



City Council Minutes  
The City of Cortland  
July 20, 2010

Council Meeting #18  
July 20, 2010  
Regular Session  
City Hall  
7:00 PM

Present: Mayor Feiszli, Alderman Tobin, Hayes, Craig, Dye, Ferrer, and Ferguson

Excused: Aldermen Michales and Quail

Staff Present: Director of Administration and Finance Bryan Gazda, Corporation  
Counsel Ronald Walsh and City Clerk Carol Tytler

Mayor Feiszli called the eighteenth Common Council meeting of the year to order at 7:04 PM.

#### PLEDGE OF ALLEGIANCE

#### PUBLIC COMMENT

Abi Cleary and Sharon Stevens spoke in favor of the rental permit program. They and others have circulated petitions in support of a strong rental permit program and limiting density in our neighborhoods. They presented the signed petitions to the Council. They emphasized that this issue was not just a student rental issue but a quality of life issue.

Clay Benedict spoke in favor of the rental permit program. He asked the Council to support the rental permit program and the codes restricting density.

Steve Muka asked to have the deadline extended to sign up for the rental permit program to give time for the judge to rule on the program. He stated that if the program is ruled constitutional, he would be willing to sign. Mr. Muka stated that rental properties are going below assessed value per his conversation with the assessment office. He further stated that local landlords will no longer want to be landlords and it will be a lose – lose situation and could be a win-win situation if we worked at it more.

Gerry Ruggiero stated that he favors a registration program and a rental housing program, but wants it to be legal. He stated that a law suit will be filed tomorrow by a group of landlords as they believe the law is unconstitutional. He further stated that he believes that the rental program is unconstitutional and has come up with a program on the expansion of student housing that is tougher and legal.

Mike Dexter responded to the editorial in the paper and stated that he agrees with what Abi Cleary and Sharon Stevens said. He stated that there are landlords dedicated to building housing that is good and fair and students want to live in it. He further stated that the permit issue has been passed as a law and is on the books and should be enforced. He expressed concern about foreclosed properties and vacant lots and the loss of taxes from those properties.

Jim Reeners spoke against the proposed restriction on parking variances. He stated that the ZBA listens to all the requests, knows the criteria and makes appropriate decisions and should be allowed to continue in that role. He stated that by providing the parking variances, other problems have been alleviated within the City.

Mr. Reeners also expressed concern about restricting sleeping areas within properties and was concerned about other labels for rooms, such as “den”, that would just be used as sleeping areas. He stated that it is aimed at the housing of students and feels some landlords will do whatever they want with a den and not comply with the law. He stated that zoning laws should never use “grandfather” in any terms. He further stated that an overlay in the college housing district is a bad idea that will result in more law suits...just different people. He stated that the City has all the mechanisms at hand, just needs to enforce them but eliminate grandfathering.

County Legislator, Tony Pace, stated that people in his ward are wondering why final decisions haven't been made and action taken on the permit program. He stated that if it is not broken, don't fix it. He stated that he still has concerns about two family owner occupied homes and the people on the east end were not consulted for input on this. He stated that the Mayor's proposal (for a moratorium) is a good idea to develop a law that is effective and addresses the characteristics of the different wards. He stated that any committee outside of the Council needs to have a balanced membership and emphasized that the Council is supposed to make policy, not hand that over to someone else.

#### Minutes of July 6, 8 and 12, 2010

**RESOLUTION #159** OF 2010 – Approve the minutes of July 6, 8 and 12, 2010.

By: Alderman Craig  
Seconded: Alderman Ferrer

Approved: Ayes – 6  
Nays – 0

No corrections or changes  
Minutes are approved.

#### **WARD REPORTS**

Alderman Tobin stated that he had toured the County 911 Center and was very impressed how they are able to react to everything. After hearing Mr. Zettek's presentation last week, Mr. Tobin thought the Council should look at the 911 Center to see who is responding where.

Alderman Tobin asked that an executive session be added to the agenda to discuss pending litigation.

Mayor Feiszli welcomed Carlos Ferrer as the newest member of the Council who will be representing the 6<sup>th</sup> Ward.

## AGENDA:

**RESOLUTION #160** OF 2010 - Consideration of approval of a Microenterprise Grant to Gators, LLC in the amount of \$11,146 and a Program Income Loan in the amount of \$9,300 to carry out the project at its current facility contingent upon resolution of certain issues that have been brought up by the Loan Committee and resolving those conditions to the satisfaction of the City Zoning Board of Appeals.

Loan Committee recommendation for funding of one more Microenterprise projects from a Microenterprise grant recently awarded to the City from the NYS Office of Community Renewal. Recommendation includes funding of a loan from Program Income Loan Account for a project. Since projects involve financial and funding information, any discussion should be held in Executive Session. (Thoma Development)

Linda Armstrong was present to answer questions from the Council regarding the materials they had been provided on the loan. There were no questions. Therefore the resolution was changed to acknowledge the recipient of the loan.

By: Alderman Ferguson  
Seconded: Alderman Craig

Approved: Ayes – 6  
Nays – 0

**RESOLUTION #161** OF 2010 – **Denied** Consideration of a Resolution to lift the hiring freeze to fill vacant firefighter position. (Chief Glover) **(Denial determined by Corporation Counsel after review of City Charter)**

Alderman Dye asked if the request was for an additional position. Chief Glover stated that he will be replacing another retirement, the third one so far. The previous two retirees have already been replaced.

Alderman Hayes asked if the position would be a basic entry level firefighter. Chief Glover stated that it would be.

Alderman Tobin asked if July 25 was the next training class. Chief Glover stated it was which is why he waited until he had Mr. Johnston's retirement papers in hand as the academy starts this Sunday.

Alderman Tobin asked if there would be overlap of the two (2) staff positions as the retirement is effective August 24. Chief Glover stated that the next academy is in March. Mr. Tobin asked if there were other academies that the candidate could attend. Chief Glover stated that he believed there was one other, but it was not recommended as in his best interests.

Alderman Hayes asked if the Chief already had an applicant that he wants to hire. Chief Glover stated that he had a Civil Service list of ten (10) candidate names, interviews have been conducted with several candidates and they have determined which one they would hire. Alderman Hayes asked about the ramification if the candidate is not trained in this academy. Chief Glover stated that he would not be able to perform some functions of the job. Alderman Ferrer stated that he could attest that it can take six (6) months to have a candidate ready to go.

Alderman Tobin expressed concern about the overlap and paying for two (2) positions during that time. Chief Glover stated that he appreciates that concern, but would save overtime costs by being able to put the candidate into some spots on the shift. He further stated that it will take some lag time from when the firefighter retires and the new candidate can go on duty, which is why he is asking now.

Alderman Ferguson stated that she wants the department to have proper coverage, but is concerned and wanted to know if there is anything else the City can do other than lifting the hiring freeze. Chief Glover stated that he is asking to replace a position that has already been funded in the budget, not an extra position.

Alderman Hayes stated that the hiring would keep the City in line with the contract.

Mayor Feiszli called for a vote.

By: Alderman Tobin  
Seconded: Alderman Ferguson

**Denied:** Ayes – 3 (Hayes, Dye, Craig)  
Nays – 2 (Tobin, Ferguson)  
Abstain – 1 (Ferrer)

Council members asked Corporation Counsel Walsh for clarification on the vote to determine proper interpretation of the results. The motion was briefly tabled while Mr. Walsh reviewed the City Charter and returned to later in the meeting.

**RESOLUTION #162** OF 2010 - Consideration of the confirmation of the Mayor's reappointment of Diane Batzing (70 Church Street) and Meghan Pressley (55 Church Street) as members of the Landscape & Design Commission. (Mayor Feiszli)

By: Alderman Dye  
Seconded: Alderman Craig

Approved: Ayes – 6  
Nays - 0

**RESOLUTION #163** OF 2010 - Consideration of the confirmation of the Mayor's appointment of Allan Phillips (P.O. Box 611, McGraw, NY) as a member of the Cable Commission. (Mayor Feiszli)

By: Alderman Ferrer  
Seconded: Alderman Craig

Approved: Ayes – 6  
Nays – 0

**RESOLUTION #164** OF 2010 - Consideration of a Resolution to enter into an agreement with Phillips Lytle, LLP for the 2009 in rem foreclosure proceeding. (Gazda / Walsh)  
Mr. Gazda clarified that this resolution was for taxes that were due in 2009, but remain unpaid. It is not a multiyear contract so the Council must approve it every year. Next year, the Council would do the sale for taxes that are due in 2010, but not paid.

Mayor Feiszli asked if the contract had been reviewed by Corporation Council. Mr. Gazda confirmed that it had been.

By: Alderman Craig  
Seconded: Alderman Tobin

Approved: Ayes – 6  
Nays – 0

**RESOLUTION #165** OF 2010 - Request Council approval to recognize and appropriate Police Department revenue. (Bryan Gazda)

Director of Administration and Finance Gazda stated that they sold some brass and want the receipt of those funds to go back into their firearms line and into minor sales.

A510	Estimated Revenues	\$265.65	
	A960 Appropriations		\$265.65
A3120-41603	Police Dept. Firearms Tr.	\$265.65	
	A2655 Minor Sales		\$265.65

By: Alderman Hayes  
Seconded: Alderman Ferguson

Approved: Ayes – 6  
Nays – 0

Item No. 7 – Discussion of a six-month moratorium to:

- a.) Restrict parking variances on residential properties.
- b.) Restrict residential building conversion on additional sleeping areas. (Mayor Feiszli /Capt. Knickerbocker)

Mayor Feiszli clarified that this was a discussion item only, not a resolution. Mayor Feiszli read from a document she had prepared in advance and distributed to the Council and members of the media regarding her reasons for proposing a six month moratorium.

Alderman Hayes asked if during the moratorium, building conversions would be restricted across the board in the City. Captain Knickerbocker stated that it would have to be consistent across the City.

Alderman Hayes expressed concern about people seeking to work on their homes and looking for permits. She also asked about the impact on the City budget.

Mayor Feiszli stated that by the time the local law could be enacted, the frost will have set in and construction will be more limited.

Captain Knickerbocker stated that requests need to go through County Planning and that is a sixty (60) to ninety (90) day process, but there is usually a rush in the fall for permits.

Alderman Dye asked if a family had another child and requested to have another bedroom put on, would that be an issue (during the moratorium).

Captain Knickerbocker asked if there would be an appeals process and stated that would be a question for Corporation Council.

Mayor Feiszli stated that the moratorium does not apply to people applying now for a permit. That would not be part of the moratorium.

Mr. Walsh stated that it doesn't go into effect until actually adopted and any building permits issued before that would not be subject to the moratorium.

Captain Knickerbocker asked if there are any potential variances or appeals. Mr. Walsh stated that there can be a provision for special permits that allows for a landlord to apply for relief from the law.

Mayor Feiszli stated that they could get the permit before the law is passed.

Alderman Tobin asked about the impact on current zoning laws.

Captain Knickerbocker stated that if you read the definition of family in the current zoning laws, it would take a detective working around the clock to prove this. He further stated that in his opinion, it is almost impossible to enforce this. He stated that for a property owner that requests relief it would be confusing and complicated at best.

Alderman Tobin asked if the City would continue to try and enforce the current laws on the books. Mayor Feiszli stated yes, of course.

Alderman Tobin stated that regulation of density is one of the current issues.

Mayor Feiszli stated we would enforce it or not enforce it any more than we currently are. Captain Knickerbocker stated that it was to prevent the sprawl of rentals from R1 districts. Alderman Hayes stated that there are a lot of areas that don't seem to be R2 as defined in the Charter.

Mayor Feiszli stated that there was no mention for singling out any particular residential district, it was generalized. Alderman Hayes stated that she wants to make sure that the R2 is looked at immensely.

Mr. Walsh stated that the process for enacting a moratorium is the same as enacting a local law. It would require County Planning referral, City Planning referral and all the same notification, public hearing and SEQR requirements.

Mayor Feiszli asked if there were any further questions or discussion. Hearing none, she asked Corporation Council Walsh to prepare a resolution for a moratorium to be presented to the Council at the August 3, 2010 meeting.

Mr. Walsh asked what precisely the Council would like to enact. Mayor Feiszli noted that the two that are on the agenda right now are based upon recommendations from Captain Knickerbocker and Zoning Officer Bruce Weber. She noted that if between now and the next Council meeting there is discussion regarding recommendations for further increasing or

decreasing restrictions in this moratorium, then we can put it on the table for resolution at the next meeting. She felt that there were other possibilities that could be looked at as well.

Captain Knickerbocker stated that the parking piece should also be looked at. He asked that they might consider looking at any expansion and not just a variance, but any proposed expansion in a parking lot in a residential district.

Corporation Counsel Walsh then gave his opinion on **RESOLUTION #161.**

Mr. Walsh stated that the City Charter requires a majority of the Council members present voting in the affirmative to pass a resolution. There are six (6) members of the Council present and it would need four (4) affirmative votes to pass. He further stated that an abstention is essentially a non-vote and has the effect of a no, but is a non-vote. The results of the vote are not strictly a tie, so the motion fails.

Council members discussed returning the resolution to lift the hiring freeze to fill the vacant firefighter position to the table.

**RESOLUTION #166** OF 2010 – Consideration of **Resolution #161** to reconsider lifting the hiring freeze to fill vacant firefighter position.

By: Alderman Hayes  
Seconded: Alderman Dye

Approved: Ayes – 6  
Nays – 0

**RESOLUTION #161** OF 2010 – **Denied** Consideration of a Resolution to lift the hiring freeze to fill vacant firefighter position to the table.

**Denied:** Ayes – 3 (Hayes, Dye and Craig)  
Nays – 2 (Tobin, Ferguson)  
Abstain – 1 (Ferrer)

**MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS PENDING LITIGATION.**

By: Alderman Hayes  
Seconded: Alderman Tobin

Approved: Ayes – 6  
Nays – 0

**MOTION TO COME OUT OF EXECUTIVE SESSION.**

By: Alderman Tobin  
Seconded: Alderman Ferguson

Approved: Ayes – 6  
Nays – 0

Mayor Feiszli stated that the Council would hold a Public Hearing on August 3, 2010 regarding the abandonment of public property contiguous to and behind the Moose Property on South Main Street running between Randall Street and Williams Street.

Mike Dexter asked to speak briefly to recognize Kitty Wolpert, who recently passed away. Ms. Wolpert was a City employee for nineteen (19) years and actively involved in many City, County and community projects.

### **Adjournment**

By: Alderman Ferrer  
Seconded: Alderman Tobin

Approved: Ayes – 6  
Nays – 0

Meeting adjourned at 8:25pm

**I, CAROL TYTLER, 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 20th DAY OF JULY 2010. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.**

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**CAROL TYTLER – CITY CLERK**

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**MAYOR SUSAN FEISZLI**