



City Council Minutes
The City of Cortland
January 18, 2011

Council Meeting #2
January 18, 2011
Regular Session
City Hall
7:00 PM

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

Absent: Alderman Tobin (arrived at 8:05 PM)

Staff Present: Counsel Meira Hertzberg, Deputy Director of Administration and Finance Lori Crompton and City Clerk Shawn C. Smith

Mayor Feiszli called for a moment of silence in remembrance of Chief Baron who recently passed away.

Mayor Feiszli called the second Common Council meeting of the year to order at 7:07 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Abbi Cleary of 15 Stevenson Street spoke in support for more rental regulations for landlords and the rental permit program. She is concerned about the economics of the City and the need to generate additional income for the City from those landlords who benefit and depend on the City services. She is opposed to the grandfathering of rental properties.

Eric DeMunn called for the end of the hiring freeze for the City. He also asked that the City do something in honor of Martin Luther King, Jr., such as considering the renaming of a City street in his memory. He explained that he is also a landlord in the City and he feels that the Council should look at cutting City spending to lower taxes. Property owners are under a heavy burden and businesses don't want to come here because of the high taxes. He feels that landlords pay too much in taxes already.

RESOLUTION #13 OF 2011 – Approve the minutes of January 4, 2011

Alderman Quail noted that the Common Council had not appointed a Corporation Counsel and he asked that changes be made to the minutes to indicate Counsel rather than Corporation Counsel.

By: Alderman Quail
Seconded: Alderman Craig

Approved: Ayes – 7
Nays - 0

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Quail stated that he had submitted a format for the Department Heads' monthly report and he asked that it be reviewed with them for feedback and comments. Mayor Feiszli asked him if he was able to attend the next staff meeting to explain it to the Department Heads.

Alderman Quail also asked to add an agenda item. He asked to have a resolution added that no payroll will be processed without timecards being in place that show time worked and time off and that they be signed by both the supervisor and employee.

Mayor Feiszli commented that there was an item on the tonight's agenda relative to the Corrective Action Plan to the State Comptroller's Report. She noted that the City had to institute controls to govern fiscal responsibilities within the various departments with respect to decisions made and oversight by the Mayor and Common Council. She felt that it would be in the City's best interest to develop a Request for Proposal to solicit for a corrective action plan. The request would ask applicants/vendors to include qualifications and credentials to insure they have the expertise to develop a corrective action plan and the ability to implement that plan.

Motion to go into Executive Session to discuss a personnel matter:

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Alderman Tobin arrived at 8:05 PM.

Motion to come out of Executive Session:

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes - 8
Nays – 0

AGENDA:

RESOLUTION #14 OF 2011 – Resolution to authorize the Mayor to enter into contract with Coughlin & Gerhart for legal service (Labor Counsel) January 2011 to December 2011.
(Mayor Feiszli)

Alderman Hayes expressed that her major concern was how frequently this counsel would be called and if some of the items could be done in house. She is concerned about the amount of money being spent and the fact that there are no parameters being set.

Mayor Feiszli noted that this firm has met with Counsel Hertzberg and they're deciding what can be done in house and what can best be outsourced.

Alderman Quail asked that if there are significant events that are being brought to Coughlin & Gerhart that the Council should go into executive session to discuss so they have a better understanding of what they're being asked to do. Mayor Feiszli agreed.

Alderman Michales noted that he would like to see a timeline of expenses of what had been paid out this year. He noted that he had not been aware of some of the numbers until tonight. He would like a better idea of what had been spent to date and the past involvement of this firm in various issues. Mayor Feiszli noted that she had the invoices from outside legal council for his review.

Alderman Hayes noted that she wanted a limit on what would be spent. Alderman Michales noted that he would have liked to have done a review of the past expenditures before tonight's vote.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 2 (Hayes & Michales)

RESOLUTION #15 OF 2011 – **To Table** - Resolution to lift the hiring freeze for the Wastewater Treatment Plant to fill two (2) vacant laborer positions. (Harvey Davis)

Alderman Quail stated that he would like to see a plan presented regarding new hires before voting on this resolution.

Motion to Discuss:

By: Alderman Quail
Seconded: Alderman Dye

Motion to Table:

By: Alderman Ferguson
Seconded: Alderman Quail

Approved: Ayes – 8

Nays – 0

RESOLUTION #16 OF 2011 – Resolution to reject all bids received and opened for the November 12, 2010, Invitation to Bid for the Beaudry Park Recreation Building project due to the lack of sufficient funds to complete the project as bid. (John McNerney)

Alderman Ferguson noted that constituents had contacted her regarding the original plans and their concerns that the City would try to find additional monies to complete those plans rather than scaling back the project.

John McNerney noted his disappointment as so much work had gone into planning this project. He noted that the next plan of action, after accepting this resolution, would be to explore more options such as design changes or perhaps having the City acting as it's own general contractor (if it's legal) or perhaps contacting BOCES Building Trades for assistance. He told the Council that the City had three (3) years in which to utilize the State funds that had been awarded for this project. He noted that he was not asking the Council for additional funds.

By: Alderman Craig
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

RESOLUTION #17 OF 2011 – Resolution to authorize the Mayor to enter into agreement with Cortland County SPCA for dog control services for 2011 in the amount of \$75,500.00.

Aldermen Quail and Michales noted that they are doing a good job for the City.

An SPCA representative explained that this was a dog control contract, but noted it was more than that. She explained the various services that were being provided by the SPCA to the City.

Alderman Hayes asked for an explanation to show that the money being spent justified the contract.

The representative noted that the contract covered enforcement and complaint responses within the City.

Officer Carr further explained that these were services being provided exclusively to the City.

By: Alderman Michales
Seconded: Alderman Dye

Approved: Ayes – 8
Nays – 0

RESOLUTION #18 OF 2011 – Consideration of the following actions relating to the 4th annual “Chill-A-Bration”. (Adam Megivern-Downtown Partnership)

- A. Permission to use the City’s portion of Court House Park on February 26, 2011
- B. Permission to use City water from the park hydrant, if necessary, to make snow.
- C. Permission to sell beer.

Alderman Hayes asked Counsel Hertzberg regarding the waiving of the Open Container Law. Chief Catalano noted that it was not necessary to do that for the enclosed area. Alderman Hayes asked if they would be paying for water use.

Adam Megivern stated that they would pay for the use of any water.

By: Alderman Quail
Seconded: Alderman Michales

Approved: Ayes – 8
Nays – 0

RESOLUTION #19 OF 2011 – Resolution for Council approval for a budget transfer. (Mayor Feiszli)

Alderman Hayes noted that the Council had removed the budget appropriation for contractual legal services; which would be used to pay for Counsel Hertzberg, and had placed that money into the contingency funds. It was noted that payment would not be out of the salary line. Alderman Quail noted that the transfer back from contingency funds to the contractual line needs to be approved by the Council.

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 5
Nays – 3 (Hayes, Tobin & Michales)

Roll Call Vote:
Aye - Alderman Craig
Nay - Alderman Hayes
Aye – Alderman Dye
Nay – Alderman Tobin
Aye – Alderman Quail
Aye – Alderman Ferrer
Aye – Alderman Ferguson
Nay – Alderman Michales

RESOLUTION #20 OF 2011 – **To Table** Resolution to rescind the payroll wage approval passed at the last Common Council meeting. (Alderman Quail)

Motion to discuss:

By: Alderman Quail
Seconded: Alderman Craig

Motion to table:

By: Alderman Ferrer
Seconded: Alderman Hayes

Approved: Ayes – 8
Nays – 0

Discussion – Resolution that NO payroll changes are to take place without approval from the Common Council. (Alderman Quail)

A motion was made by Alderman Craig and seconded by Alderman Ferrer, but was withdrawn. A discussion of this process then took place.

Alderman Quail noted that in the City Charter Section C-39 Section K, it is the Common Council's duty to establish salaries, a salary schedule and fringe benefits of all officers and employees of the City. He noted that there have been some salary changes made without the Council's approval. He noted that this resolution is due to the Comptroller's Report recommendation. Alderman Quail stated that he didn't feel the need for an actual resolution.

Alderman Quail wanted to make the Council and everyone else aware that there is a specific process outlined in the Charter and that the Council needs to follow that process.

Alderman Hayes asked that this information regarding the process be passed to all Department Heads at their next meeting. Alderman Quail stated that he would draft a letter from the Council informing the Department Heads of the process.

Chief Catalano asked about contract raises. Alderman Quail noted that procedures needed to be established for salary increases.

Alderman Hayes noted that if the contracts were being followed, there was no need to come before the Council. She further explained that if a raise was being given arbitrarily, that needed to be brought before the Council.

Chief Catalano asked if portions of the contracts should be attached to the Civil Service pink sheets when raises were given.

Alderman Quail noted that should be done going forward.

RESOLUTION #21 OF 2011 – Consideration of the confirmation of the Mayor's appointment/reappointment of the attached list of individuals to various City boards and commissions. (Mayor Feiszli)

Three (3) appointments were made.

By: Alderman Ferrer
Seconded: Alderman Dye

Approved: Ayes – 8
Nays – 0

RESOLUTION #22 OF 2011 – Resolution to **rescind** Resolution #266 of 2010 authorizing the Council to enter into contract with Francis Williams.

By: Alderman Quail
Seconded: Alderman Ferrer

Approved: Ayes – 8
Nays – 0

RESOLUTION #23 OF 2011 – Resolution to authorize the Mayor to enter into contract with Attorney S. Francis (Frank) Williams, Esq. for an amount not to exceed \$5,000.00 to assist the Common Council in its investigation of the allocation of City revenue and expenditures as they relate to the overall City budget and to help investigate ways to implement a written Corrective Action Plan; which will include addressing recommendation from NYS Comptroller's Financial Condition and Operational Improvements report of examination. (Alderman Michales)

Alderman Michales noted that the Council had an obligation to City citizens to oversee some of the things that have been going on. He felt that it was like an insurance policy. He reviewed some of the things that Mr. Williams has been tasked with and noted that Mr. Williams was present this evening.

Mr. Williams was asked to address the Council. He noted that the Council must vote on all contracts, verify payments, collect taxes and review all contracts before they are ratified or extended. The Council must look after the monies given to it by the citizens of the City. He noted that when the Council votes on a contract to allocate a specific amount of money to a party, if that party exceeds the amount allocated in the approved contract, the party has to return to the Council with a request for that additional amount. The Council should receive this information in a timely fashion.

Alderman Michales noted that the Coughlin & Gerhart contract had some fees that the Council wasn't aware of until this evening.

Mayor Feiszli noted that the Council did have financial oversight as the Council has been receiving monthly reports in the past year.

Alderman Quail asked for a listing of expenditures on a regular basis.

Mayor Feiszli noted that it was not necessary to present the bills to the Council, but she has asked the Finance Department to give the Council a monthly copy of the legal bills.

Alderman Quail asked for an itemized payment by vendor to be given to the Council on a monthly basis.

Deputy Director of Administration and Finance Crompton agreed to provide that information.

Mr. Williams noted that the Council should have an itemized bill from their attorneys every sixty (60) days.

Alderman Hayes asked if she was going to be held personally liable for Mr. Williams's expenses if this resolution passed.

Mr. Williams noted that if the Council authorized him to do a specific act and he went beyond that act and it causes harm, they were off the hook. He noted that if he and a Council member were to commit an illegal act.....

Mayor Feiszli asked if it was legal for the Common Council to retain their own attorney.

Mr. Williams noted that it was implied ability of the Common Council to hire outside attorneys if they feel the necessity and this is a retainer. This could also be a contract for investigative services.

Mayor Feiszli pointed out various parts of the contract regarding various payments so that they would be aware of what they were contracting for.

Alderman Hayes reviewed some financial parts of the Coughlin & Gerhart contract for legal services.

Mayor Feiszli asked Mr. Williams to describe his experience and financial background.

Mr. Williams noted that he had made municipal law when he sued Cortland County. He noted that he held a Series 64 and a Series 7 license in addition to being an attorney. He noted that these were investment advisor and stockbroker licenses. These were obtained by taking licensing tests.

Mayor Feiszli asked for more information regarding his municipal experience.

Mr. Williams stated that he normally didn't work for municipalities, he sued them.

Further discussion ensued regarding legal counsel fees.

Mr. Williams noted that it seemed that some individuals didn't seem to want the Common Council to investigate what has been going on in the City. He explained that he will be doing the work for the Council that has been outlined in the resolution that is on the docket tonight.

Aldermen Hayes and Tobin called the question and asked that a vote be taken with regard to this resolution.

By: Alderman Michales
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 2 (Ferrer & Craig)

RESOLUTION #24 OF 2011 – Resolution authorizing outside counsel, Paul Levine, to enter settlement negotiations with Highgate GE for an amount not to exceed \$7,500.00 to settle a pending lawsuit claim. (Alderman Dye)

By: Alderman Quail
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 1 (Hayes)

Adjournment:

By: Alderman Ferrer
Seconded: Alderman Quail

Approved: Ayes – 8
Nays - 0

I, SHAWN C. SMITH, CITY CLERK OF THE CITY OF CORTLAND, NEW YORK DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED AT A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF CORTLAND, HELD ON THE 18TH DAY OF JANUARY 2011. IF FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED.

SHAWN C. SMITH, CITY CLERK

MAYOR FEISZLI