommended that they amend the resolution to both take it off of the tax rolls and to take it out of the in rem process.

Alderman Quail removed his second and Alderman Tobin withdrew his motion.

RESOLUTION #107 OF 2009 – Consideration of a Resolution to consider tax-exempt status for Buckbee-Mears property and remove the property from the in rem process.

By: Alderman Benedict
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

RESOLUTION #108 OF 2009 – Consideration of a Resolution to award the HOME Grant Administration & Program Service Contract for the Cortland East End Rehabilitation Program.

Linda Armstrong was present from Thoma Development. She stated that the program is for four hundred five thousand dollars (\$405,000) for fourteen (14) owner occupied structures. Alderman Benedict noted that this was sent out to bid and the City only received one (1) bid and a response from another company that didn't express any interest. She explained that homeowners should contact Thoma, but that the funds would not be available until after a contract was in place and an environmental review was done and this takes a while with HOME. So Thoma is taking names and applications probably won't be sent out for at least sixty (60) days. She noted that she wanted people to be sure that they were in owner occupied single family units, their taxes are current and the property isn't under life use and that the resident has a deed giving them ownership and that they are in the HOME target area. She also noted that this is not on a first come, first serve basis and Thoma has a rating system based on critical need and income.

By: Alderman Hamilton
Seconded: Alderman Dye

Approved: Ayes – 8

Nays – 0

RESOLUTION #109 OF 2009 – Consideration of a Resolution to award the Safe Routes to School contract.

Mayor Gallagher noted that there were two (2) bidders. They were A D North Developers, Inc., Kinney Gulf Road, Cortland, New York and Economy Paving Co., Route 13 Cortland, New York. A D North Developers bid \$99,999.90 and Economy Paving bid \$126,998.00. Director of Administration and Finance Gazda noted that the federal portion awarded that the City has to use is \$168,776, so the bid falls in below. This will also include some lighting. Chris Bistocchi recommended the lower bidder.

By: Alderman Quail
Seconded: Alderman Michales

Approved: Ayes – 8
Nays – 0

RESOLUTION #110 OF 2009 – Consideration of a Resolution authorizing the Mayor to act on behalf of the City on all matters relating to the ERP application submitted for funding for the Noss Park environmental clean up project. (Amends the Resolution previously adopted on February 7, 2006)

Linda Armstrong of Thoma Development explained that this resolution that the City had passed previously in 2006. Thoma had written a grant under the brown fields program called Environmental Restoration Program and the City received funding to do an assessment of the Noss Technology Park. Thoma Development hired C & S Engineering to do that assessment and once they got into the project, the DEC did away with the program. Thoma got as far into the project as they could. This project, which is a reimbursement project, has you spend the money first and then put in for reimbursement. Thoma received their first reimbursement and then about two (2) months ago they put in their request for the second and final reimbursement and this afternoon Linda received a call from the DEC saying that they had missed something, and therefore couldn't send Thoma their reimbursement although it had been approved. It dawned on someone yesterday that the resolution that the City had passed had expired. Resolutions are only good for two (2) years and the last one had been passed in February 2006. So the DEC has to have an amendment to the contract and they can't amend the contract unless the Council re-ups the resolution. She explained to them that they would get it in October and the DEC told her that it probably wouldn't be acceptable to them because they want to get this off of the books and in order to do that they have to get the money to Thoma and if they don't receive this until October, they would be able to get the money to them until January because it's about an eight week process. So they asked Linda Armstrong to contact the City to see if this resolution could be done tonight and they need it to be worded the

same and indicating that is amending the Resolution previous adopted on February 7, 2006 and they would release the approximately \$32,000 that was paid out of the HUD Program income that Thoma would like to get back into the City Program Income account to use for other activities.

By: Alderman Quail
Seconded: Alderman VanGorder

Approved: Ayes – 8
Nays – 0

Adjournment

By: Alderman Quail
Seconded: Alderman Hamilton

Approved: Ayes – 8
Nays – 0

I, JOHN O. REAGAN, 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 15th DAY OF SEPTEMBER 2009. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.

JOHN O. REAGAN – CITY CLERK

MAYOR THOMAS GALLAGHER