



City Council Minutes
The City of Cortland
February 1, 2011

Council Meeting #3
February 1, 2011
Regular Session
City Hall
7:00 PM

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

Staff Present: Counsel Hertzberg, Deputy Director of Administration and Finance
Lori Crompton and City Clerk Shawn C. Smith. Corporation
Counsel Patrick Perfetti (after appointment)

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Anne Doyle spoke giving credit to the Council for making things better. She noted that after the last election complaints were published regarding unprofessional behavior, lack of knowledge and experience. She noted the Council is learning and that the citizens are becoming involved. She stated that is good, but she asked that they stop being rude to each other, listen to each other and talk to each other politely. She asked the citizens to help their Alderperson and to be considerate and kind to each other.

Kathy Galindo became involved with City government when the blue bag system was implemented. She noted that the Cortland Standard has had inflammatory articles and she is angry with them and does not like their violent references. She noted that people can disagree without being disagreeable. She is proud of the Mayor and noted that there are people here that support her.

Sharon Stevans recently read the Comptroller's report criticizing the Council and others for not fulfilling their obligations. She noted that the Council needed to step up to the plate in an intensive and pro-active fashion. She explained that the Mayor must accept this involvement and will take effort by all involved to get over mistrust. She feels that a strong and unbiased Corporation Counsel will be an asset. She feels that the City needs specialized input to defend its laws and that may be a specialized role for Mr. Williams to perform. She feels that good quality advice that the Mayor and Council can trust will be needed. City residents that she has spoken to question whether City government can rise to the challenges before it. She noted that the disarray has not been pretty or easily understood. She noted that residents want City boards and

commission to fulfill their function such as zoning and enacting the Master Plan. They do not want self-appointed and self-interested individuals to have unacceptable levels of influence. Citizens want to know that checks and balances are in place and that department heads are abiding by them. Residents want their government to protect their interests and the value of their property and neighborhoods. They want confidence in the fact that the people they elected will do so and solve the serious issues facing the City.

Phyllis McGinley is concerned that when the newspaper reports it doesn't say three (3) unrelated in an R1 neighborhood. She noted that if there were going to be changes in zoning, the Council has to be careful about people who bought homes in R1 neighborhoods. She feels that it is unfair to take the R1 zoning away from families. She feels that R1 is not being enforced in the City. She noted that some landlords have more than three (3) unrelated in an R1 neighborhood as well as turning back yards into parking lots. That is not in the residents' best interest. She asked if the City is currently failing to enforce the regulations already on the books, why bother making new regulations. She asked that the City protect the citizens of the town and families.

Beau Harbin asked that the City fight the lawsuit and to move forward with enforcing the laws that are already on the books. He asked that they protect small families' properties and not allow greater density.

RESOLUTION #25 OF 2011 - Minutes – January 18, 2011

Hearing no corrections or additions, the minutes were approved.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 8
Nays – 0

Resolution #25 Adopted by Mayor _____ Vetoed by Mayor _____

Mayor Feiszli noted that copies of the bills were included in the Council packets.

Mayor Feiszli noted that agenda Item No. 7 had been pulled. She also stated that she was pulling the Ethics Committee appointment from agenda Item No. 9. She also noted that that the DPW would be working tonight until 11:00 PM due to the impending snow storm. They will then take a break and return to work at 3:00 AM and work until the storm quits.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Quail stated that he would be stepping down from the Strategic Planning Committee due to work demands. Alderman Tobin will take over for him if the rest of the Council approves. He noted the next meeting will be on February 8, 2011, location to be determined.

Alderman Tobin would like to meet with a few Council people tomorrow to begin work on the Corrective Action Plan. A question was raised about public notice for work sessions. Alderman Quail noted that if it were an issue, they could meet in smaller groups over two (2) sessions instead.

Alderman Quail thanked those department heads that submitted their monthly reports.

AGENDA:

Item No. 1 – Presentation to announce the winners of the lighting contest. (East End Center Lighting Contest Committee, Butch Hyde and John Poli)

Butch Hyde and John Poli announced the winners of the 2010 City Holiday Lighting Contest sponsored by the East End Community Center and presented an engraved award plaque with the winners' names on it to the City for display in City Hall. Tompkins Trust Company was thanked for their generous donation for the prizes for the contest. John Poli thanked everyone for their participation.

The Grand Prize winners were Frank and Cheryl Mrozowski. First Runner Up was Thomas Root. Second Runner Up was Leon Harvey and his daughter, Jane. The Peoples' Choice Award for 2010 goes to Sam and Elsie Ferro.

RESOLUTION #26 OF 2011 – Confirmation of the Mayor's appointment of Patrick Perfetti for Corporation Counsel. (Mayor Feiszli)

Alderman Hayes asked when the anticipated start date would be. Mayor Feiszli noted that the current Counsel appointment's contract was up in two (2) weeks. She noted that her thought was in order to have a smooth transition to have Mr. Perfetti start next week to allow a week of overlap to so that they could discuss the issues going on in the City currently.

Alderman Hayes asked about the salary. Mayor Feiszli noted that forty thousand dollars (\$40,000) had been budgeted, but salary has not been discussed with Mr. Perfetti. The Mayor noted that the salary would not go over that figure.

Alderman Tobin stated that he had spoken with Mr. Perfetti and he has municipal experience and he liked the fact that Mr. Perfetti would obtain outside input if needed.

Alderman Michales noted that several Council members had reached out to Mr. Perfetti and he felt that he seemed qualified for the position.

Alderman Ferguson also has had contact with Mr. Perfetti and she thought he would be a good choice.

By: Alderman Ferguson
Seconded: Alderman Ferrer

Approved: Ayes – 8
Nays – 0

Resolution #26 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #27 OF 2011 – Consideration of the following actions relating to the American Cancer Society’s Relay for Life “Paint the Town Purple” festivities. (Michelle Baker)

- A. Use of the City’s portion of Court House Park on Sunday, May 1, 2011 from 11:00 AM until 5:00 PM.
- B. Permission for the American Cancer Society’s Relay for Life team to place purple ribbons on Main and Court Streets, Courthouse Park and the Water Works in recognition of “Paint the Town Purple” week April 26 through May 1, 2011.

By: Alderman Ferrer
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

Resolution #27 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #28 OF 2011 – Consideration of the following action relating to the Celtic Fest: (Brenda Clark/Diane Van Epps)

- A. Permission to use the City’s portion of Court House Park on Friday through Sunday, August 19, 20, and 21, 2011.
- B. Permission to sell alcohol in contained area on Saturday, August 20, 2011 from Noon until 6:00 PM and Sunday, August 21, 2011 from Noon until 3:00 PM.
- C. Permission to waive the noise ordinance to allow for a band performance on Saturday, August 20, 2011 as discussed, contingent upon the Police Chief’s approval and receipt of the liability insurance.
- D. Permission to place promotional signs near the City’s entrances.

It was asked how late the music would go. The response was that the music would be done by 9:30 PM.

By: Alderman Craig
Seconded: Alderman Hayes

Approved: Ayes – 8
Nays – 0

Resolution #28 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #29 OF 2011 – Resolution authorizing the Mayor to enter into contract with Michael Dexter for the period February 20, 2011 through February 19, 2012 to perform various duties at the Water Works facility. (Mayor Feiszli)

Alderman Michales asked how many deer were currently residing at the Water Works. Mike Dexter stated that there were about thirty (30).

Alderman Quail stated that Mike did a tremendous job with the lighting and the landscaping.

By: Alderman Michales
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

Resolution #29 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #30 OF 2011 – Resolution to authorize the Landscape and Design Commission to submit the DEC Urban and Community Forestry Grant application. (Landscape and Design Commission)

Four (4) Committee members were present. Suzanne Etherington noted that they were applying for a matching grant for tree planting on the East End. The tree lottery funds will be used as a match so no additional City funds are being requested. There are currently six thousand (6,000) spaces for trees in the City of Cortland. When funding is received they plan to announce it at the Arbor Day celebration and input on placement of trees will be solicited from City residents. Trees will be placed in City right of ways.

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 8
Nays – 0

Resolution #30 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 7 - Resolution for the City to contribute \$1,684.00 to support a grant funded initiative by the Cortland Downtown Partnership and the Historic Advisory Board to conduct the Historic Cortland Reconnaissance Survey. (Adam Megivern-Downtown Partnership)

Item pulled from agenda at the request of Adam Megivern.

RESOLUTION #31 OF 2011 – Resolution for Council approval of budget amendments. (Mayor Feiszli)

By: Alderman Craig
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

Resolution #31 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #32 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)

Mayor Feiszli noted that she had **pulled the Ethics Committee appointments** from this agenda item.

By: Alderman Ferrer
Seconded: Alderman Hayes

Approved: Ayes – 8
Nays – 0

Resolution #32 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 10 – Discussion regarding Special Meetings procedure. (Alderman Michales)

Alderman Michales provided the background for this discussion item. He noted that the Council had tried to hold a special meeting on January 26, 2011. He had researched the Charter and had spoken with someone who had served on the committee in 1976 that had drafted the portion of the Charter that referred to who could call a special meeting and what was the intent of that section. He noted that he was told that the intent of that clause was that a special meeting could be called by the Mayor, the Acting Mayor, or any three (3) Aldermen. He asked that as we move forward, that all could be in agreement that any one of those entities could call a special meeting with approval of the Mayor or Acting Mayor, based on past practice.

Mayor Feiszli asked Corporation Counsel Perfetti to comment on this.

Corporation Counsel Perfetti stated that mere discussion with former committee members does not indicate legislative intent. He went on to explain that legislative intent should appear in the statute, but it can be put in. He recommended that a re-drafting of the Charter be done so that ambiguity is clarified and he suggested that the Charter articulate the intent clearly to help Council's and Mayor's in the future.

Alderman Tobin asked him to explain further sentences in the Charter with regards to who could call a meeting. He noted that the Council had felt that the issue at hand was time sensitive and a special meeting needed to have been called to address that situation.

Corporation Counsel Perfetti noted that the Council can meet with their attorney relative to litigation and that the Council does not need to call a special meeting. He explained that the Council, as the decision makers for the City of Cortland, can meet with their attorney the way any other litigant can meet with their attorney and that no special meeting and no executive session was necessary. He further explained that during the course of that meeting, if the Council comes to the conclusion that some course of action should be taken, then that has to be done at a meeting.

Corporation Counsel Perfetti further explained the section about regularly scheduled meetings. He also interpreted that the section about special meetings, noting that it is not clear, but he felt that it indicated that only the Mayor can call the meeting, unless the Mayor is absent. He felt that a revision of the Charter would clarify this.

Council members and Corporation Counsel Perfetti discussed what was meant by "Mayor's absence". He noted that it is undefined and he felt that this needed clarification, noting that in his opinion, ability is qualified until rewritten. He interpreted that until the Mayor is absent and arguably that she is not available to call a meeting, it is the qualified ability of the legislative members of this Council. He drew a parallel to the State Legislature and the Governor, but he again recommended the rewriting of the Charter.

Alderman Hayes noted that there was a lot of work to be done and the Council would like to call special meetings to get the job done. Mayor Feiszli noted that the Council should contact her and she would set it up.

Item No. 11 – Discussion of Mayor's appointment to replace outgoing Judge Elizabeth Burns. (Mayor Feiszli)

Mayor Feiszli stated that she had spoken with Attorney Lawrence Knickerbocker and would like to change this discussion agenda item to a resolution to appoint Attorney Knickerbocker to replace Judge Elizabeth Burns. There was no objection to this change.

RESOLUTION #33 OF 2011 – Consideration of a resolution of the Mayor's appointment of Attorney Lawrence Knickerbocker to replace outgoing Judge Elizabeth Burns.

Alderman Quail noted for the record that some materials had been delivered to his doorstep opposing such an appointment.

Mayor Feiszli noted that for the record, the person who left the materials is currently in litigation against the City when Attorney Knickerbocker was Corporation Counsel.

Alderman Quail noted that he would do a good job.

Alderman Michales noted that Attorney Knickerbocker had once held this position and would be a good candidate.

By: Alderman Quail

Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 1 (Hayes)

Resolution #33 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 12 – Discussion regarding the position of Director of Administration and Finance and establishing a timeline for filling the vacancy. (Alderman Tobin)

Alderman Tobin noted that the City had been without a Director or an interim Director for awhile and he would like to come to a decision about what to do with this position for the rest of the year. He noted that there is the budget planning process to deal with. He asked what the timeline was for hiring and what the plan was.

Mayor Feiszli noted that the issue of hiring Corporation Counsel took precedence over the hiring of Director of Administration and Finance. She noted that there has been an ongoing search process and she will be coming to the Council soon. She is willing to speak with Council members by phone.

Alderman Hayes asked if a search had been going on and if the position was posted.

Mayor Feiszli stated that she had been meeting with people regarding this position. She noted that the position was not posted and that she had not posted for Corporation Counsel.

Alderman Michales stated that Council members were involved in the past hiring process and he asked if this would be happening this time.

Mayor Feiszli noted that she would be following the same process used in hiring Corporation Counsel. She will be providing the Counsel with a resume and give them the opportunity to meet the appointee to answer questions. She noted that by the Charter that this would be an appointment and not a hiring.

Various Aldermen indicated that they expected to be more involved with the process and wanted more information.

Mayor Feiszli again stated that she would be happy to speak to Council members by phone and will be putting this on the agenda for the next meeting. She stated that there is no interview committee and that she will contact the Council by e-mail and update them on the process to date. She further stated that other than developing the Corrective Action Plan and appointing Corporation Counsel that this has been the most important item on her list whether it be an appointment or an interim.

Item No. 13 – Discussion regarding how best to evaluate our current zoning and potentially make changes. (Alderman Tobin)

Alderman Tobin stated that the short range goal of the Housing Committee was the development of the rental permit program. One of the longer range goals was looking at current zoning. He would like to start with the City Planning Commission. He would like to sit down with them and discuss some of the recent trends.

Mayor Feiszli agreed that updating City zoning was very important, but she suggested that they wait until the Comprehensive Plan was in place and that they use that as a blueprint after the Council adopts it.

Alderman Tobin would like to see a committee in place to start the process so that they could move forward once the Comprehensive Plan is completed and approved.

Mayor Feiszli stated that she would like to discuss this with the Council and asked him to e-mail his suggestions regarding the structure of this committee to her.

Item No. 14 – Regarding our contract (agreed to at our last meeting) with Coughlin and Gerhart – an amendment stating that no new work can be started without Council approval. (Alderman Tobin)

Alderman Tobin noted that one of the deficiencies pointed out in the Comptrollers' Report that the Council needed to address in the Corrective Action Plan was the fact that the Council has not seen many of the past expenditures. He would like to have information regarding what was contracted for and at what amounts. He wants the Council to know beforehand what requests are going to be asked of Coughlin and Gerhart unless it's emergency work. He asked Corporation Counsel for his opinion on this.

Corporation Counsel Perfetti noted that this was a legitimate concern. He noted that work should be clearly identified. He stated that as Corporation Counsel, he will supervise attorney's working on behalf of the City and that both parties will have to agree on the work. He felt that the request being made would be an amendment to the contract. He recommended putting the action in a resolution, which could be voted on here tonight. If the resolution is adopted, he will broach the issue with this specific firm and see if they will agree to an amendment to the contract. He noted that if they will, that this shouldn't be a problem. He briefly spoke with Ms. Hertzberg who told him that there was some agreement on some level to that and he will flush out the details and will report back to them at the next meeting.

Item No. 15 – Discussion of a Resolution stating that any items on the Common Council Agenda can be placed there only by a member of the Common Council. (Alderman Tobin)

Alderman Tobin stated that he had made this recommendation to improve communication between the Council, the Mayor and Department Heads.

Alderman Hayes noted that she was unsure about "only", but acknowledged that when things are added to the agenda at the last minute, that there is not enough time and limits the Council member's ability to do their jobs.

Mayor Feiszli reviewed her current process, indicating that a draft agenda was forwarded to the Council on the Wednesday before each meeting. She would then ask them for any items they wished to place on that agenda and then reviews the agenda items with the Department Heads at their meeting. She noted that any agenda item can be added to the Council agenda at the meeting table by a Council member if the other Council members agreed. She noted that they could change the procedures that are currently being used and she would be happy to work with them.

Alderman Quail noted that the process up to the Friday was fine, but after that, if items are added, the Council does not have time to prepare. He asked for better communication.

Mayor Feiszli stated that she was willing to work with the Council on this.

Alderman Tobin asked if agenda items could be co-sponsored so that a member of the Council could hear about a last minute addition beforehand, not on the evening of the meeting. He would like to see more detail and more communication.

Mayor Feiszli noted that she could ask her secretary to scan the documentation.

Alderman Tobin didn't feel that the documentation was always necessary. He would rather have a discussion. He would also like to have a Council person be a co-sponsor of an agenda item.

Mayor Feiszli indicated that she agreed to work with the Council and would like to further discuss this with the Council.

Alderman Hayes asked that they keep moving forward. Some ideas that they came up with early on worked and others didn't. She feels that she is sometimes out of the loop.

Mayor Feiszli asked that she also be included in the e-mails that the Council sends. She feels that would be helpful to understand what the Council's concerns are and she asked that they contact her by phone to discuss any questions they have.

Alderman Ferguson finds it difficult for eight (8) people to be out of the loop.

Corporation Counsel Perfetti noted that he does have a concern about what is being proposed. He stated that it is the Mayor's responsibility to set the agenda and run the meeting. He noted that the idea that only the Common Council members can make an agenda item, usurps the Mayor's ability as Chief Executive and he advised against doing that. He noted that the Council is starting to cross into the Mayor's authority as the Chief Executive. He noted that it was appropriate for Council members, who worked with various department heads having certain budget area concerns Council members are aware of, to bring those matters to the Mayor and the Mayor should be willing to add those items to the agenda. Because she is the Chief Executive and the Department Heads report directly to her, there are items from them that go directly to her office that she needs to set onto the agenda as well. He will check into the

appropriateness of a resolution, but he felt that it was more a matter of policy on how the executive and legislative branches work together.

Alderman Ferguson noted that the Common Council should have information.

Alderman Hayes noted that it was not about usurping the Mayor's power, but that it was about increasing communication so that the Council was better prepared for meetings and could do a better job.

Corporation Counsel Perfetti suggested that a deadline be set as to when the agenda can be finalized and if something didn't meet that deadline and was not a critical issue, they could carry it over to the next regular meeting.

Alderman Michales suggested that Department Heads could meet on Thursday instead as the Council loses a whole week by the Department Heads having their meetings on Wednesdays.

Alderman Ferguson noted that agenda items go out on Friday. She asked if things come up afterwards, perhaps the overflow could be addressed at the next session.

Mayor Feiszli stated that she would work on a solution that would meet everyone's needs.

Mayor Feiszli asked if there were any other agenda items to be discussed at this time.

Motion to go into Executive Session to discuss a personnel matter regarding on call pay and to receive an update on various pending litigation.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 8
Nays – 0

NOTE: Corporation Counsel asked that the City Clerk be excused at this point as her presence was no longer needed. Mayor Feiszli agreed to record any motions or resolutions made after the Council comes out of Executive Session.

Motion to come out of Executive Session:

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 8
Nays – 0

Adjournment

Hearing no further business, Mayor Feiszli adjourned the meeting at 9:15 PM.

I, SHAWN C. SMITH, CITY CLERK OF THE CITY OF CORTLAND, NEW YORK DO HEREBY CERTIFY THAT SAID RESOLUTIONS WERE ADOPTED BY THE COMMON COUNCIL AT A REGULAR MEETING OF THE COMMON COUNCIL OF THE CITY OF CORTLAND, HELD ON THE 1st DAY OF FEBRUARY 2011. I FURTHER CERTIFY THE FOREGOING RESOLUTIONS WERE PRESENTED TO THE MAYOR IN THE TIME REQUIRED FOR HER CONCURRENCE IN ADOPTION OR REJECTION BY VETO POWER.

SHAWN C. SMITH, CITY CLERK

MAYOR FEISZLI