



City Council Minutes
The City of Cortland
September 6, 2011

Council Meeting #19
September 6, 2011
Public Hearings and Regular Session
City Hall
6:00 PM

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

Absent: Alderman Hayes and Alderman Quail

Staff Present: Interim Director of Administration and Finance John O. Reagan, City Clerk Judi Chamberlin, Corporation Counsel Patrick Perfetti and Asst. Corporation Counsel Meira Hertzberg

PUBLIC HEARING TO ADOPT LOCAL LAW NO. 1 OF 2011

Mark Kinney supports this local law and asked that the Council ask Senator Seward to support the hazardous waste bill.

PUBLIC HEARING TO ADOPT LOCAL LAW NO. 2 OF 2011

Nat Lambright, 15 Edgemont Drive, supports local law No. 2.

No one else was present to speak, therefore the public hearings were closed.

Mayor Feiszli called the nineteenth Common Council meeting of the year to order at 7:05 PM.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Barrie Gewanter from the New York ACLU spoke regarding the sign ordinance in the City of Cortland relating to fundamental rights to free speech. She indicated that Mayor Feiszli would allow her to speak further on this later in the meeting.

Jo Schaffer spoke on the issues of the Well Head Protection and the sign ordinance in the City of Cortland. She noted that there are Code revisions that have been drafted, but not presented, because the new Master Plan has yet to be adopted. She urged passage of the well head protection local law.

Ruth Grunberg spoke on the issue of the sign ordinance in the City of Cortland in that it is a violation of the U. S. Constitution regarding freedom of speech.

Rachael Ditch works with Habitat for Humanity in Cortland and Tompkins County and she openly invited all of the Council members to come to 198 Clinton Avenue Extension on September 10 and 11 to help swing a hammer and to work on their pre-build project in remembrance of September 11.

Clay Benedict noted that free speech is a basic right protected by the Constitution and he supports a new law to allow this freedom to be expressed by lawn signs. He also noted that the people of the Second Ward are without representation and the seat of Stephanie Hayes should be declared open and he called for the City Administration to act on this now.

Mayor Feiszli noted, for the record, that Ms. Hayes is not receiving health insurance through the City.

AGENDA:

RESOLUTION #178 OF 2011 - Minutes for August 16, 2011 Meeting

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays - 0

Resolution #178 Adopted by Mayor _____ Vetoed by Mayor _____

The bills were not received by all members of the Council in a timely manner; therefore they will be back on the agenda for the September 20, 2011 meeting.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Ferguson has had numerous complaints from constituents on the signage issue and she urged the Council to move forward on this issue. She noted that while campaigning she has also received complaints regarding Council members who they felt should not be receiving health insurance as their positions are part time.

Alderman Michales noted that school is starting tomorrow and we all need to be on the lookout for students and buses. He reported that the 5th Annual Williams Street Neighborhood Gathering was a success with many participants. He thanked the Police Department for their timely manner in providing barricades.

Mayor Feiszli announced that she was going to waive her report to allow time for presentations by Barrie Gewanter and Julie Gorman.

Barrie Gewanter, NYS ACLU, spoke on the unconstitutionality of the City signage laws. She noted that the City could not restrict the use of political signage or to place timeline restrictions for that signage. She urged the City to direct their Codes Officers to cease and desist the enforcement of the City Ordinance regarding political signage because of its unconstitutionality. She asked to work with the City to resolve this issue by helping the Council to draft amendments to the current law. She urged them to stop enforcement or prepare to go to court.

Julie Gorman spoke about the planned September 11 Remembrance and Thank You event to be held in Courthouse Park at 1:00 PM on Sunday. Refreshments will be served and members of area fire and police departments and emergency responders are all invited to attend. Music for the event will be provided by the Old Timers Band.

Julie Gorman spoke about the efforts being made to help the City homeless by declaring the month of October, Poverty Awareness Month. She noted that she is working on various events to be scheduled throughout October to heighten awareness of this issue within the City.

AGENDA

Alderman Tobin asked to reprioritize the agenda and he made a motion to go into Executive Session to address the signage issue as there were so many individuals present for this issue.

Motion to go into executive session:

Skip Chapman, of the Cortland Standard, did not feel that this was an Executive Session issue; stating that it should be discussed in open session. Corporation Counsel Perfetti stated that they can move to go into Executive Session as litigation was mentioned.

By: Alderman Tobin
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Motion to come out of executive session:

By: Alderman Michales
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

Mayor Feiszli asked that the Corporation Counsel Perfetti explain the results of the executive session. Corporation Counsel Perfetti explained that the Council had directed that he and the Mayor address first amendment rights and to prioritize their work to focus on health, life and safety preservation matters. The Council has given his office

prosecutorial discretion regarding the enforcement of the sign statute with an eye towards reviewing and revision it in the near future with great speed. He noted that to undertake this matter and to bring about the revision of the Code before the September 13 primaries is not possible, so therefore his office will not focus on the prosecutorial matter of this portion of the Code and focus on the health, life and safety preservation matters affecting the public.

Barrie Gewanter, NYS ACLU, explained that this meant that Codes will not be actively seeking to enforce the numerical restrictions on lawn signs as outlined in the ordinance at this time and the directive will be coming out of the Law Department. Corporation Counsel Perfetti agreed with most of that interpretation. He explained that the current Council did not adopt the present statute as it is written and noted that his office has been given the discretionary authority should something come from the Code Office regarding prosecution of the violation of that portion of the Code. He will issue a memorandum with regards to this.

Alderman Tobin noted that the Council felt that this was an important topic and they wished to change the law, but noted they wanted to do it in the right way.

Mayor Feiszli noted that a special meeting will be held and action will be taken.

Mayor Feiszli asked Interim Director of Administration and Finance Reagan and Corporation Council Perfetti to come to the podium to speak to agenda items No. 1 and No. 2.

Corporation Council Perfetti noted that Local Law #1 was not in its final version provided to the public was not its most recent version and therefore should be removed from tonight's agenda, reintroduced and placed on the September 20, 2011 agenda. Interim Director of Administration and Finance Reagan agreed.

Mayor Feiszli asked Alderman Dye to address agenda item No. 2 – Local Law #2 – Management Policy.

Alderman Dye noted that he had done some updates and that he and the other Councilors had only received their packets two (2) days ago and what was in the packet was pretty close to what the Council had in mind.

Corporation Council Perfetti noted that he was away last week and noted that there were minor changes to the draft which was in the Council packet. He stated that although there had been minor changes, there were enough changes made to form and content, that he recommended that this be reintroduced and placed on the agenda for September 20, 2011.

Mayor Feiszli indicated that if could be acted upon on September 20, 2011 and still could be enacted on October 1, 2011.

Item No. 3 – Introduction of Local Law No. 3 of 2011 to adjust the fine structure for certain City Code Violations. (Deputy Chief Sandy)

Corporation Counsel Perfetti noted concerns regarding changes to a local law and he felt that a proper format needs to be reviewed. He noted that it might be best to do this by resolution rather than a change to the local law and he will review this.

Item No. 9 – City’s approval (adoption) of the Boundary for the Wellhead Protection Overlay District.

Corporation Counsel Perfetti noted that due to the holiday and the fact that this particular piece of legislation requires coordination with Cortlandville, it still needs further review to be sure that they act consistently with what Cortlandville has put into place and this will not be voted on tonight. He asked that it be placed on the September 20, 2011 Council agenda.

Item No. 4 – Discussion regarding the placement of a Community Garden on City property.

Christie Elli Yonta gave information about her past efforts to establish a Community Garden in various City locations which have not worked out. She is interested now in establishing a garden in the rear of the Ames Laundry lot which is now being used by the City for parking. She would like to do raised beds in the rear of that lot, separating the parking area from the garden area by putting in some potted trees.

Mayor Feiszli noted that she has spoken with department heads about placing the garden at this site. She noted that there were questions asked and concerns expressed by the department heads and she urged Christie to come speak with them to answer their questions.

RESOLUTION #179 OF 2011 – Resolution to approve grant funding in the amount of \$31,345 to a business located in the central business district under the City’s fiscal year 2010 Micro Enterprise Program, pursuant to Loan Committee’s recommendation (for Van Dueson Music at 5 Main Street). (Linda Armstrong)

Alderman Michales asked if this grant would exhaust all of the funds that were available. Ms. Armstrong indicated that it would, but it is a grant that is subject to State approval.

Motion to Discuss:

By: Alderman Ferrer
Seconded: Alderman Tobin

Motion to go into executive session:

By: Alderman Craig
Seconded: Alderman Ferguson

Approved: Ayes – 6
Nays – 0

Motion to come out of executive session:

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

RESOLUTION #179 Vote:

Approved: Ayes – 6
Nays – 0

Resolution #179 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #180 OF 2011 – Resolution to accept the Barton & Loguidice amended staffing study for submission to the NYSDEC. (Bruce Adams)

Bruce Adams gave a brief outline of the study, highlighting the changes from a year ago.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #180 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #181 OF 2011 – Adoption of the East End Strategic Plan. (Ann Hotchkin)

Ann Hotchkin, Thoma Development, informed the Council that the City now had plans in place with regards to visions of two (2) City neighborhoods.

By: Alderman Ferrer
Seconded: Alderman Michales

Approved: Ayes – 6
Nays – 0

Resolution #181 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #182 OF 2011 – Resolution to accept the Cedarwood Engineering Services, PLLC's report for submission to NYSDEC for compliance with Phase I of the Chesapeake Bay requirements, nutrient removal plan. (Bruce Adams)

Jim Suozzo, of Cedarwood, gave an overview of the report.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 6
 Nays – 0

Resolution #182 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 8 – Discussion regarding the Real Property Tax Assessments and the process.
(David Briggs)

City Tax Assessor David Briggs gave an overview of how tax assessments are arrived at. He explained that there was a City-wide reassessment done in 2008. Certain criteria were set for all types of property, particularly student housing properties. He looked at many things; purchases, sales, income, occupancy, etc.

He explained that in 2010 there were some questions on certain types of property and a review was done. He sent questionnaires to two hundred fifty (250) to two hundred seventy (270) student housing owners asking for occupancy and income and only eight (8) were returned. He noted he didn't get much assistance from the owners. He explained that market value was a good judge and that equates to looking at the sale prices to establish that fair market value.

He felt that by developing a standardized format he could use to better value student housing and that was worked on this year. He looked at location, occupancy, parking, amenities, etc. He applied this new format to standardizing assessments.

He explained that there was not a five million dollar increase in assessments in the City. He explained that all rental property owners were notified and given the opportunity to come in and grieve their assessment change if they weren't satisfied. He noted that the total capital value increase of property value in the City was slightly less than three million dollars from last year. He noted various new construction projects as well as that some properties that became exempt over the past year. He noted that more people had applied for senior citizens and veterans exemptions in the past year. He stated that he monitors this on an annual basis, but there are other things that are monitored as well.

He went into greater detail on his current assessment formula used on both residential and commercial properties. He noted that he would like to have the City pass a local law requiring current income/expense information on all commercial property and this would be used to determine valuation. He will obtain copies of some of these local laws and submit them to the Law Department for their review. He explained that some areas were difficult to value because in the downtown area, there were buildings that had a business on the first floor and student housing on the upper floors. Mixed use was more difficult to apply the formula to and he would like to find a more viable solution for those properties.

Corporation Counsel Perfetti felt that eliminating the classification of "student housing" and looking at all rental properties as "commercial" was a fairer way to value those properties citywide.

Mayor Feiszli noted that she would like to see all properties paying their fair share of taxes. She expressed concern regarding those that were tax exempt, such as the hospital and the college.

Assessor Briggs explained how there were portions of those entities that were “for profit” and were taxable by law. He noted that he sends out forms annually to all not for profits and using Real Property Tax Law Section 420, he then determines which portions of some properties belonging to “not for profits” might be taxable.

Mayor Feiszli asked Mr. Briggs to provide the City with tax figures for both the college and the hospital.

There was further discussion regarding setting assessments, defending assessments in court if they were grieved and the importance of being consistent in applying the formula.

Mayor Feiszli thanked Mr. Briggs for his presentation.

RESOLUTION #183 OF 2011 – Resolution to extend our contract with Manasse Auctioneers, for properties that are being auctioned pursuant to the agreement date June 19, 2010. Auction to be held at the same time and location as the Cortland County real property auction. (John Reagan)

Interim Director of Administration and Finance Reagan stated that there were three (3) properties going into the County auction this year. He would like to extend this contract up to 2012.

By: Alderman Dye
Seconded: Alderman Craig

Approved: Ayes – 6
Nays – 0

Resolution #183 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #184 OF 2011 – Resolution to retain outside counsel to prepare Tax Deeds for property to be auctioned, all fees assessed to auctioned property. (John Reagan)

Interim Director of Administration and Finance Reagan explained that this counsel was used last year.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #184 Adopted by Mayor _____ Vetoed by Mayor _____

Mayor Feiszli asked the Council if they wished to vote on the sections of Item No. 13 together or separately.

Alderman Tobin stated that he would like them to be separated.

RESOLUTION #185 OF 2011 – a) Resolution to approve the transfer of funds from the Law Department Salary line to cover contractual agreements.

Interim Director of Administration and Finance Reagan indicated that this was to cover the salary of the Assistant Corporation Counsel.

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 6
Nays – 0

Resolution #185 Adopted by Mayor _____ Vetoed by Mayor _____

Corporation Counsel Perfetti asked that the next item be tabled until September 20, 2011.

Item No. 13 – b) **To Table until September 20, 2011** - Resolution to approve the transfer of funds from the Law Department Salary line to cover contractual agreements.

RESOLUTION #186 OF 2011 – c) Resolution to approve the recognition and appropriation of funds for reimbursement that the Police Department has received for the Domestic Violence prevention and Buckle-up New York grants.

By: Alderman Ferrer
Seconded: Alderman Tobin

Approved: Ayes – 6
Nays – 0

Resolution #186 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #187 OF 2011 – d) Resolution to approve the transfer of funds from within the Police Department Budget.

By: Alderman Ferrer
Seconded: Alderman Dye

Approved: Ayes – 6
Nays – 0

Resolution #187 Adopted by Mayor _____ Vetoed by Mayor _____

Mayor Feiszli asked if there was anything else to come before the Council before they went into executive session.

Alderman Michales asked for an update on the search for a new Director of Administration and Finance. Mayor Feiszli gave an update. She stated that there had been thirty-one (31) applicants and the committee was now down to three (3) finalists. Last week she met with each of the finalists and the department heads met with them, as well. She explained the process that had been followed. She indicated that the Charter stated this position was a Mayoral appointment and that she would be bringing the name of the finalist before the Council at the next meeting.

Mayor Feiszli also gave a brief update on the Strategic Planning Committee. She has spoken with the Mayor of Homer, the administrator of Cortland County, the chairman of the County Legislature and she has received good feedback from them at this point.

Executive Session

Motion to go into executive session to discuss personnel matters:

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Motion to come out of executive session:

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

Motion to go into executive session to discuss pending litigation:

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 6
Nays – 0

Motion to come out of executive session:

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 6
Nays – 0

Adjournment

By: Alderman Craig
Seconded: Alderman Ferrer

Approved: Ayes – 6
Nays – 0

I, JUDI 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 6th DAY OF SEPTEMBER 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.

JUDI CHAMBERLIN, CITY CLERK

MAYOR FEISZLI