



City Council Minutes
The City of Cortland
August 16, 2011

Council Meeting #18
August 16, 2011
Regular Session
City Hall
7:00 PM

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

Absent: Alderman Hayes

Staff Present: City Clerk Judi Chamberlin and Corporation Counsel Patrick Perfetti

Mayor Feiszli called the eighteenth Common Council meeting of the year to order at 7:10 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Anne Doyle invited everyone to the Neighborhood Watch meeting on August 17 at the Parkside Church on 78 Homer Avenue.

RESOLUTION #168 OF 2011 – Resolution to approve the minutes of August 2, 2011.

By: Alderman Ferrer

Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #168 Approved by Mayor _____ Denied by Mayor _____

Bills were reviewed and filed.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Ferguson noted that many are upset that Ward 2 does not have any representation and she feels that is their right and agrees with them. She would like the Law Department to look into this.

Corporation Counsel Perfetti has researched the City Charter and there is no policy regarding attendance of Council members or compelling them to attend meetings. There is no past practice and no regulations in that regard. He noted that the Alderman in Ward 2 has expressed a desire to fill the seat until its conclusion. His opinion is that the Council would be on hazardous ground to try to remove that Alderperson at this junction. He noted that the Council could develop and establish rules for minimum Council attendance requirements. He noted that with regards to pending charges, that the individual involved is presumed innocent until proven otherwise.

Alderman Tobin asked about the residency requirement. Corporation Counsel Perfetti noted that proof of Ward residency is required under the Public Officers' Law at the time they assume office. He noted that Ms. Hayes is not residing at the local that she asserted in the past was her residence. He noted that he has been given certain indications that she is a protected party receiving services from Aid to Victims of Violence and she's in a shelter home. He explained that moving into a sheltered home is a temporary condition and generally rules regarding residency that until the individual takes up permanent residency in a new location, they are considered to be a resident in your previous location. He doesn't feel that is sufficient at this point until there is a clear change. The courts will determine residency based upon certain criteria. He noted that it is possible that it could be determined that they reside in more than one (1) location.

Alderman Michales asked if there were any concerns regarding residency from Ward 2 residents who were present at the meeting. Anne Doyle indicated that she did not have concerns at this time. Alderman Michales felt that no Ward should be without a representative and that if any Ward 2 resident had any concerns or problems that they should contact the Mayor's Office and in turn, another Alderman would follow up.

Mayor Feiszli noted that she would be attending the Neighborhood Watch meeting and she invited Ward 2 residents to attend and express any concerns or issues they might have to her.

Corporation Counsel Perfetti noted that Aldermen take an oath of office to be guided by the best interests of the City. He explained that they are elected by their Ward, but they should have the best interests of the City in mind and that working on Ward 2 issues was allowed.

Alderman Ferguson noted that she was also concerned by the landlord situation. She felt it was going on much too long. She has received a suggestion for resolution of this situation and has turned it over to Corporation Counsel.

Alderman Dye has spoken with Assessor Briggs and some landlords regarding the assessment issue. He noted that Assessor Briggs has sent out a letter dated August 1, 2011 indicating that the base occupant values were going to be:

- \$20,000 for occupancy less than six (6)
- \$16,000 for occupancy between seven (7) and fifteen (15)
- \$13,000 for occupancy between sixteen (16) or more

Alderman Dye noted that going by that, assessments would rise by one point seven (1.7) million for people who are less than six (6), seven (7) to fifteen (15) one point two (1.2) million and over sixteen (16) two point two (2.2) million. That's an increase of assessments of over five (5) million dollars. He would like to have Assessor Briggs attending the September 6 Council meeting, but he is not able to. The Board of Assessment Review meets that date between the hours of 4:00 pm and 6:00 pm and 7:00 pm and 9:00 pm in the Mayor's Conference Room. He asked that Assessor Briggs added to the September 20, 2011 Council agenda.

Alderman Tobin asked to have a request for a street closing for Pearl Street to be placed on tonight's agenda. He explained that it was submitted after tonight's agenda had gone out and the event is scheduled for September 5 and has been reviewed by Chief Catalano.

Alderman Tobin asked for some updates from the Law Department regarding some resolution of some issues.

Corporation Counsel Perfetti asked Alderman Tobin to clarify the specific points he was referring to.

Alderman Tobin noted that there were issues between two (2) property owners regarding permits that had been issued and then stop work orders were issued.

Corporation Counsel Perfetti noted that the properties were 5 Monroe Heights owned by Mr. Calabro and 15 Pleasant Street. Alderman Tobin indicated that he would like to hear about the Seales property on Pleasant Street, as well.

Corporation Counsel Perfetti noted that he would address Mr. Calabro's properties first. He stated that 5 Monroe property permit has now been appropriately issued and the work that had been done on that property conforms with the building permit that was issued. He further explained that the 15 Pleasant Street property, there are a number of things that are going on. He stated that has not been concluded and a meeting is scheduled for tomorrow with Atty. Victoria Monty to discuss coming to a resolution on this matter and it is his hope that a pending appeal will be withdrawn and a satisfactory resolution will be reached by all parties. He gave some litigation background on this property.

Corporation Counsel Perfetti stated that there was pending litigation on the Seales property on Pleasant Street. He gave background on this litigation, indicating that he was waiting for an additional amendment and he will see where the litigation rests at that point.

There was some further discussion regarding the appeals process.

Alderman Ferguson stated her constituents' concerns regarding all of this.

Corporation Counsel Perfetti stated that the City was the defendant in all of these litigations and he explained what the City has done.

Alderman Tobin asked Corporation Counsel Perfetti if the Council could assure the public that if the City issued a work permit to them that it was going to stand. Corporation

Counsel Perfetti noted that if there was a violation, his department would go through the proper enforcement and litigation for those violations.

Mayor Feiszli noted that under her administration the City was not doing business as usual and policies and procedures were being set up to correct their past mistakes.

Alderman Michales asked the Code Office how many permits were currently being held up. Capt. Knickerbockers stated that there was only one (1).

Alderman Quail asked Mayor Feiszli when the Council could expect to see the new policies and procedures. Mayor Feiszli indicated that when development was completed, she'd be sending them out to the Council this week.

Alderman Quail noted a constituent living on Perplexity Creek had a lot of debris strewn on their property and they were very concerned about cleaning it up. Mayor Feiszli asked that they contact her office, because Cortland County Soil and Water has an annual clean up program and she'll see that they are included in the clean up which is scheduled for next month.

Mayor Feiszli received a letter from County Executive Joannie Mahoney inviting her to a budget event for local government reorganization regarding funding opportunities for government efficiency. She's also attending the Strategic Economic Development Council meeting. They've been meeting on a weekly basis in Syracuse.

She noted that Gary VanGorder hosted a well attended work session regards to economic development. She noted that there was a lot of rain during the Arts and Wine Festival, but that there was a good turnout. She noted that the Brockway Truck Show gets better every year and she read an email from a grateful attendee.

Mayor Feiszli noted that the Public Safety Commission has approved two (2) requests for additional street lights for constituents in Ward 2 and 8.

Alderman Quail noted that these have always come before the Council in the past. Mayor Feiszli noted that she would place these on the next Council agenda.

Mayor Feiszli noted that Assessor Briggs had a good article in the newspaper and the City is going to realize over five (5) million dollars in additional assessment valuation. Assessor Briggs had recommended that a local law be implemented for the new assessment process and she will have Mr. Briggs speak with Corporation Counsel.

Mayor Feiszli noted that the Finance Committee was impressed that none of the City departments are in the red and they were impressed that the Police Department had cut their overtime nearly in half. She also noted cuts made by the DPW and the Youth Bureau and congratulated the department heads for their hard work in keeping below the budget.

Mayor Feiszli has a project for the Finance Committee to consider. It's called an operating budget percentage for 2012. The purpose of doing this creates a mechanism for governing the cost of government and she explained what this was.

Mayor Feiszli noted that she has received some complaints regarding garbage and she has referred this to the Code Office and she asked that the Police and Fire Departments report code violations as they are noted.

Mayor Feiszli presented Chief Glover with a certificate for twenty-five (25) years of public service. Mayor Feiszli presented Crossing Guard Sue Francis with a certificate for twenty-five (25) years of public service.

AGENDA:

Item No. 1 – Introduce Local Law number 1 of 2011 to Prohibit the City of Cortland from Accepting Natural Gas Drilling Waste Water or Waste Water from Natural Gas Drilling Processes or Applications for Treatment or Processing at the Leroy R. Summerson Waste Water Treatment Plant, Cortland, New York.

Mayor Feiszli noted that this was a discussion and she will post the draft law on the City website, a work session will be scheduled and a public comment will be held at the September 6, 2011 Council meeting.

Mayor Feiszli read the proposed Local Law #1 of 2011. She asked Ron Powell, Environmental Advisory Committee member to speak to this law. Mr. Powell noted that the Committee had just received a copy of this proposed law and he thought it was a great idea and supported banning the Waste Water Treatment Plant from treating hydrofracking waste. He expressed one (1) concern noted by the Committee. They were concerned about accepting treated natural gas drilling waste water because they believe that accepting any gas drilling waste water, whether pre-treated or treated, was a bad idea because no one knows what the contents of pre-treated waste water might be. The Committee's recommendation is that the local law be reworded to state "banning the acceptance of any waste water from horizontal hydrofracking natural gas drilling." He felt that they should ban all forms of this waste water.

Mayor Feiszli asked Bruce Adams, Chief Operator of the waste water treatment plant to give his opinion on this local law. Bruce Adams noted that he had specifically recommended that the law not be worded to unilaterally preclude the possibility of accepting some sort of pre-treatment water, but he stated that he would not accept anything that would effect the waste water plant or not pass through. It had been tried before in 2008 and had been stopped.

Mayor Feiszli asked that the Environmental Advisory Committee write a letter of recommendation for the Council. Corporation Counsel Perfetti explained why the law was written the way it was. He felt that in the future the City might not be able to refuse to accept the water and he had used a law from Auburn as a model.

Item No. 2 – Introduction of Local law number 2 of 2011 to adopt as a local law the City of Cortland Management Policy commonly referred to as the "1973 Resolution". (Mayor Feiszli and Ken Dye)

Mayor Feiszli read proposed Local Law #2 of 2011. Corporation Counsel Perfetti stated that he would be available to answer questions. He explained that it was a 1973 resolution passed by the Council and by adopting this law it will now be added to the City Code.

Alderman Dye asked if a work shop would be scheduled. Corporation Counsel Perfetti noted that a public hearing needed to be scheduled, but if the Council wanted, they could schedule a work session. It was noted that more work needed to be done with the coordination of the County Environmental Health on the development of the Boundary for the Wellhead Protection Overlay District Local Law as this is a more complex issue.

RESOLUTION #169 OF 2011 – Resolution to lift hiring freeze to hire an Operator, in the DPW, to fill a vacancy previously budgeted for.

Alderman Michales asked if the Operator would be able to plow snow. Chris Bistocchi indicated that the person would do that. He explained that there was a resignation in the Water Department and a DPW employee who has all the appropriate licenses will transfer to the Water Department resulting in an opening. He explained that he's really understaffed and winter is coming and with interdepartmental job bidding, the opening will happen in about five (5) weeks. He also would like to have another employee in Parks and Recreation. He explained that he is very short staffed and constantly posting people from one department to another to cover all the work that needs to be done.

Mayor Feiszli stated that Chris Bistocchi has revamped his department, cutting overtime costs significantly and she thanked him for that. She asked him to explain about the State DOT requirements.

Chris Bistocchi explained that DOT pays the City a stipend to maintain of all of the State Touring Routes going through the City of Cortland. The State expects the City to have those streets cleaned first and foremost, irregardless of what the side streets look like. He indicated that the State has cut back somewhat on CHIPS money. He explained that eighteen traffic signals on State Routes are maintained and paid for by the State. The rest are paid for by Public Safety.

By: Alderman Tobin
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Resolution #169 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #170 OF 2011 – Resolution to lift hiring freeze to hire a Cleaner, in the Building and Grounds, due to a resignation.

Mayor Feiszli explained that there had been a sudden resignation and they were down to one (1) cleaner in City Hall and she recommends that this be approved. She noted it's part time and there are no benefits.

By: Alderman Ferguson
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 0

Resolution #170 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #171 OF 2011 – Resolution to lift hiring freeze to hire a Parking Enforcement Officer, in the Police Department, due to a resignation.

Chief Catalano stated that the individual had resigned and that it was a part time position and there were no benefits.

By: Alderman Craig
Seconded: Alderman Ferguson

Approved: Ayes – 7
Nays – 0

Resolution #171 Approved by Mayor _____ Denied by Mayor _____

Item No. 6 – Discussion of a proposed local law to adopt the boundary for the Wellhead Protection Overlay District

Pat Reidy from Cortland County Soil and Water was present to explain the process and the purpose behind it.

Mr. Reidy explained that this has been discussed for some time and the Environmental Advisory Committee formed a sub-committee in November 2010 to work on this. He assisted by identifying a source area for the City's water supply and to protect that. It can be an overlay district in zoning language to provide protection in that area prohibiting certain things and regulating others. He has helped with some of the zoning language. Soil and Water's role was to help identify the source area. He gave a background on the work that had been done to date and how an overlay district is established.

Mayor Feiszli thanked all of those individuals who worked on this.

RESOLUTION #172 OF 2011 – Resolution to approve Inter-municipal agreement between the City of Cortland and the Village of Homer for fire inspections. (Corporation Counsel & Chief Glover)

Chief Glover gave the background on the development of this agreement. Alderman Ferguson asked what the City can expect to receive with this agreement. Chief Glover stated that Homer would pay fifty dollars (\$50) per residential inspection and a scaled amount for commercial inspections. Chief Glover stated that Code certified, off duty employees doing the inspections and that there would be no overtime. There would be mileage reimbursement for personal vehicle use.

Alderman Ferrer asked what the current rate being charged for inspections by private firms. Capt. Knickerbocker stated that it was about three (3) times that rate. Chief Glover noted that City inspectors would receive their hourly rate, which is about twenty-five (\$25) dollars per hour. There was discussion that this amount wouldn't cover the City's costs. Chief Glover felt that it would, but that it wouldn't be a big moneymaker.

Mayor Feiszli asked how many inspections could be done per hour. Chief Glover stated that he thought they could do a property an hour. Chief Glover stated that the employees' time would begin when they arrived at the station, not when they left home.

Corporation Counsel Perfetti stated that violations would fall to him as Village Attorney for Homer, not to the inspector. Alderman Ferguson expressed concerns that inspectors would not work for straight time.

Alderman Quail wanted a review of the City cost estimates, expressing concerns about City costs being higher than those that are currently being stated. Chief Glover stated that Homer officials were very receptive to a tweaking of the agreement and he would be sure that all costs were covered. He noted that the contract is an annual one.

Corporation Counsel Perfetti stated that the City was providing an inspection service and had no authority to enforce the laws of the Village of Homer. That would fall to the Village attorney. He noted that they did not have the ability to do these inspections themselves.

Alderman Tobin asked if the City had the trained staff to perform these inspections. Chief Glover noted that his department was down in numbers, but they were doing okay. Alderman Tobin noted that the City was bearing the costs for the certification of our inspectors. Chief Glover agreed that some was a cost, but some was comp time. Alderman Quail stated that he would like to see a three (3) month trial.

Mayor Feiszli noted that they had a thirty (30) day out on the contract and she asked Chief Glover to return in six (6) to eight (8) weeks with a report.

By: Alderman Craig
Seconded: Alderman Dye

Approved: Ayes – 7
Nays – 0

Resolution #172 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #173 OF 2011 – Approval of Exotic pet permit(s) for a pig and a snake.
(Alderman Michales)

Alderman Michales stated that there were two (2) permits, for a snake and a pig. The pig does not require a rabies vaccination and the snake is healed. He suggested that all exotic pet permits be reviewed annually.

Mayor Feiszli felt that the City Code should be updated and revised with regards to exotic pet licensing.

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 7
Nays – 0

Resolution #173 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #174 OF 2011 – Consideration of a request to close a portion of Williams Street for the Annual Block Party on Sunday, September 4, 2011 from 1:00 P.M. to 6:00 P.M. (Alderman Michales)

Alderman Michales noted that this is the fourth annual block party and that about seventy-five (75) neighbors participated last year. He gave some details for this year's event. Chief Catalano approved.

By: Alderman Michales
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

Resolution #174 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #175 OF 2011 – Consideration of a request to close a portion of Pearl Street from #3 to #11 on Monday, September 5, 2011 from 11:00 A.M. to 7:00 P.M. for the Annual Block Party.

Mayor Feiszli noted that Chief Catalano approved.

By: Alderman Tobin
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Resolution #175 Approved by Mayor _____ Denied by Mayor _____

RESOLUTION #176 OF 2011 – Resolution to approve the issuance of a sound device permit for the Marietta Corporation on Sunday August 28, 2011 from 10:00 AM to 5:00 PM. (Alderman Quail)

Alderman Ferguson asked for the location. Alderman Quail noted it was at 37 Huntington Street in the parking lot. Chief Catalano approved.

By: Alderman Quail
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

Resolution #176 Approved by Mayor _____ Denied by Mayor _____

Item No. 11 – Discussion regarding legislation to protect citizens against vicious dogs.

Withdrawn from discussion.

Item No. 12 – Update on the Strategic Planning Committee

Mayor Feiszli noted that Aldermen Tobin and Quail had asked her to come with an updated committee list. She explained that on behalf of this committee she is seeking representatives from area municipalities to serve on this committee and she had not heard back from them.

Alderman Ferguson asked what would happen if there was no response. Mayor Feiszli didn't have an answer at this time, but the Council should set a deadline. Alderman Quail felt it was important to set a deadline.

Corporation Counsel Perfetti felt that if there was no response, then the Council might have to revisit its Charter with regards to this committee. He suggested that the Council decide on how many and who the people should be or the discipline they represent and the backgrounds they should have and this will give the Mayor the option of who to select to serve.

Alderman Tobin reminded them there was discussion regarding committee members, but no approvals had been made. Mayor Feiszli asked for more clarification and noted that there were already some resignations from the early committee. Alderman Quail asked for clarification of committee makeup and he would like to see people being interested in this again. Alderman Quail asked if they could have names by September 6, 2011. Mayor Feiszli would like to have department heads involved.

Alderman Tobin asked that another discussion item be placed on the agenda.

Item No. 13 – Discussion of current litigation. (Alderman Tobin)

Corporation Counsel Perfetti asked him for clarification of the subject. Alderman Tobin stated that it was the lawsuit re: Grodiski, et. al.

Corporation Counsel Perfetti stated that the present status that there were discovery demands out for the Plaintiffs which have largely gone ignored and he has not yet asked them to compel because the office has been so busy with other work and the City is not in any jeopardy of losing. He noted that his counsel was against settling this case largely because a settlement that is ultimately brokered only applies to the plaintiffs named in that

litigation. He noted if the City settled with these twelve (12) landlords, we can anticipate other litigation from similarly situated landlords that weren't involved with this current litigation and they will be treated differently by the Code Dept. because they weren't members of the original litigation and there is no settlement proposal in front of him for consideration. He felt that discussion would be more appropriate for Executive Session. He was his hope that after judicial review by Judge Rumsey, that there would be some guidance provided.

Alderman Dye noted that if a settlement was induced the only people that would be involved in the settlement would be the twelve (12) plaintiffs and no one else. Corporation Counsel Perfetti stated that they couldn't go beyond the named parties. He noted that Council members should not share items discussed in executive session with the litigants.

Executive Session:

Discussion with respect to and consideration of waiver in City HOME Program policy for one project due to exceptional circumstances.

Corporation Counsel Perfetti asked that Linda Armstrong, Thoma Development, join in the executive session.

Motion to go into:

By: Alderman Craig
Seconded: Alderman Michales

Approved: Ayes – 7
Nays – 0

Motion to come out of:

By: Alderman Craig
Seconded: Alderman Michales

Approved: Ayes – 7
Nays – 0

RESOLUTION #177 OF 2011 – Resolution to waiver a City HOME Program policy for one project due to exceptional circumstances.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 7
Nays – 0

Resolution #177 Approved by Mayor _____ Denied by Mayor _____

Adjournment

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

I, JUDITH CHAMBERLIN, 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 16th DAY OF AUGUST 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.

JUDITH CHAMBERLIN, CITY CLERK

MAYOR FEISZLI