



City Council Minutes
The City of Cortland
April 19, 2011

Council Meeting #9
April 19, 2011
Regular Session
City Hall
7:00 PM

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

Staff Present: Fire Chief Glover and City Clerk Shawn C. Smith

Mayor Feiszli called the ninth Common Council meeting of the year to order at 7:06 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mike Dexter, representing the Landscape and Design Commission, announced that Cortland has been designated as a Tree City USA for the fourth year in a row. He noted that it was a lot of work and designation of funds for tree planting, trimming and removal. He noted that as part of Arbor Day celebrations a tree will be planted on April 29 at 8:00 a.m. in front of the Star Bistro. This will be in correlation with National Grid who is donating the tree. He announced that the City tree lottery will be advertised soon and applications will be available. He discussed recent tree damage noted in the City and he asked for citizens to report tree vandalism to the police.

Amy Simrell, Executive Director of the YWCA of Cortland, asked permission to reserve twelve (12) parking spots for the VFW for a month this summer in the Marketplace Mall parking lot while the excavation begins on the YWCA addition project. The VFW has offered to allow their parking lot to be reconfigured to provide better drainage for the YWCA building project, which will save they YWCA over one hundred thousand (\$100,000) dollars.

Alderman Michales asked that the YWCA keep a log of activity in that parking lot as well as check with area businesses to make sure that the parking will not interfere with their business. Amy Simrell agreed to do so.

Fran Pizzola from Access to Independence is here at the request of Alderman Michales to speak about the misuse of reserved handicapped parking in the City. She will answer questions when this agenda item comes up. She asked that spaces be properly marked or tickets issued will be thrown out.

AGENDA:

RESOLUTION # 78 OF 2011 – Approve the minutes of April 5, 2011 and April 13, 2011.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 0
Abstain – 1 (Hayes)

Resolution #78 Adopted by Mayor _____ Vetoed by Mayor _____

Bills were presented. Alderman Hayes asked if the bills were being paid on time. She indicated that she would like Deputy Director of Administration and Finance to go back to January 2011 to see that there are no outstanding bills.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Quail requested to see a copy of the monthly listing of check disbursements as well as a copy of the log of contracts that have been processed. He asked that this be provided to the Council on a monthly basis. He asked that a cost analysis be done on the PBA contract impact over the next three (3) years. He stated that he did not have enough time to thoroughly review that contract and he cannot support it noting that it would cost the City taxpayers over fifteen (15) million dollars over three (3) years. He felt that the cost of going to arbitration on a contract of this size was a small price to pay and he felt that the Council should've taken their time with this contract. He expressed concerns that the Council did not receive the complete contract and noted that the State Comptroller's report chastised the Council for their past contract dealings.

Alderman Quail also noted that the minutes did not indicate a salary for the Assistant Corporation Council and that the Comptroller's Office had stated that when a position is created, an established salary amount needed to be designated for that position. This was not done, so the resolution should not have been passed. Alderman Ferguson stated that the Council went in to executive session to discuss the aforementioned matter, but stated that in the executive session it was presented one way and reported in the newspaper in another way. She stated that Alderman Quail was absolutely right, what he is reading and seeing is not what happened in executive session. She finds that unacceptable and would like to rescind the resolution. Alderman Michales agreed that the facts were not clear.

Mayor Feiszli stated that because Corporation Counsel was not present, she would like to place a discussion of this item on the May 3 agenda.

Alderman Tobin stated that Roberts Rules of Order provides a process for rescinding a resolution and thinks that someone who voted in the majority can move for that action. He asked City Clerk Shawn C. Smith to confirm that for him.

City Clerk Shawn C. Smith read from Roberts Rules of Order which indicated that to rescind a motion is to squash or nullify a previously adopted motion and may strike out the entire motion/resolution/by-law and so on, however, rescind is not in order when the action has already been taken as a result of the vote, such as a contract, when the other party has been notified. If that is not an issue, the next step is that the motion must be seconded and that it requires a two thirds (2/3) vote.

The other option is to reconsider a previous motion. A motion to reconsider allows the group to reconsider their vote and enables the members, within a limited time, to bring back a motion for further consideration after it has been acted upon. A member from the prevailing vote can initiate this motion. Its purpose is to prevent hasty or ill-advised actions.

Mayor Feiszli asked the Council to table this until the May 3, 2011 Council meeting. She stated that the paperwork for the Assistant Corporation Counsel has already been sent to Civil Service and it is an exempt position. Alderman Ferguson stated that was not acceptable. Alderman Tobin stated that he was under the impression that this would be a one (1) year appointment. Alderman Ferguson agreed. She stated that she did not think that this was a permanent appointment. Mayor Feiszli stated that no term was stated for the position and that the Council had voted to create the position. Alderman Ferguson stated that was not how it was explained to the Council and they weren't allowed to talk about what was explained to them in executive session.

Mayor Feiszli noted that the Council had two (2) options, they could eliminate the position in next year's budget or if there is a different Corporation Counsel, it will be their prerogative to hire their own assistant so the position can remain.

Aldermen Ferguson and Michales reiterated that they did not have all of the facts. Alderman Ferguson further noted that if there are eight (8) people present and they each have a different understanding of what was agreed upon, that is not acceptable.

Mayor Feiszli understood their concern noting a long executive session discussing this issue and she again asked that this be tabled until May 3, so that the department head, Corporation Counsel, could be present to discuss this with the Council.

Alderman Tobin moved that there be an agenda item to place the discussion of Resolution #76 of 2011 creating of the position and salary of Assistant Corporation Counsel on tonight's agenda with the intent of drafting an appropriate resolution. Alderman Ferguson second. All were in favor.

Alderman Quail also asked that another item be placed on tonight's agenda, the memo of April 19, 2011, from Deputy Director of Administration and Finance Crompton to receive more clarification. He also noted that the Council did not receive the December reports at all and did not receive the expense summary until April 13th.

Since Deputy Director of Administration and Finance Crompton was not present, Mayor Feiszli will add a discussion of the memo to the next Council meeting and she requested that Alderman Quail email his entire request to her.

Alderman Michales reported that Saturday's Community Clean Up was a success, even though the weather was poor. A good sized group showed up, including college and high school students. A great deal of trash was collected. He thanked all who participated.

Alderman Quail thanked the Cortland Fire Department for their prompt response to a power outage on Union Street during that Clean Up day.

Alderman Michales reported that there had been another request for an exotic pet permit for keeping chickens along with a rooster. The request was withdrawn when the applicant discovered that no roosters were allowed.

Alderman Hayes noted that this should be an item for discussion as there is a growing trend for urban farming.

Alderman Tobin stated that there had been another meeting of the Strategic Planning Committee and they are working on getting a better overview of City services that are being provided by various departments. A summary should be available a little after April.

Alderman Ferguson asked for an executive session on a personnel issue. Mayor Feiszli reported that Corporation Counsel stated that the matter was not appropriate for an executive session, but was willing to have an open discussion after the meeting.

Mayor Feiszli gave her report. She attended a meeting of the Waste Water Treatment Plant with the Board, Corporation Counsel and Civil Service representatives. The Board's recommendation was the promotional provisional appointment. Two (2) names were give to her as candidates and she will be meeting with the Board at their next meeting which is scheduled for April 25, 2011 where she will notify them of her appointment and she will be coming back to the Council for their approval at the May 3, 2011 Council meeting.

She attended meeting with a Waste Water Treatment Plant Deputy Operator Adams, Corporation Counsel, Assistant Corporation Counsel, and Marietta's CEO, engineers and attorney to discuss the progress of Marietta's pre-treatment design which will allow the City's Waste Water Treatment Plant to accept their processed water. She also attended the Fire Commissioner's meeting and they asked that the Strategic Planning Committee send copies of their minutes regarding the Fire Department and service options.

She attended the Landscape and Design Committee meeting and noted that they are accepting applications from those that would like to take part in the tree lottery. She met with the project manager for the Center for Evaluation of Clean Energy Technology who was asked to start a committee to explore solar installation in Cortland buildings and grounds. She noted that Supervisor Rob Avery will be meeting with this committee by the end of April to go over the specifics and to begin to define the design of the system.

She was contacted by the Regional Director for Senator Gillibrand to discuss a possible senior housing initiative in the City of Cortland. She also met with the National Field Director of GoRail, which used to be Go21. They unite community leaders and organizations in support to effective solutions to highway congestion by advocating for

increased use of freight railroad transportation. Senator Gillibrand updated Chief Glover, Chief Catalano and the Mayor on the potential of federal legislation allowing bigger trucks on New York's roads, including triple length tandem tractor trailers. The Mayor explained that she will be drafting a resolution for Council consideration in opposition to this.

The Mayor noted that many tree branches have come down in the wind, taking down power lines. She thanked City employees for working long hours over the weekend to restore power and to remove the fallen trees and branches from the streets. She also met with a Lincoln Avenue resident and spoke to two (2) members of the Hill Association about starting up Neighborhood Watch groups. She spoke about this last year at the Beard Building when David Miller did a PowerPoint presentation about the overlays and the congested areas around the hill and surrounding areas. She noted the first meeting would be May 18. Attendees will be separated into neighborhood groups and brainstorm how neighbors envision their neighborhoods and to focus on problem areas and develop long and short term goals. Team captains will be established with phone chains in their wards.

Lastly, Mayor Feiszli commented about the YWCA and their request for the additional parking. She thanked Amy Simrell for coming to the Council.

Alderman Hayes asked for assurance that when developing a phone tree, no person's name or number be distributed without their consent. Mayor Feiszli agreed with that.

RESOLUTION #79 OF 2011 – Confirmation of the Mayor's appointment of a half time Interim Director of Administration and Finance at a rate of four thousand (\$4,000) per month starting April 20, 2011 to September 20, 2011. (Mayor Feiszli)

Alderman Quail commented that he was not happy with the process that was being followed, but that Mr. Reagan would be a fine addition and he held great respect for him.

Mayor Feiszli noted that she withheld the nominee's name at his request and had no intention of being secretive. She noted that it was discussed with the Council last month and she felt that the Council had been involved. She reviewed the highlights of his resume, noting that if approved, John Reagan would begin immediately.

Alderman Hayes asked for details of his duties. Mayor Feiszli expects him to be involved with the Corrective Action Plan, sales tax negotiations with the County, and participating in the Search Committee for a permanent Director of Administration and Finance. Alderman Hayes asked if he would be overseeing the Deputy Director. Mayor Feiszli indicated that he would be doing that. Alderman Hayes asked if he would be going over all of the paperwork and funds with the Deputy Director and seeing that she generated reports as requested. Mayor Feiszli stated that he would be the Deputy's supervisor and that she would be discussing the roles and responsibilities as he saw them in the upcoming weeks.

Alderman Quail noted that this was the first he had heard of sales tax negotiations and he felt that the Council should be involved in that to some extent.

Alderman Ferguson felt that it was premature to discuss a search committee right now.

By: Alderman Craig
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 1 (Hayes)

Resolution #79 Adopted by Mayor _____ Vetoed by Mayor _____

Mayor Feiszli thanked Mr. Reagan for starting immediately. She noted that Mr. Reagan would be playing a key role in recruiting the permanent replacement and the next stage of the recruitment effort is based on the Council's request, is to start a search committee. Aldermen Dye and Craig will serve on it. The chairperson is Frank Kelly, who is a member of the City's Environmental Advisory Committee. He has a Master's Degree in Public Administration and extensive experience working with local government.

Alderman Ferguson noted that the Mayor was talking about a search committee for a permanent Director of Administration and Finance for next year. She felt that forming a search committee for a position that was going to start next year was a waste of time when there were so many issues that need more immediate attention.

Alderman Quail supported a search committee because it was going to take several months to find well qualified applicants. There was some additional discussion about the search committee process. Mayor Feiszli noted that this would be a purely volunteer advisory committee and that Mr. Reagan would participate on that committee without pay for his time. There was discussion regarding the possibility that the permanent appointment could be replaced in the upcoming year. Mayor Feiszli noted that was correct, but that this was the format and the process that the Council had asked to go by.

Alderman Ferguson did not agree with taking on the responsibility of hiring someone that another administration might not want to hire. Alderman Hayes asked if there were any other reasons for forming a search committee. Mayor Feiszli stated that the Council had requested to be involved and this was a way to accommodate that request. Alderman Hayes asked if there was going to be a change in the Charter regarding this position. Mayor Feiszli stated that this could be a discussion item with the new committee or with the Council. A referendum could be done with changing this position or form of government, but at this time, they are simply filling a vacancy.

Alderman Tobin and Michales noted that timing was a concern, both with potential Council turnover and budget preparation. Alderman Michales asked Mr. Reagan if he would continue his contract until the end of the year if needed. Mr. Reagan said he would.

RESOLUTION #80 OF 2011 – TO TABLE the Resolution by which the City of Cortland adopts a NYS Employees Retirement System standard work day of seven (7) hours for the position of Assistant Corporation Counsel. (City Clerk Shawn Smith)

Mayor Feiszli stated that this was done for all new employees and asked City Clerk Shawn C. Smith for further explanation. City Clerk Shawn C. Smith stated that her understanding was that each position is assigned a typical day length for retirement purposes. She noted

that this job title would require seven (7) hours for a typical day and when a person in this position completed seven (7) hours he/she would receive one (1) day's credit toward retirement in the retirement system. She explained that this was not about pay, but rather retirement credit. Alderman Hayes asked if the City had to pay into the NYS retirement system for this position. The City Clerk indicated that the Personnel Office would have to answer that question.

By: Alderman Craig
Seconded: Alderman Quail

Approved Ayes – 8
Nays – 0

Resolution #80 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #81 OF 2011 – Consideration of a Resolution authorizing the Mayor to enter into contract with Countree Inc. for tree planting services not to exceed twelve thousand (\$12,000) dollars. (lowest bidder). (Thoma Development)

Linda Armstrong explained that the budget capped the tree program at twelve thousand (\$12,000) dollars. Mayor Feiszli amended the resolution to reflect the capped amount.

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 8
Nays – 0

Resolution #81 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 4 – Discussion regarding misuse of handicap parking spaces. (Alderman Michales)

Alderman Michales noted that a constituent brought this to his attention. He noted that individuals are parking in handicapped spaces and they appear to have no apparent disability. To address this, he asked that the police make sure that all vehicles parked in handicapped spaces have the appropriate license plates, ID, and permit.

Alderman Hayes noted that she has received complaints from business owners that snow was being pushed in to the handicapped parking spaces during the winter, causing issues for some store owners. Alderman Quail noted that these spaces needed to be better marked. Alderman Michales agreed that was a start. Mayor Feiszli noted that Public Safety could come up with vertical signs that were more visible and Alderman Dye noted that there were signs, but they needed to be clearly designated. Fran Pizzola from Access to Independence noted that permits were particularly important because some limitations could not be seen, such as a heart condition. She spoke of a Volunteer Parking Patrol that worked well with the Sheriff's Department in the 1990's and thought that this type of initiative could be revisited.

Alderman Michales also noted that the City Police were going to be very serious about this and would be closely checking ID's and license plates for compliance and he would like to revisit this at the next Council meeting to review the current laws.

Mayor Feiszli asked to add another item to the agenda, a request for a sound device permit received in her office this afternoon, from Citizen's Action of NY. They have received one before for a similar purpose on Main Street. This one is for April 27, 2011. She noted that Chief Catalano is okay with this and she asked for a resolution.

RESOLUTION #82 OF 2011 – Resolution to approve a sound device permit for April 27, 2011 for the Citizen's Action of NY.

Mayor Feiszli noted that this was for approximately an hour and will be protesting the Governor's budget cuts in front of the Post Office.

By: Alderman Ferrer
Seconded: Alderman Dye

Approved: Ayes – 8
Nays – 0

Resolution #82 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 5 – Discussion regarding Resolution #76 OF 2011 – Resolution to create the position of Assistant Corporation Counsel and transfer funds from Contingency to Law and to fill the position.

Alderman Ferguson was in favor of rescinding the motion. She would like to start fresh with a complete understanding of what they are voting on. Alderman Quail felt that this should be a part time position with no benefits through the end of the year. He did not want to create another permanent position. Mayor Feiszli stated that she has been in touch with the current Assistant Corporation Counsel and if the Council wants to entertain Alderman Quail's proposal, she would consider it. Mayor Feiszli wanted the Council to be aware that half time at forty-five thousand (\$45,000) dollars without benefits proposed by Alderman Quail was more than what Corporation Counsel Perfetti had proposed.

Alderman Craig stated that what had been talked about in executive session and what has come out since, is totally different as Alderman Ferguson stated. He feels that everything should have been put directly into the resolution and shame on the Council for not having done that. Alderman Hayes noted that there was no set amount in the resolution. She felt that if they waited until May 3, she felt that was too long and suggested a special meeting in the next couple of days. Alderman Ferguson felt that they should rescind the resolution now, not wait. Alderman Quail noted that the Council had rescinded resolutions in the past.

Mayor Feiszli noted that she did not have her calendar with her and that Corporation Counsel was not here to check his, but she could arrange a special meeting if the Council requested one. Mayor Feiszli asked the Council not to rescind this resolution.

Alderman Ferguson asked if the Council could vote on what they would like to do. The Council felt that they would like to deal with this issue this evening and finish it tonight. City Clerk Shawn C. Smith reviewed Robert's Rules of Order and read the information regarding rescinding a resolution, noting that if action had already been taken as a result of the vote, such as a contract being issued or the party notified, the resolution could not be rescinded. It was agreed that Assistant Corporation Counsel had been notified.

City Clerk Shawn C. Smith explained that the next option was to reconsider and she reviewed that with the Council. The Council felt that was their best option to achieve more clarity. City Clerk Shawn C. Smith read the criteria for a "reconsider" motion. The Council interpreted what was read to mean that they could vote on a resolution to reconsider.

RESOLUTION #83 OF 2011 - Resolution to **RECONSIDER** Resolution #76 made on April 5, 2011 to create the position of Assistant Corporation Counsel and transfer funds from Contingency to Law and to fill the position.

By: Alderman Ferguson
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 1 (Ferrer)

Resolution #83 Adopted by Mayor _____ Vetoed by Mayor _____

Alderman Tobin noted that this was the resolution and vote to decide if they were going to revote on this. Alderman Ferguson stated that they had now voted to reconsider their vote and they could now vote on the original resolution again.

RESOLUTION #84 OF 2011 – (was Resolution #76 of 2011) Resolution to create the position of Assistant Corporation Counsel and transfer funds from Contingency to Law and to fill the position.

By: Alderman Tobin
Seconded: Alderman Ferguson

Denied: Ayes – 0, Nays-7, Abstain – 1 (Ferrer)

Mayor Felszli asked for a roll call:

- Alderman Craig – Nay
- Alderman Hayes – Nay
- Alderman Dye – Nay
- Alderman Tobin - Nay
- Alderman Quail – Nay
- Alderman Ferrer – Abstain
- Alderman Ferguson – Nay
- Alderman Michales – Nay

Resolution #84 Adopted by Mayor _____ Vetoed by Mayor _____

Alderman Dye noted that the Council had to do a resolution to create the position with a defined salary. Alderman Ferguson felt that they should wait for Corporation Counsel Perfetti. Mayor Feiszli polled the Council and it was decided to place this on the agenda for May 3, 2011.

Alderman Tobin wanted to state that the initial resolution contained a transfer of funds from Contingency to Law and he asked if that had occurred. If it has not been done, it should not be done. He further explained that if it had already been done the correct action would be for the money to be replaced. He also noted that agenda items needed to be supported by elected officials. He explained that they were starting to have agenda items that were being placed and stated by people who were not elected officials, and this was creating problems. He felt that if department heads and employees could not get the support of the Mayor or a member of the Council, they should not be agenda items.

Alderman Michales thought that had been agreed upon several weeks ago by the Mayor. Mayor Feiszli asked what a department head should do differently to get on the agenda. Alderman Michales stated that the department head should get a hold of a Council member to support that item. Alderman Tobin added "a Council member or the Mayor". He felt it was very clear in the Comptroller's Report.

Adjournment

By: Alderman Craig
Seconded: Alderman Quail

Approved: Ayes – 8
Nays – 0

Hearing no further business, Mayor Feiszli adjourned the meeting at 8:35 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 19th DAY OF APRIL 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 SUSAN FEISZLI