



City Council Minutes
The City of Cortland
June 21, 2011

Council Meeting #14
June 21, 2011
Regular Session
City Hall
7:00 PM

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

Absent: Alderman Hayes, Alderman Quail

Staff Present: Interim Director of Administration and Finance John Reagan, Deputy Director of Administration and Finance Lori Crompton, Deputy City Clerk Cheryl A. Massmann, Corporation Counsel Patrick Perfetti, and Asst. Corp. Council Meira Hertzberg

Mayor Feiszli called the fourteenth Common Council meeting of the year to order at 7:09 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Anne Doyle thanked the Council and the City for her new sidewalk which was replaced with partial funding from the City's Sidewalk Replacement Program. She also spoke against the proposed New Life Center Building being proposed by SUNY Cortland. She indicated that the State University Construction Fund budget for this is fifty-three million dollars and New York State does not have money to spend on this project in this time of great economic hardship. She expressed concerns for the protection of the aquifer and the R1 neighborhood. She feels that the City Council needs to have control over this project and keep an eye on this.

Mayor Feiszli stated that Corporation Counsel Perfetti will give an update on this project later in the meeting.

Kathryn Compagni spoke in support of the YWCA request for re-commitment of the Community Development Block Grant Award Program Income Funds of thirty thousand fifty-five (\$30,055) dollars for their Capital Project. She was present on behalf of the YWCA and for Amy Simrell who was unable to attend. She stated these funds are in the Program Income Funds. She explained that the re-commitment is necessary because the eighteen (18) month time frame, in which these funds had to be used after the first approval, had expired because their building project began later than anticipated. She explained that

these funds were needed for kitchen equipment and an upgrade of their security system. She outlined the attributes of their many programs.

Atty. Fran Casullo stated that he represents Cortland Apartments, LLC and Chris Calabro, managing member. He gave an update on 5 Monroe Heights relative to the City. He stated that they had submitted application to move this matter along. He doesn't feel it's necessary and they have also asked for an interpretation. They did all this trying to stay in compliance with Section 81A6 of the General City Law. He explained that by filing the variance application with the Zoning Board of Appeals, a stay of any action would take place. It's his belief, that with that stay, Mr. Calabro has the right to commence work again at 5 Monroe Heights. He noted that late this afternoon the City indicated through the Police Department that they didn't feel that was correct. He hopes to show the Council law that supports his theory, but they will not disobey a police order. He feels that now it is up to the City and the ZBA.

Atty. Casullo went on to address 15 Pleasant Street, where a stop work order was issued and they are not clear why this was issued. He noted that there was nothing in writing as to why this was issued. He explained that the process began for the work there in February after Mr. Calabro went to a full blown Site Plan Review on March 28, 2011 before the Planning Commission and was granted site plan and was issued a building permit and now a stop work order has recently been issued. He is trying to get information from the City to allow them to understand why this project has been stopped, so that they can address that issue. He will file appropriate paperwork to obtain a stay on that matter. He distributed a letter to the Council that was submitted to the City last Friday. He would like to move forward with these matters.

Elaine Contento was present to support Jennifer Hamilton's presentation for smoke free City parks and activity areas. She gave examples of her personal experiences as to why she supports this proposal.

Ted Schiele, Tompkins County Health Department employee and Groton resident, supports the proposed tobacco free parks policy. He explained how well it was supported and appreciated in Ithaca.

Ron Rocco spoke in opposition of the proposed expansion of the County landfill. He brought up the TCE Smith Corona contamination incident. He cited the panic that resulted from the pollution of the sole source aquifer at the time. He stated that past EPA reports had urged that a landfill should never be located over the aquifer. He is concerned about the proposed increase in the size of the landfill, his concerns about water pollution and the cost to taxpayers for the upgrading of the infrastructure to support large trucks coming in from New York City. He urged the Council to contact their legislators about the hazards the landfill expansion could bring to the critical source aquifer where most of the County residents obtain their drinking water from. He filed information documents with the Deputy City Clerk.

John DeVecchio made a presentation with regards to 15 Pleasant Street. He explained a series of actual photos he had taken during the construction phase of this project. Corporation Counsel Perfetti asked him to file his documents as an exhibit with the Deputy

City Clerk, noting that the matter is being addressed. Mr. DeVecchio felt that although Mr. Calabro had received site plan approval, he was lacking two (2) variances for the project which should have been received prior to site plan. He noted that Mr. Calabro had received no demolition permit. He asked if he had done any asbestos abatement or lead abatement. He stated that the demolition was done in ten (10) hours and he didn't feel that the EPA or the lead abatement people could have gotten to the project site. He feels that this is a variance for an expansion in an R1 district and a variance for a front yard setback was also needed. He asked on behalf of the landlords that everyone be treated fairly.

Corporation Counsel Perfetti stated that they understood the complaint that he has registered, noting that this is under a level of litigation and the Council would listen to his comments and he could leave copies of any documents presented with the Deputy City Clerk.

Jamie Sweety deferred her time to John DeVecchio, Jr.

Tim Sweety deferred his time to John DeVecchio, Jr.

John DeVecchio, Jr., Esq. stated that this stay is not for the Common Council to decide. He noted that legal issues are at play and they are very complicated. He noted that the correct forum for these issue decisions to be raised in and decided upon is the quasi-judicial board – the Zoning Board of Appeals. He stated that the decision regarding the stay is for the Zoning Board of Appeals to make, not the Council. He respectfully requested that those issues be directed to the appropriate quasi-judicial board.

Minutes for May 17, 2011 Regular Session and June 6, 2011 Special Session & June 13, 2011 Special Session

Hearing no amendments, the Mayor asked that the minutes be filed.

The Bills were reviewed.

Alderman Michales asked about the boot fee. Deputy Director of Administration and Finance Crompton stated that the City had to pay the towing bill and then the violator's charges reimbursed the City.

Reports of Officers, Boards and Standing Committees

Alderman Tobin noted that he helped coordinate the swimming for the Cortland hosted Empire State Senior Games last week. He thanked Jim Dempsey and Michelle Phelps for putting on an excellent and well run event.

Alderman Dye noted that after the June 13 meeting, he received many calls from landlords and hill residents. Many of these were regarding assessments. He asked that Assessor Dave Briggs be put on the agenda for the next Council meeting to give an explanation of how assessments are arrived at.

Alderman Dye would also like to review a listing of all of the CZO's and what the Council plans to do about them, especially the illegal ones.

Alderman Dye gave an update regarding the search committee for the Director of Administration and Finance. They've been working for two (2) months, have received twelve (12) applications and four (4) of them meet all of the qualifications and three (3) or four (4) of them meet some of the qualifications, but they do not have experience. He explained that applications could still be received for another month and it looks like they will meet the September 15 deadline. He explained that they do have many good candidates.

Corporation Counsel Perfetti provided an update to Anne Doyle's SUNY Cortland Student Life Center project comments. He explained that the Mayor, Asst. Corporation Counsel Hertzberg, Frank Kelly (City Environmental Advisory Committee Member) and he met with a panel of representatives from SUNY this morning. He noted that SUNY had called the meeting and that they set the agenda. The substance of that meeting was that SUNY is concerned that the City has registered objections to the State University Construction Fund acting as lead agency for this project and as much as threatened litigation regarding the matter. He explained that the City Law Department, upon the advice from Atty. Patrick Snyder, was told that if the Council took that route to expect litigation. He noted that the City had tried to engage them in productive discussion as to what SUNY was seeking and under what circumstances and conditions avoiding litigation might be had. He explained that Ms. Hertzberg suggested a good approach would be if the State University Construction Fund would acquiesce to the City's Zoning regulation and Code Enforcement authority and other police powers and do it in a contractual form; we might forgo the lead agency designation for this project. They made clear to the City, that they were not willing to give on that. He asked for further direction from the Council regarding any changes in their initial directives.

Mayor Feiszli read a proclamation declaring July 26, 2011 as Americans' with Disabilities Act Awareness Day for presentation to Fran Pazullo. The City's celebration is July 16 at Court House Park and she invited everyone to attend.

PINK SHEET Sign Off

Mayor Feiszli explained that this is a new format where Council members, the Mayor and Corporation Counsel sign off on the pink sheets.

Mayor Feiszli with Council approval added Alderman Dye's two (2) items to the agenda to be addressed after the presentations.

Item No. 1 – Presentation by Jennifer Hamilton (Public Health Educator from Cortland County Health Department) about why the City should implement a Tobacco-Free Policy to protect the health, welfare, and safety of our residents and visitors on City-owned park land, park facilities, open space or joint City/school district properties. (Mayor Susan Feiszli)

Jennifer Hamilton did a presentation with a slide show in support of the proposed Tobacco-Free Policy and urged the Council to adopt a written tobacco-free policy for all City-owned park land. She gave historical and health information to support this request. She distributed sample policies for the Council's consideration. She indicated that her organization would assist with promotions and publicity to educate residents on this policy.

Mayor Feiszli asked that the Council members speak to their constituents about this policy and that this would be placed on the July 5, 2011 agenda for the Council's consideration.

Youth Bureau Director John McNerney spoke. He stated that a presentation had been done for the Youth Bureau Board and he and they were in support of this policy.

Item #2 – Presentation by Larry Fisher (Benefit Consulting) regarding Wellness and Finance Committee recommendation for Health Insurance Option for 2012.

Mr. Fisher that the proposal was for health savings accounts. He stated that he has met with the Wellness Committee with regards to introducing this option through Excellus. He noted that this is a consumer driven plan. He asked that the Wellness Committee be reconvened to offer this as an option. He noted that there would be a savings to both the City and the participant. He suggested that they devote several months to education for employees on plan utilization. He would like the Council to give their approval to have this as an option for City participants. This would not be a mandate. He then noted that this would have to be collectively bargained after that. He was hoping to have a January start date during the open enrollment period.

Alderman Michales indicated that he was not comfortable enough to vote tonight and he asked that this be tabled.

Corporation Counsel Perfetti stated that after meeting with Atty. Alan Peterman, he advised that this option be presented to the bargaining units who would have to sign off on this. He explained that the action the Council would be undertaking would be allowing the presentation to be made to the City bargaining units regarding this proposal.

RESOLUTION #122 OF 2011 – To table Resolution for approval to move forward to educate City employees about a Health Savings Account.

By: Alderman Michales
Seconded: Alderman Dye

Approved: Ayes – 6
Nays – 0

Resolution #122 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 3 – Request from the YWCA for funds to be used toward kitchen equipment and an updated security system. Source of funds from Program Income. (Linda Armstrong)

Linda Armstrong was present to answer questions and to give background on the initial request.

Alderman Dye asked her if there were enough funds in reserve funds in Program Income to do this. Alderman Michales asked if these funds had been targeted for any other program.

Linda Armstrong stated that they were not specifically targeted. She noted that some of the money was encumbered for various projects, but the unencumbered balance would support this request.

RESOLUTION #123 OF 2011 – Resolution to approve Program Income \$30,055 (thirty thousand fifty-five dollars) to the YWCA for funds to be used towards commercial kitchen and an updated building security system.

Linda Armstrong asked the Council to include any conditions on these funds to be included in the resolution and authorize the Mayor to sign a letter on behalf of the City authorizing this.

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 6
Nays – 0

Resolution #123 Adopted by Mayor _____ Vetoed by Mayor _____

Item #4 – Presentation of job title descriptions for the WWTP. (Bruce Adams)

Bruce Adams explained that this was in response to last Monday's Council decision to reorganize the WWTP positions and job titles. He explained that he has been working with Civil Service to change job descriptions to meet the organizational chart as well as to correct some of the inaccuracies that had previously been in the job descriptions as well as simplifying the descriptions. He explained that in the description for Maintenance Mechanic the Waste Water certification requirement has been removed. He also explained that the certification requirements for Operator I had been reduced to a grade 1A license. He noted that Civil Services' Annette Barber and Lori Gauss had been wonderful to work with.

RESOLUTION #124 OF 2011 – Resolution to approve the Cortland Downtown Partnership's request to: (Adam Megivern)

- a. Close the Market Place Mall parking lot at 8:00 AM to 9:00 PM on July 16 for a concert during the Taste of Downtown.
- b. Waive the open container alcohol regulation at Market Place mall parking lot from noon until 9:00 PM.

Adam Megivern from the Downtown Partnership asked that the closing time for the mall parking lot be extended from the initial request of 7:00 PM to 9:00 PM in both parts to allot for more music.

Chief Catalano stated that this would be confined to the Main Street lot.

Adam Megivern stated that the alcohol serving area would be fenced off and there would be security provided to insure compliance.

By: Alderman Ferrer
Seconded: Alderman Michales

Approved: Ayes – 6
Nays – 0

Resolution #124 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 16 – Discussion regarding a spreadsheet showing various properties of numbers of students, assessments and assessment per student. (Alderman Dye)

Alderman Dye described the spreadsheet with the various addresses of college student residences and their assessments. He explained that he would like Assessor Briggs to come to the next Council meeting to provide a valid explanation as to the deviations on these various assessments. He indicated that there appeared to be quite a discrepancy in assessments.

Alderman Tobin asked Alderman Dye where the spreadsheet came from. Alderman Dye stated that it came from Gerry Ruggiero and he had checked the assessment information contained in the spreadsheet on the computer and they were right on. Mayor Feiszli also had confirmed the information to be accurate.

Alderman Dye wanted to hear the criteria used for evaluating the properties and why there is such a big discrepancy in assessment per student between some of the landlords. Alderman Dye wants it to be done correctly and fairly.

Aldermen Michales, Ferrer and Ferguson felt that this should be done citywide.

Alderman Ferrer would also like to look at the Certificates of Zoning Occupancy.

Item No. 17 – Discussion regarding the issuing of past Certificates of Zoning Occupancy (CZO) and the legality of them and what the City can do to correct them. (Alderman Dye)

Alderman Dye noted that the first thing to do on this would be to discuss it with Corporation Counsel to find out what past practices were, what ones have been issued and to find out what can be done to correct any that were issued in error.

Corporation Counsel Perfetti noted that the Law Department would be overburdened by a citywide review of these. He noted that it appeared to be about one hundred fifty (150) properties that may need review and that is well within their capabilities, but he asked for additional time to do further research and review. He indicated that he would reach out to

other City departments for assistance. He indicated that this could, in part, go along with an effort to uniform City property files for easier research.

Alderman Michales wanted assurance that they would not be overburdening the Law Department.

RESOLUTION #125 OF 2011 – Consideration of the confirmation of the Mayor’s reappointment of C. Jane Snell to the Cortland Housing Authority.

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Resolution #125 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #126 OF 2011 – Consideration of a request for a waiver of repayment on a HOME project undertaken through the office of Community Development. (Linda Armstrong)

Linda Armstrong asked to make a clarification. She noted that this was a change in deed for estate planning, but was not going to be affecting the right of repayment. She stressed that by approval, the Council was not giving up the right for payment.

Alderman Ferguson asked for assurance that the Council would not be setting a precedent.

Corporation Counsel Perfetti gave an explanation of this estate planning request, noting that this was an abstract concept, but they would not be giving up the right of repayment. He did state that they would be setting a precedent, but it would be in keeping with the nature and purpose for the use of these monies and he recommended approval of this particular request.

By: Alderman Tobin
Seconded: Alderman Dye

Approved: Ayes – 6
Nays – 0

Resolution #126 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #127 OF 2011 – Resolution to approve Bond, Schoeneck & King as Bond Counsel for Bond Resolution for Fire Apparatus. (John O. Reagan)

Interim Director of Administration and Finance John O. Reagan provided a copy of the proposed agreement. He explained that this was a service contract with this firm to do the bond work for the City and for them to issue bond anticipation notes. Mr. Reagan noted that two (2) quotes had been received. One was from Harris, Beech and the other from

Bond, Schoeneck & King. Both proposals were basically the same and he had made the decision to recommend Bond, Schoeneck & King because he felt that they knew the City the best.

Alderman Michales asked if this bond was specifically for the Fire Department and he asked for assurance that the Council would not be asked again in a few months for additional funds. Mr. Reagan explained that the Council had authorized the purchase of two (2) pieces of fire apparatus purchased earlier in the year. These were as a result of the award of FEMA grant monies. He explained how the bonding and repayment process would work as the year progressed.

Alderman Dye asked if the City could receive a discount for prepayment on these pieces of equipment. Chief Glover explained that they had missed some pre-payment opportunities, but there was one small discount that they could receive.

Corporation Counsel Perfetti stated that he had reviewed the legalities of the bond resolution and he recommended approval of this.

Alderman Tobin asked if Mr. Reagan had a chance to run the numbers on bond repayment and what was the actual cost going to be for the City. Mr. Reagan noted that the interest rate was one percent (1%) on the four hundred thousand dollars (\$400,000), but it really depended upon whether or not they wanted to institute payment on the principal portion of the bond anticipation notes. He suggested that the Council look at refinancing the current debt when planning for the 2012 or 2013 budget.

By: Alderman Tobin
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Resolution #127 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #128 OF 2011 – A) Resolution to approve of Bond Resolution in the amount of \$1,400,000.00 and B) Resolution determining that proposed action is a TYPE II action for purpose of the NYS Environmental Quality Review Act. (John Reagan)

Interim Director of Administration and Finance Reagan gave a full breakdown of the Bond amount requested.

By: Alderman Tobin
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Resolution #128 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #129 OF 2011 – Resolution for Council approval to Reserve Fund Balance, for Capital Improvements, in the amount of \$111,400.00 as matching funds for the TIP project in 2013. (John O. Reagan)

Interim Director of Administration and Finance Reagan explained that it had been determined that the funds remaining in the current bond fund could not be used for this.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #129 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #130 OF 2011 – Resolution by which the City of Cortland establishes standard work days for elected and appointed official, will report the following days worked to the New York State and Local Employees’ Retirement system based on the record of activities maintained and submitted by these officials to the Clerk of this body and that the Standard Work Day and Reporting Resolution will be posted and available to the public for a minimum of thirty (30) days. (John Reagan)

Interim Director of Administration and Finance Reagan explained that this mandatory resolution would appear every time a new person who belonged to the system was hired.

Corporation Counsel Perfetti explained that this was as a result of a directive from the State Comptroller’s Office to prevent retirement pension abuses. He noted that it was a statewide mandate.

By: Alderman Craig
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #130 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #131 OF 2011 – **To Table** – Resolution to approve Application for Sound Device Permit of Bellevue Avenue July 9, 2011, Bellevue Alliance Church.
(Alderman Craig)

Alderman Ferguson asked what the permit was for. Alderman Craig did not know the details. Chief Catalano did not know the details.

Mayor Feiszli indicated that there was another Council meeting before the requested permit date.

Motion to Discuss:

By: Alderman Craig
Seconded: Alderman Dye

Motion to Table:

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #131 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #132 OF 2011 – Resolution to approve Application for street closing on Euclid Avenue August 20, 2011, neighborhood party (rain date August 21, 2011) from 11:00 a.m. until 8:00 p.m. (Alderman Ferrer)

Alderman Ferrer explained that this was an annual neighborhood party and all the neighbors were in agreement with the event.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

Resolution #132 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #133 OF 2011 – Resolution to approve Budget Transfers: 1) Fire Department for Shift Manning; 2) Police Department for Prisoner Food.

By: Alderman Ferrer
Seconded: Alderman Michales

Approved: Ayes – 6
Nays – 0

Resolution #133 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #134 OF 2011 – Resolution to approve Budget Amendments: 1) Police Department to recognize proceeds from auction of old vehicles; 2) Police Department to recognize two grants and appropriate the use of these funds.

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6

Nays – 0

Resolution #134 Adopted by Mayor _____ Vetoed by Mayor _____

EXECUTIVE SESSION I:

Executive session to discuss personnel matters with Department Heads and inter-department procedures between Zoning and Code.

Motion to go into Executive Session

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

Motion to come out of Executive Session

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

RESOLUTION #135 OF 2011 – Resolution to authorize the City to go forward with challenging PERB filing by Department Heads seeking certification to go forward to form a collective bargaining unit.

By: Alderman Dye
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Resolution #135 Adopted by Mayor _____ Vetoed by Mayor _____

EXECUTIVE SESSION II:

To discuss current litigation.

Motion to go in to:

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Motion to come out of:

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays - 0

Adjournment

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Hearing no further business, Mayor Feiszli adjourned the meeting at 10:57 PM.

I, CHERYL A. MASSMANN, DEPUTY 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 21ST DAY OF JUNE 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.

CHERYL A. MASSMANN, DEPUTY CITY CLERK

MAYOR FEISZLI