



City Council Minutes
The City of Cortland
August 17, 2010

Council Meeting #20
August 17, 2010
Regular Session
City Hall
7:00 PM

Present: Mayor Feiszli, Aldermen Craig, Hayes, Dye, Tobin, Quail, Ferrer, Ferguson and Michales

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

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Laurie Seamans spoke about the lateral water pipe replacement project. She would like the City to cover the entire cost of replacing the lateral water lines including labor, equipment and materials. She believes that all the costs are included in the DPW budget already.

Dale Hummel spoke about the lateral water pipe replacement project. He asked for information about the percentage of laterals that have already been replaced and how much has been paid for by those homeowners.

Jo Schaffer shared a letter she received from SUNY Cortland about the proposed Student Life Center. She expressed concerns about the Davis Field location that has been selected by the College steering committee. She stated that the location created a risk based on the proximity to the water works and the City water supply and would present an increased potential for flooding and water contamination in that area of the City. She stated that there will be a 30 day review period for public comment and encouraged members of the community to respond.

RESOLUTION #176 OF 2010 – Approve the minutes of August 3, 2010.

By: Alderman Craig
Seconded: Alderman Michales

Approved: Ayes – 8
Nays – 0

Hearing no changes or corrections, the minutes were approved.

REPORTS OF OFFICERS, BOARDS AND COMMITTEES

Mayor Feiszli stated that she had received a letter from Thoma Development about a possible conflict of interest. Diane Gross had been preapproved for a grant through the Community Development Block Grant program. However, Ms. Gross is the second cousin of Matt Gross, who is employed by Thoma Development. Ms. Gross cannot participate in the program without a waiver of the conflict of interest and discussion by the Council. Mayor Feiszli directed Council members to contact Thoma Development with any questions or comments.

Mayor Feiszli stated that there will be a meeting with a representative from Syracuse who has worked with other municipalities on consolidation issues. The work session will be held on August 26 at 6:30pm as a continuation of the series of discussions on this topic.

UNFINISHED BUSINESS:

Item No. 1 - Discussion regarding replacement costs for water laterals. (Alderman Michales)

Mayor Feiszli stated that there has been a true misunderstanding in the information that is being passed around to the public and she hoped to resolve it that evening.

Chris Bistocchi, Superintendent of the DPW was present to speak. Mr. Bistocchi shared historical information about the Water Department when it was privately held and his subsequent involvement in the Water Department which began in 2006 when Andy Damiano asked him to assist in that department upon the retirement of Doug Withey. He was unable to find information on how work estimates were calculated in the past and contacted Carl Briggs, at the NYS DOT for input. Mr. Briggs told him that most municipalities are using the NY State equipment rental rates from 1999 for equipment owned by local governments. He stated that he reviewed the rates as outlined in those documents to arrive at the equipment rate for the work to be done.

Most recently, those rates were adjusted by the State in 2009 resulting in a substantial increase. Employee rates are set by the contract signed on January 7, 2007 by the CSEA Local 6558 in the City of Cortland. Material costs are based on field measurements taken at the locations from the house to the curb boxes. DPW must comply with all OSHA regulations for the work they do.

Mr. Bistocchi stated that residents have three (3) available options. They could sign the contract and have the City complete the work, choose to have a private contractor do the work or do not sign or return the paperwork and do not do the work. He stated that the DPW does not have the money in the budget to cover the costs of this work and he is simply following the laws and rules that have been established.

Alderman Quail asked about the labor charges on the bills and stated that the DPW employee is included in the budget, so why does the City have to charge for the work.

Mr. Bistocchi stated that if the employee is not doing this work, he would have them doing other maintenance work. He further stated that in the past, he was instructed to include labor charges by Mr. Damiano. He stated that the figures are worst case estimates, but some projects will run close to this amount based on existing CSEA contract rates and NYS DOT rates.

Alderman Quail asked if the rates for backhoe use include fuel. Mr. Bistocchi stated yes, as indicated in column one and two on the DOT forms.

Alderman Tobin asked when the last time this had been done. Mr. Bistocchi stated that the DPW has done them here and there throughout the City. In the past, they gave them (homeowners) an estimate first which they would need to sign for the DPW to do the work, otherwise they get a private contractor. He further stated that this is the first time the DPW has done multiple lines on a single street. Mr. Bistocchi stated that there are 5,000 total laterals in the City and less than 500 iron pipe services remain.

Alderman Tobin asked how many personnel would be working at any time. Mr. Bistocchi stated that they try to have three (3) on each service for work and safety reasons. Alderman Tobin asked if it included more than the Water Department staff and Mr. Bistocchi stated that some employees from DPW come over to help in the Water Department and he bills the Water Department for the hours they work on this project.

Mr. Bistocchi stated that taxes do not fund the Water Department; it is funded from the Water Fund. Until 2003, it was a private company. When the City adopted it, the City adopted all its rules and regulations. He further stated that the Water Fund is self sufficient. He budgets for how many millions of gallons of water will be used and the revenue from the Water Department doing this type of work. He stated that there are no frills in the budget for services to houses.

Mr. Bistocchi stated that water services have been developed to keep our water rates down and ours are the cheapest in the region. The Water Fund allows the City to maintain the pump station, pump valves and tanks. He stated that if the City wants to change it, we have to come up with a way to pay for these items at the cost of something else in the budget.

Mayor Feiszli asked Corporation Council Walsh if it was adopted by a resolution or local law and the process, should the Council choose to change it, to make it the City's responsibility to cover the costs of labor.

Mayor Feiszli stated that another option would be to include the costs in the budget for next year and have Mr. Bistocchi calculate how much the City would need to charge for the water to cover those additional costs. Mr. Walsh asked what other cities were including. Mr. Bistocchi reviewed the services that were covered or not covered in other nearby communities. Alderman Quail stated that Ithaca charges a flat rate for materials and equipment, but not the labor; however they raised their water rate to cover the cost.

Questions were raised about specific properties and Mr. Bistocchi asked that those homeowners contact him to go through the issues and related costs and what options were available.

Alderman Michales asked how many in the audience would consider having a private contractor do the work. Mr. Bistocchi stated that it would be great to get out of the service business and encouraged residents to consider a private contractor.

Alderman Michales stated that he would like to move forward with creating a Water Oversight Committee. Mr. Bistocchi stated that they have been operating without a Board and there have been no meetings so he has taken direction from the Common Council.

Mayor Feiszli stated that people on the commission need to be qualified for the position. She encouraged Council members and the public to submit names to be considered. She stated

that the Council should set up a committee to review and revise the rules of the Water Commission, but it does not address the immediate problem.

Mr. Bistocchi stated that they are trying to work block by block, systematically throughout the City. They want to get started with any laterals that people want the City to replace so they can have blacktop down before winter. He added that next year, the City will have to mill all that blacktop to replace the street.

A question was asked about ownership of the right of way. Mr. Bistocchi stated that the right of way goes within twenty-five (25) feet of the center of the road and home owners own it and must maintain it.

A question was asked about the variance between City estimates and private contractor estimates. Mr. Bistocchi stated that the City has union contracts that establish the rate that must be charged for labor.

In response to a question about tree removal, Mr. Bistocchi stated that if the tree dies (after they worked in the area), they have to replace it. Tree removal would be included with the DPW work estimates. He directed questions about payment and interest to Mr. Gazda.

Alderman Michales expressed concern about people on a fixed income. Mr. Bistocchi stated that people do not have to replace the line, but if the DPW has to make an emergency replacement, there would be a charge.

Mayor Feiszli stated that the City has an assistance program for low to moderate income people for lateral replacements and Linda Armstrong would be discussing it later in the agenda.

Alderman Michales asked that a discussion about moving forward with a Water Committee be added to the agenda for the next Council meeting. Mayor Feiszli stated that the City has people that have been approved to be on the Water Committee, but needs more people to volunteer. She encouraged interested people to go to the City website to learn more about volunteer opportunities and the responsibilities and submit the application to the Mayor's Office for consideration by the Council.

Alderman Quail stated that his only concern is the labor, but residents have an option to go to an outside plumber. Mayor Feiszli stated that the City could change the law and increase the water rates to cover labor costs.

Alderman Quail asked that Mr. Walsh come back to the Council with information on how to change the law should the Council decide to eliminate the labor charge. He added that for five hundred (500) residents (with iron pipe) times \$700...it would take \$350,000 just to cover the remaining iron pipe. He further stated how many would we do per year and do we have enough resources and manpower to even accomplish that.

Alderman Michales stated that people might still opt out and they have an advantage as times are tough and contractors are starving for work.

Mr. Gazda raised another option of spreading the cost out over a longer period of time stating that he understood that it was bonded for in the past. Mr. Walsh stated that the Water Board may have bonded for major water main replacements, but not for (lateral) water replacements, generally it was a "pay as you go" operation.

Alderman Michales stated that some residents have stretched these payments out for five (5) years and he isn't certain how we got to two (2) years. Mr. Gazda stated that after two (2) years, the City would roll it into the property taxes and after that the City could go after them through the in rem process. Alderman Michales stated that the bill would need to be paid off before selling the property. Mr. Gazda stated that it would need to be in the rules and procedures that the Council adopts.

Alderman Michales stated that he would like residents to have five (5) years to pay it off. Alderman Quail stated that he didn't want the City to be a bank and though it was a harsh comment, it is a reality. If the residents don't borrow, the City has to borrow and that would push it into everybody else's taxes. Alderman Ferguson stated that she agreed and would like to hear about the grant program from Thoma Development.

Mayor Feiszli stated that she would work to get volunteers on the Water Committee. She asked Mr. Walsh to check on the rules and regulations for changing the local law. Alderman Quail asked that Mr. Bistocchi do a cost estimate for rolling the expense into the water rate. Aldermen Ferguson and Ferrer emphasized that people have choices about doing the work as outlined by Mr. Bistocchi.

Item No. 2 -Discussion regarding the Storm Water Utility Fee. (Corporation Counsel Walsh)

Mayor Feiszli asked if Council members had received the draft document. Some members had difficulty opening the electronic document. Mayor Feiszli asked that they contact her office in the future when this occurs so it could be resolved and allow them time to review documents before the meeting.

Mayor Feiszli stated that at this time the Council would be setting a public hearing. Corporation Council Walsh provided the Council with background information about the proposed storm water utility fee. The revenue of \$250,000 had been included in the 2010 budget by the prior mayor. The cost would fall on both tax exempt and taxable properties. The fee would pay for the cost of managing storm water similar to the cost of waste water treatment and water. The cost of performing the services would be pulled out of the general fund.

Alderman Quail stated that private home owners benefit and businesses over an acre do not. He asked for clarification on the amount in the budget and the meaning of "other costs as deemed necessary by the Council."

Mr. Walsh stated that for the law to hold up, any costs must be attributable to storm water management and cannot be construed as property tax. Mr. Gazda stated that fringe benefits fall into the general line and the City would see what personnel are allocated and pull a portion of those costs out.

Mr. Walsh stated that it was intended to broaden the areas that can be included...for example; berms could go through this fund. He further stated that several communities in Maine, Minnesota and North Carolina have enacted storm water utilities, but he was not aware of anywhere in the State of New York.

Alderman Michales stated that Gary VanGorder said this law would deter new businesses from making a commitment to be in the City. Mr. Gazda stated that he had developed projects in

other counties and storm water management is a cost associated with development. He further stated that the DEC has not made Cortland an MS4 community yet, but when they do, they will have to have engineered plans to handle the storm water.

Alderman Michales asked if other municipalities have this in place. Mr. Gazda stated that they don't have laws, but they have to manage the storm water and there are costs associated with that....it is part of the SEQR process.

Alderman Quail asked how many properties in the City this would apply to and how much more would their cost of doing business go up. Mr. Walsh stated that the City would have to back into the cost by considering the total cost and how many properties divide into that.

Alderman Quail asked if the cost of doing business was going to go up \$10,000 or \$20,000. He added that they are already paying a huge portion of our taxes. He stated that he certainly thinks it is viable if the attempt is to have all large impervious properties pay for storm water management.

Mayor Feiszli asked Mr. Walsh to compare and to bring back examples for the next Council meeting for properties such as Marietta, the hospital and Cortland County.

Alderman Michales stated that the Council fails to realize that businesses will not absorb these costs; they will just pass them on to the students, patients or everyone else that does business with them. Alderman Quail expressed concern that we will drive businesses away.

Alderman Hayes expressed concern about the nonprofit agencies. Alderman Quail stated that they have to be larger than an acre, and usually they are about a third of an acre.

Mayor Feiszli stated that she will get the information from Mr. Bistocchi for the Council and place it back on the agenda.

AGENDA:

Item No. 1 - Presentation by Thoma Development of previously administered Water Lateral Assistance Program for low-to-moderate income owner-occupied households on streets to be repaved by City; discussion to follow on appropriating funds to administer similar program in 2010.

Linda Armstrong, representing Thoma Development, provided information to the Council on the assistance program which had been established in 1998 at the request of then Mayor, Ron Walsh. Although the assistance program was available through 2005, no one has taken advantage of it since 2001.

She stated that the program was funded out of the Housing Program income from the revolving loan program and the Council could change the amounts or the scale of the program. She added that the fund was healthy enough to appropriate funds from it for this purpose.

Alderman Michales asked if the numbers were current. Ms. Armstrong stated that the current income limits from HUD were just updated in May of this year. Alderman Quail asked if it was contingent on the City doing the work or could a private contractor be used. Ms. Armstrong stated that private contractors could be used, but they would need to meet all the City

requirements; list the City as insured during the work, be current on their taxes, etc., but it would be up to the Council to set the rules.

Alderman Hayes stated that she would like to look at the amount to be given. Ms. Armstrong stated that it was a sliding scale, but the Council could set it up so everybody gets the same amount. She added that in the past, the Council did not want to provide all the needed funds. Residents could pay the rest over two (2) years or on their tax bills.

Mayor Feiszli stated that the next step would be for the Council to set up a committee. Alderman Quail stated that it should be for owner occupied properties. Alderman Hayes asked that number six be addressed regarding the amount of assistance and income levels. Alderman Ferguson stated that the Council needed to address two family owner occupied properties as well and talk about all the minutia of the program rules.

Item No. 2 - Discussion regarding procurement of aerial platform truck. (Chief Glover)

Chief Glover stated that FEMA has denied the City's request for an extension on the grant, but the department is going to reapply and ask for one hundred fifty (150) days to make a decision. The FEMA award was received back in May for \$750,000 and the department had a pretty good idea that the City couldn't get the truck that was needed for that amount. There were two (2) bids received. One was in the amount of \$864,000 plus, for some adjustments that have to be made and the other \$984,000 plus, for some adjustments, as well. He noted that the other option was to take a stock unit for \$940,000 plus some adjustments.

Chief Glover stated that the \$750,000 will not cover the cost of the vehicle and he was there to update the Council and see what the Council's direction would be regarding funding the balance if that is their choosing.

Alderman Michales asked if there was any money not being used from the past. Mr. Gazda stated when the City bonds, we bond for specific items and he doesn't see anything that would meet this requirement. He further stated that the only option is to go out and do some long term debt.

Chief Glover thought they would need somewhere between \$150,000 and \$200,000. Chief Glover discussed the size of the apparatus and the need to store it at Station Two since it would not fit at the main station. He stated that the department would evaluate the plan for running the various trucks out of both stations.

Chief Glover outlined options for the Council. The Council could award the bid and figure out how to pay for it. They could take a little more time and hope that it wouldn't kill the \$750,000 grant from FEMA or tell FEMA to kill it, but then the City could not go back to them in the future with another request.

Chief Glover stated that the \$864,000 bid is the smartest and the truck has a stainless body. The \$940,000 bid is an aluminum body which is not as good for our central New York climate. He added that the City is replacing at twenty-nine (29) year old piece of apparatus and he thinks it would last as long if they choose a stainless body.

Mayor Feiszli asked if Homer has an aerial truck. Chief Glover stated that it failed the ladder test so it is out of service, but Cortlandville has a ladder truck.

Chief Glover stated that the FEMA award must obtain an apparatus that is the same as what the City is replacing.

Alderman Quail asked where the City would come up with the \$150,000. Mr. Gazda stated that it was not in the general fund and proposed a bond anticipation note as other things may come up in the next six (6) to twelve (12) months and the City won't need the money right away.

Chief Glover stated that FEMA says a contract must be written to receive the apparatus in a specified amount of time with a two hundred seventy (270) day maximum. He added that if the City prepays for the ladder and the chassis, we can save \$15,000 dollars with one company. Mr. Gazda stated that the City does not usually prepay for something.

Alderman Michales asked how much the City generated from the tax sale. Mr. Gazda stated that the tax sale money is already accounted for. The Council can't take that money and spend it...it is part of our General Fund. Mr. Gazda stated that the City is committed to pay our local share, but we don't have to do it today.

Alderman Tobin stated before the end of 2011. Mr. Gazda stated he was correct. The City can do a BAN within sixty (60) days and look at some other things we need to do and do one (1) BAN.

Mayor Feiszli stated that last time; there was an advantage to waiting and asked Mr. Gazda to make a recommendation to the Council. Mr. Gazda stated that the City has \$350,000 in payments we are freeing off from debt that will be paid off this year. Does the City want to use that or not take on more debt?

Alderman Craig asked if there was any value to the apparatus that is being replaced. Chief Glover stated that FEMA requires that it not be placed into service any place else. It could go into a museum.

Mayor Feiszli asked if with the FEMA extension, is there a time we have to decide which way to go. Chief Glover stated that as we get closer to being out of business, he hoped that the Council didn't take too much more time as there are a limited number of times we can ask FEMA for an extension.

Alderman Tobin stated that the City should go ahead, but needs some estimate of what it will be. Chief Glover stated that the City needs to look at both bids and build in some additional costs and change orders in; so it will probably be closer to \$900,000 when done.

Alderman Quail asked if the additions are wants or needs. Chief Glover stated that they are not necessarily wants and they make certain we are not overpricing ourselves. Stainless steel is a want, but we want the apparatus to last a long time. Alderman Quail agreed that stainless was a need.

Chief Glover stated that the City opened the bids two (2) weeks ago and one company needs an answer in thirty (30) days.

Mayor Feiszli asked for a motion.

RESOLUTION #177 OF 2010 – Consideration of a Resolution to move forward with the aerial platform truck equipment purchase and accept the bid from Rosenbauer Corporation with a cap of nine hundred thousand dollars (\$900,000).

Alderman Quail expressed concern about how the City would pay for it. Mr. Gazda stated that as we go through the budget process it will become clearer. Alderman Dye stated that if the City does not move forward, the FEMA grant will be dead. Alderman Ferrer agreed that the City would lose the FEMA grant all together.

By: Alderman Tobin
Seconded: Alderman Hayes

Approved: Ayes – 8
Nays – 0

Chief Glover told the Council that the department is contemplating a Safer Grant for volunteer recruitment and retention. The \$500,000 grant would be for volunteers not for paid personnel. It is not a matching grant and will not cost the City. He asked for permission to apply for the grant on behalf of the City.

RESOLUTION #178 OF 2010 – Consideration of a Resolution to authorize the Cortland City Fire Department to write a five hundred thousand dollars (\$500,000) Safer Grant on behalf of the City of Cortland.

By: Alderman Craig
Seconded: Alderman Dye

Approved: Ayes – 8
Nays – 0

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RESOLUTION #179 OF 2010 - Consideration of a Resolution to allow the Cortland High School Baseball Team, and various City departments, on the condition of no additional cost to the taxpayers; to stage a Haunted Hayride on the Water Works property on October 23, 2010. (John Tobin)

Alderman Quail asked if they have to carry insurance. Alderman Craig stated that they have insurance through the school. Alderman Tobin asked about the involvement of City departments and if it was on City time. Alderman Ferrer stated that it was an after hours event on the weekends and usually on their own time to raise money for the team. Alderman Tobin expressed concern about having City employees there if they are on City time, but was in support if it was on a volunteer basis.

Alderman Tobin asked to amend the resolution to allow the Cortland High Baseball team to use the Water Works property on the condition of no additional cost to the tax payer. Mayor Feiszli reworded the resolution.

By: Alderman Quail
Seconded: Alderman Craig

Approved: Ayes – 8

Nays – 0

RESOLUTION #180 OF 2010 - Consideration of a Resolution to lift the hiring freeze to fill vacant Police Officer position. (Chief Catalano)

Chief Catalano was present to speak. Alderman Michales asked if everybody moves up the ladder so this becomes an entry level position. Chief Catalano said that was correct. Chief Catalano reviewed departmental staff and stated that there are currently four (4) vacant positions and they are currently doing background checks for the two positions (2) that have been approved by the Council. Because it takes a long time, he wanted to get started on the third position.

Chief Catalano responded to questions about the duties and assignment of the school resource officer. He further clarified that the contract states the minimum staff level on a shift is (4) four officers and they are usually at minimum staffing levels, but two (2) staff are out with injuries in the line of duty. Three (3) are in the academy and will return mid-September which is when the new academy starts. He further stated that he hopes to send three (3) more staff at that time.

Mayor Feiszli thanked the Chief for his patience with resolving the staffing level. Chief Catalano stated that the situation is the result of retirements. There are no additional positions. All these positions are in the budget.

Alderman Tobin stated that the budget is a guideline. Alderman Tobin asked for information about the department's response to 911 calls. Chief Catalano provided some information, but stated he would need more time to respond to all his questions.

By: Alderman Ferguson
Seconded: Alderman Hayes

Approved: Ayes – 5
Nays – 3 (Tobin, Craig, Quail)

RESOLUTION #181 OF 2010 - Consideration of a Resolution authorizing the closure of William Street at Church and Greenbush intersections for a neighborhood gathering on Sunday, September 5, 2010 from 12:00 PM to 6:00 PM. (Alderman Michales)

By: Alderman Michales
Seconded: Alderman Ferrer

Approved: Ayes – 8
Nays – 0

RESOLUTION #182 OF 2010 - Consideration of a Resolution authorizing the closure of Pearl Street, from Tompkins to Warren, for a neighborhood gathering on Monday, September 6, 2010 from 12:00 PM to 6:00 PM. (Alderman Tobin)

By: Alderman Tobin
Seconded: Alderman Craig

Approved: Ayes – 8
Nays - 0

Item No. 7 - Consideration of the confirmation of the Mayor's appointment of Paul Lorenzo (32 Tompkins Street) as a member of the Financial Advisory Committee (Mayor Feiszli).

Pulled from the agenda by Mayor Feiszli

EXECUTIVE SESSION

MOTION TO GO INTO EXECUTIVE SESSION TO DISCUSS A PERSONNEL ISSUE.

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 8
Nays - 0

MOTION TO COME OUT OF EXECUTIVE SESSION

By: Alderman Quail
Seconded: Alderman Tobin

Approved: Ayes – 8
Nays – 0

Adjournment

By: Alderman Tobin
Seconded: Alderman Craig

Approved: Ayes – 8
Nays - 0

Meeting adjourned at 9:46pm.

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 17th DAY OF AUGUST 2010. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.

CAROL TYTLER – CITY CLERK

MAYOR SUSAN FEISZLI