



City Council Minutes
The City of Cortland
May 3, 2011

Council Meeting #10
May 3, 2011
Regular Session
City Hall
7:00 PM

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

Staff Present: Corporation Counsel Patrick Perfetti, Interim Director of Administration and Finance John O. Reagan, Deputy Director of Administration and Finance Lori Crompton, City Clerk Shawn C. Smith

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

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Amy Simrell, Executive Director of the YWCA, gave an update of her activity since the last session. She has a census of vacant spots at the Market Place Mall and has spoken to several business owners. The only concern mentioned was timing. As long as the project adheres to schedule, it will be completed before the concert series begins.

Jo Schaffer, Vice Chair Planning Commission, gave an update on the SEQR process with regards to the SUNY Cortland building project on Chugger Field. She noted that the planned project is adjacent to a Critical Environmental area, a fact that some were unaware of at the meeting she attended regarding the potential risk to the water supply.

Anne Doyle announced a 6:30 pm meeting on May 18 at the Park Side Church at 78 Homer Avenue to renew the Neighborhood Watch Program in Ward 2.

Mike Dexter from the Landscape & Design Commission gave an update on the 2011 tree planting program. There are forty (40) trees available. The application is available at City Hall and on the City's website. Application deadline is May 20, 2011.

AGENDA:

RESOLUTION # 85 OF 2011 – Approve the minutes of April 19, 2011.

By: Alderman Ferrer
Seconded: Alderman Craig

One clarification by Alderman Quail – He did receive the December report.

Approved: Ayes – 7
 Nays – 0

Resolution #85 Adopted by Mayor _____ Vetoed by Mayor _____

The bills were presented.

Alderman Quail asked for disbursement reports. There was discussion regarding which ones had been received to date.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Ferrer reminded drivers to slow down and to be careful at intersections as more children were playing outside in the neighborhoods. He thanked the Cortland Leadership Team Cabana.

John McNerney brought the Council up to date on the Cortland Leadership Team Cabana's project and thanked them for their fundraising efforts and work on the cabanas at Yaman Park. The group raised \$3,900 towards the project, which was completed April 16, 2011. While the quotes for roofing were over \$16,000, the project was completed at no cost to the City; compliments of the 7 roofing contractors that donated their services and other companies lending their support. He recognized the Leadership team members and thanked the companies involved. He presented a plaque that will be on display at the park.

Mayor Feiszli read two (2) proclamations - one for Arbor Day (April 29, 2011) and one for Community Action Month (May 2011).

Mike Dexter thanked Jim Maloney from National Grid for being a tremendous asset. Mike noted that National Grid had donated the tree, a Heritage Elm that was planted on Main Street in front of Starr Bistro on Arbor Day. He then thanked those from the Landscape & Design Commission who assisted with the planting. He noted that the Arbor Day proclamation is part of the Tree City USA program.

Alderman Dye reported on his Police Department ride along and he praised the Police Department for doing an excellent job.

Alderman Michales reported on his Police Department ride along and he, too, praised the Police Department, noting that they are making a difference.

Alderman Ferguson reported that she has received many calls regarding the harsh winter and what it has done to the streets. Many citizens are making requests for the DPW to repair their streets. She wants the citizens to know that DPW is working hard on repairs and to please be patient.

Alderman Quail reported that the Cabako Building on Huntington Street is being demolished.

Alderman Tobin announced a scheduled meeting of the ad hoc Housing Committee for next Thursday, May 12 at 7:00 pm at Port Watson Commons and he invited any interested parties to attend. He also announced a meeting of the Strategic Planning Committee scheduled for next Tuesday, May 10. He asked the status of the information the Committee requested from the Department Heads, referred to Corporation Counsel. Corporation Counsel Perfetti stated that he has not had time to address that matter. Alderman Tobin asked him why Corporation Counsel's approval was needed to receive a listing of services that each department provided. Corporation Counsel Perfetti stated that the department heads had referred the request to him, questioning the origin of the inquiries being made. Discussion regarding the communication process followed.

Next, Alderman Tobin asked for an update on improper practices that were being filed against the City. Corporation Counsel Perfetti noted that two (2) had been filed from Waste Water and one (1) filed regarding the fire services. At this time, one (1) of the Waste Water filings has been dismissed.

Mayor Feiszli provided her report beginning by recognizing the nice article the Cortland Standard did on the vacant building registry. She thanked the Code Office and showed the red signs along with the X indicating that the building was not safe to enter. She reported on a committee meeting regarding health insurance and received information on a health savings account (HSA) as a secondary option for employees beginning in January 2012. She also met with the Waste Water Treatment Board and let them know that Bruce Adams was her provisional appointee for the Deputy Chief position.

She reported that Habitat for Humanity broke ground for a new home on Clinton Street. She noted that the Council also had the City's annual financial report for 2010 in front of them for their review and that it has been filed. She thanked Deputy Director of Administration and Finance Lori Crompton for all of her hard work on this report.

The first meeting of the search committee to find a permanent Director of Administration and Finance has been held. She thanked those volunteers who attended and noted that they will be meeting on a monthly basis and updates will be given. She reported that she spoke at the Civil Engagement Ceremony at SUNY Cortland and she congratulated the Mike Dexter and Linda Kline for their involvement in the community. She took part in a housing consortium at Access to Independence to improve housing stock in the City.

She brought up an item regarding repeat problem rental properties and how to address them. She would like to bring a probationary rental occupancy permit ordinance to the table for discussion. This ordinance, known as "PROP" for Probationary Rental Occupancy Ordinance, will apply to repeat problem rental properties as opposed to the rental permit law which applies to all rental properties in the City. She noted that once the restraining order is lifted on the rental permit law, the two (2) can be used in conjunction with one another.

Lastly, she thanked resident Anne Doyle for hand delivering the Ward 2 meeting notices.

Alderman Quail asked for the status on questions that had been given to health insurance representative Larry Fisher. Mayor Feiszli said to e-mail her and she will follow up.

RESOLUTION #86 OF 2011 – Resolution supporting the temporary allocation of 12 parking spaces at the back of the Marketplace Mall parking lot – to be reserved for a month for the VFW, which the VFW has required in order to give the YWCA access to 12 parking spaces in the VFW parking lot to facilitate excavation for the YWCA building project. The tentative timeline is mid-May to mid-June.

Alderman Dye thanked Amy Simrell for the time she put into observing parking space usage and reporting. Alderman Craig asked what the plan was if construction was not completed on time. The police stated that they would revert to the VFW lot. Corporation Counsel Perfetti noted that the YWCA has the only battered shelter in the area.

By: Alderman Ferrer
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Resolution #86 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #87 OF 2011 – **DENIED Option A** - Resolution to create a full time, civil service, thirty-five (35) hour per week Assistant Corporation Counsel position at a weekly rate of one thousand three hundred forty-six dollars and fifteen cents from May 3, 2011 through December 31, 2011 and authorizes the transfer of forty-seven thousand one hundred fifteen dollars and twenty-five cents (\$47,115.25) from Contingency to the Law Department to fund this position. (Corporation Counsel Perfetti)

Mayor Feiszli stated that a detailed resolution had been emailed to the Council that would be given to the media after the meeting. Alderman Ferguson clarified that they were speaking on the position itself, not on any particular individual. Corporation Counsel Perfetti stated that he would discuss it in that context. He stated that a backlog had developed because the office has been overburdened. He addressed various points made in a letter to the editor that he felt needed correction or clarification. He noted that the Corporation Counsel position has been a part time political appointment for the last 40 years. He explained that there had been an Assistant Corporation Counsel, but the position was eliminated when non-felony criminal prosecutions were removed from that office. Corporation Counsel felt that if the position was not re-established, the Council should contact their insurance carrier with regards to significant liability regarding an undermanned legal office. He stated that he would outsource the work if needed, but would like to use a different provider for various reasons.

Corporation Counsel Perfetti stated that the seventy thousand (\$70,000) dollar salary for an Assistant Corporation Council was annualized, so that it could be compared with others on an even basis. Alderman Dye asked if the full time assistant could handle zoning. Corporation Counsel Perfetti stated that it would depend on the skill set of the candidate

hired. Alderman Michales asked Corporation Counsel why some of the outside work had been pulled back into the office when the law office was already overburdened and the outside law firm was already dealing with that work.

Corporation Counsel Perfetti noted that he anticipated the law office being able to handle the workload and he felt that the outside firm was not serving the City in the way that the City needed.

Alderman Ferguson asked Corporation Counsel if benefits were included or not for the position that had been created. Corporation Counsel Perfetti noted that if a candidate was hired that needed benefits, the fifteen thousand (\$15,000) dollars for their cost could be negotiated back in. Alderman Ferguson reiterated that she did not feel that a position should be created for a particular person, but that if a position is needed, create it and then look into potential people able to fill it at the desired salary. Corporation Counsel Perfetti noted that the seventy thousand (\$70,000) dollars had been arrived at by an analysis of what had been offered by two (2) other County agencies to individuals similarly qualified.

Alderman Ferguson noted that if they went with the seventy thousand (\$70,000) dollars plus the sixteen thousand (\$16,000) dollars, which would be eighty-six thousand (\$86,000) dollars. She then asked if outsourcing would exceed that amount. Corporation Counsel Perfetti stated that he thought outsourcing would exceed that amount and perhaps almost double it. He also noted that the longer the Council delayed making a decision on this, the more that would increase.

Alderman Tobin requested that an executive session be called to discuss privileged attorney/client communications that spoke to the need for this position. The motion failed for lack of a second. There was discussion regarding whether this topic should or should not be discussed in open forum. Corporate Counsel Perfetti recommended to the Mayor that they not go into executive session regarding this matter.

Alderman Quail expressed his concern that the Council was going to vote on a one hundred thousand (\$100,000) job for a full time assistant. He outlined the salary and benefits for the position that added up to that amount. He noted that a part time position added up to sixty-five thousand (\$65,000) without benefits.

Discussion regarding the outside law firm followed. Mayor Feiszli refocused the Council on the position of Assistant Corporation Counsel by pointing out the two options that she and the law office had come up with. Option A is a full time Assistant Corporation Counsel position created as a time limited civil service position, to be funded from May 3, 2011 to December 31, 2011. Rate of pay is based on seventy thousand (\$70,000) dollars for an entire calendar year, so it will be pro-rated at a full time rate of thirty-five hours per week for a total of forty-seven thousand one hundred fifteen (\$47,115) dollars.

Mayor Feiszli stated that Option B was a part time Assistant Corporation Counsel position created as a time limited contract position, funded from May 3, 2011 to December 31, 2011. Rate of pay is twelve hundred fifty (\$1,250) dollars per week, for twenty-five (25) hours per week, for a total cost of forty-three thousand seven hundred fifty (\$43,750) dollars. Alderman Dye asked about the difference between contract and a civil service

position. Corporation Counsel Perfetti explained that a contract employee would not have benefits and a civil service employee would have benefits. He also explained that you could not create a full time contract position because the candidate would be expected to perform as an employee, which does not afford the independence of an independent contractor in the eyes of the law.

Alderman Craig asked if a position could be created without benefits. Corporation Counsel explained that as long as the position was less than full time, it could be contracted for without benefits. Alderman Michales asked how much the law office had paid out already. Interim Director of Administration and Finance John O. Reagan reported that \$17,500 plus \$1,346 had been paid out so far.

Alderman Ferguson asked if Corporation Council would have the ability to fill the position with someone of his choosing. He answered in the affirmative. Alderman Michales asked if there was a residency requirement. Corporation Counsel Perfetti indicated that if the position were for a Deputy Corporation Council then the answer would be yes, but since he is interested in creating an Assistant Corporation Council the answer is no.

Alderman Dye called the question on Option A.

By: Alderman Dye
Seconded: Alderman Ferrer

Denied: Ayes – 2/Nays – 5 as follows:

Alderman Craig - Nay
Alderman Dye – Aye
Alderman Tobin - Nay
Alderman Quail - Nay
Alderman Ferrer – Aye
Alderman Ferguson - Nay
Alderman Michales – Nay

Resolution #87 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #88 OF 2011 – **Option B** – Let it be Resolved that the Council authorizes creation of a part time twenty-five (25) hours per week Assistant Corporation Counsel position at a weekly rate of one thousand two hundred fifty dollars (\$1,250) from May 3, 2011 through December 31, 2011 and authorizes the transfer of forty-three thousand seven hundred fifty (\$43,750) dollars from Contingency to the Law Department to fund this position.

Alderman Michales stated that he strongly believes that a Paralegal would meet the needs of the city to assist the law office. Alderman Quail agreed, once the law office was caught-up on backlog. Corporation Counsel Perfetti also agreed.

By: Alderman Quail
Seconded: Alderman Craig

Approved: 4-Ayes/3-Nays as follows:

Alderman Quail – Aye
Alderman Ferrer – Aye
Alderman Ferguson – Aye
Alderman Michales – Nay
Alderman Craig – Aye
Alderman Dye – Nay
Alderman Tobin – Nay

Resolution #88 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #89 OF 2011 – Resolution for Council approval for several budget transfers. (Lori Crompton)

There was discussion regarding several of the transfers. Interim Director of Administration and Finance Reagan noted that he was working on a contract basis. There was discussion regarding the budget transfer from Personnel Services to the contractual line in that section of the budget. However, Alderman Quail felt that since the interim position was actually filling an existing position that funds should stay in Personnel Services.

Mayor Feiszli noted that the resolution would cover all of the submitted budget transfer requests but would **NOT** include the one in Administration and Finance.

Interim Director of Administration and Finance Reagan answered a question regarding the eighty-seven thousand (\$87,000) dollars which was also **NOT** to be included in the resolution.

By: Alderman Michales
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Resolution #89 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 4 – Discussion regarding 2011 budget modifications. (John Reagan)

Interim Director of Administration and Finance Reagan requested that this item be placed on the agenda for the next Council meeting. He referred to the memo regarding the Water Fund and explained fund to fund transfers. He also noted that this was an appropriation of fund balance with no effect on the Water Fund budget itself and should be designated for future debt service. Mr. Reagan went on to explain that the General Fund modification is for bonded debt. He pointed out two (2) issues: the first issue is the same as the Water Fund, with monies in Fund Balance for bonded debt; the second issue is that there was a duplication of entries to cover of debt service, so the expense is overstated. He would like to make the necessary modifications so that expenses are represented accurately.

RESOLUTION #90 OF 2011 – Resolution for Council approval to transfer eight thousand one hundred fifty-one dollars and forty cents (\$8,151.40) to cover approved Law Department invoices.

By: Alderman Ferrer
Seconded: Alderman Dye

Approved: Ayes – 7
Nays – 0

Resolution #90 Approved by Mayor _____ Vetoed by Mayor _____

Item No. 6 – Discussion regarding misuse of handicap parking spaces. (Alderman Michales)

Alderman Michales asked that department heads asked to attend Council meetings be placed first on the agenda so they do not have to sit through long meetings after a long workday. Mayor Feiszli agreed. Interim Director of Administration and Finance Reagan said he would do that in future agendas.

Alderman Michales stated that he had reached out to Chief Catalano regarding the misuse of handicap parking. Chief Catalano noted that eighty-four (84) handicap parking violations were written last year and nineteen (19) have been written so far this year. Parking enforcement officers are writing tickets as they come across violations, but it is difficult to catch people misusing the permit placard. He suggested a public awareness campaign. Alderman Ferguson noted that the handicap sticker was for the individual and not for the particular car. Corporation Counsel Perfetti added that if a car was designated, it was because the owner had gotten specially designated license plates through the DMV.

Chief Catalano thanked both Aldermen Dye and Michales for participating in the ride along with members of his department. Alderman Dye commented on the positive attitude between the police and the students.

Item No. 7 – Update from Law Department on a Memorandum of Understanding between the City and the Village of Homer Police Departments. (Alderman Tobin)

Corporation Counsel Perfetti noted that this was not a high priority item, but he will have Assistant Corporation Council work on it. He would also like Chief Catalano's input on this. Alderman Quail asked who pays when an employee is hurt on the job while performing mutual aid. Corporation Counsel Perfetti stated the municipality requesting aid would be the one covering the cost.

Item No. 8 – Update on the status of the City's Comprehensive Plan. (Alderman Tobin)

Corporation Counsel Perfetti noted that the document was received last week from Thoma Development. He expects that there will be some modifications needed, which he will bring to the Council's attention.

Item No. 9 – Update on status of parade permit. (Alderman Ferguson)

Corporation Counsel Perfetti stated that his concerns were liability and public safety. Alderman Ferguson noted that there was difficulty in a group getting a permit last year. Chief Catalano noted that there were issues last year because Main Street was under construction and the group failed to provide proof of liability coverage.

Motion to go into Executive Session to discuss disciplinary action regarding a City employee and the status of two (2) provisionally appointed City employees who have satisfied the conditions of their provisional employment and are requesting the commensurate pay rate that goes along with that.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

City Clerk Shawn C. Smith was relieved by Mayor Feiszli for the remainder of the evening as her presence was not needed for the executive session.

Motion to come out of Executive Session:

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

Adjournment

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 7
Nays – 0

Hearing no further business, Mayor Feiszli adjourned the meeting at 10:15 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 3RD DAY OF MAY 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