



City Council Minutes
The City of Cortland
September 20, 2011

Council Meeting #20
September 20, 2011
Public Hearings and Regular Session
City Hall
6:30 PM

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

Absent: Alderman Hayes

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

Deputy Mayor Dye opened the Public Hearing.

Clay Benedict spoke in support of this local law.

Jo Schaffer spoke in support of this local law.

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

PUBLIC HEARING TO ADOPT LOCAL LAW NO. 2 OF 2011

Deputy Mayor Dye opened the Public Hearing.

No one was present to speak, therefore the public hearing was closed.

Mayor Feiszli called the twentieth Common Council meeting of the year to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Clay Benedict spoke in favor of freedom of signs.

NYCLU Barrie Gewanter spoke about the unconstitutionality of the proposed Local Law #3 of 2011 noting that limiting times of posting and size of political signage was not

permissible. She also referred to New York State law regarding political signage. She noted that her background made her qualified to review this law. She stated that amendments should be made to the proposed local law and that the law would require that this local law be amended, reintroduced and voted on ten (10) days later. She felt disappointed by the delaying tactics regarding this issue noting that this is a serious issue. She was concerned about the message this sends to the citizens of Cortland.

Ruth Grunberg was disappointed that all the issues raised regarding political signage were not addressed with the latest proposed local law. She felt that if citizens had done all of their homework and had pointed out all of the problems that they would be taken seriously. She would like to see issue signage be allowed at any time without limits or fees. She noted that it was unconstitutional to have any regulation regarding inside window signs. She supports free speech and doesn't want this issue buried. She asked that the Council not go into executive session once again on this issue. She wants transparent government. She gave the history of this area regarding activism. She noted that language could be adopted from other communities that had already adopted proper signage laws.

Mike Dexter spoke about the 9/11 Ceremony that was held in Courthouse Park. He thanked the Mayor and all of the people who donated services. He noted that it was a moving ceremony. He thanked all of those who attended.

Mike Dexter noted that he was taken aback by the low turnout for the recent Primary Election. He was very disappointed that so few turned out to exercise their right to vote in a primary.

Mike Dexter hoped that everyone had enjoyed the rose garden at the intersection of Pt. Watson and S. Church Streets. He noted that the Landscape and Design Commission in addition to Adam McGivern, spent a lot of time working on that garden and made that area so pretty.

AGENDA:

RESOLUTION #188 OF 2011 - Minutes for September 6, 2011 Meeting.

Alderman Ferguson noted that the sign issue was not completely covered.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays - 0

Resolution #188 Adopted by Mayor _____ Vetoed by Mayor _____

Bills were reviewed and filed.

REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

Alderman Ferguson noted that her constituents did not like the Council going into executive session during lawn sign issue.

Alderman Quail noted that this weekend is the river clean up. There will be about twenty-five (25) high school students who will be participating along Perplexity Creek along Valley View Drive and the other branch of Perplexity Creek along Sunnyfield.

Alderman Michales noted that he had received several noise complaints regarding the Hip Hop in the Park event. He asked that the Council rethink the issuance of the noise permit for this event if it comes before the Council next year.

Mayor Feiszli stated that she had contacted Chief Catalano regarding the noise complaints and he told the Police Department had only received one (1) non-specific noise complaint. She asked the public to call the Police Department in the future when they wished to register a complaint rather than their Alderman.

Alderman Tobin noted that he receives complaints periodically and he asked if he could forward e-mails to the Police Department. Chief Catalano noted that could be done, but noted that if the event is on-going and wants immediate action, they should call the Police Department desk.

Atty. Perfetti added that to make the violation actionable by the City prosecutor's office and that complaint must be filed through the Police Department and supported by a deposition from someone witnessing the actual event and the Police would have to take a statement from that someone.

Mayor Feiszli noted that she passed around a pink sheet for signature. She noted that she had spoken to the Council members.

Atty. Perfetti took the opportunity to address some issues affecting his department. He noted the primary concern is in direct response to the opinion piece in the newspaper regarding Alderwoman Hayes. He wanted to be clear that the Law Department has never been directed to seek removal of Alderwoman Hayes from her seat. He has explained to the Council the difficulties involved in this process and he would like to do so again.

Corporation Council Perfetti referred to Public Officer's Law regarding residency in the district that they represent. He explained that the mere allegations that people are asserting are not a basis for action to remove her from office. He explained residency guidelines and noted that Alderwoman Hayes may be residing in a shelter, which is a temporary situation unrelated to her present case pending in City Court. He noted that in that regard being temporary residency, it does not establish her new residency and by law still considered a resident of the Ward 2. He also noted that Ward 2 is not without representation before the Council. He noted that all Councilors, when sworn in, are to represent the best interests of the City. He noted that Councilors have stated publicly that they are willing to take Ward 2 issues to City government and the Mayor has also made that offer. He would also be willing to take those concerns if they affect the Law Department. He noted that the person elected to a public office holds that office and there

must be grounds to remove them. He noted that the best ground he could see would be issues of attendance, but the Charter does not have any language regarding the requirements of attendance of any elected official. He noted that the City Code of Ethics speaks expressly to financial conflicts of interest. He noted that the Council could change this, but wouldn't take effect for this event and a change to the City Charter needs the approval of the State Legislature. His best recommendation would be that if the Council wants to change the Charter, they should go through it thoroughly and bundle all of the changes they would like to address and send it to the State Legislature once. He noted that it is a long and cumbersome process. He also noted that Alderman Hayes has expressed her desire to remain on the Council and therefore her seat is not vacant. Atty. Perfetti noted that if he was directed to remove Alderman Hayes, he suspected that he would have to do it via an Article 78 proceeding and that would put the City on unsteady ground because of the deficiencies of the Charter and Code of Ethics.

Corporation Counsel Perfetti addressed the proposed Local Law regarding lawn signage. He noted that he would be willing to make further changes to the law that had been presented to the Council. He spoke about Ms. Gerwanter's review of the present law noting that he would be reviewing her comments. He noted that the City does have some regulatory rights in this matter. He noted that the local law might not make everyone happy. He spoke about executive sessions and why they are done. Corporation Counsel Perfetti would rather have a local law done right rather than done quickly. He didn't feel that anyone's rights were currently being infringed, but if this proposed local law is not what the Council wants, he will amend it. He explained the options the Council could follow to enact a signage local law. He also noted a typographical correction to the proposed local law and a corrected copy would be prepared and placed on file.

Alderman Ferguson asked a question about sign size. Corporation Counsel Perfetti noted that by creating two (2) different categories of size he was attempting to alleviate the restriction to free speech. He felt that limiting size, did not limit freedom of speech.

Alderman Ferguson questioned if by passage of this law, would issue signage be eliminated. Corporation Counsel Perfetti stated that was part of his motivation for creating two (2) separate categories for campaign signs and political signs. He noted that political signs were the issue signs and not directly related to campaign activities for a particular person or party and he felt the local law addresses that adequately. Alderman Ferguson noted that this proposed law was designed to protect those signs, not eliminate them. Corporation Counsel Perfetti agreed with that.

Mayor Feiszli stated that she would like to move agenda item No. 3 to the next item on the agenda as there were attorneys present who were currently on the clock. She indicated the need for an executive session regarding that item.

AGENDA:

Item No. 3 - Local Law #2 of 2011 – Adopt as a local law the City of Cortland Management Policy commonly referred to as the “1973 Resolution”. (Mayor Feiszli and Ken Dye)

Motion to go into executive session:

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Motion to come out of executive session:

By: Alderman Ferguson
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

(A vote was incorrectly taken on Local Law-2 of 2011 as there was no formal motion or second to adopt this item as a local law.)

Approved: Ayes – 7
Nays - 0

RESOLUTION #189 OF 2011 - Resolution to approve the Mayor's appointment to the position of Director of Administration and Finance and terms of contractual agreement. (Mayor Feiszli)

Interim Director of Administration and Finance John O. Reagan answered Alderman Ferguson's question regarding references. She asked that the information be placed in the files.

Corporation Counsel Perfetti noted that all of the terms and conditions of the appointee's contract had not been finalized and it was based on the last contract for this position. Interim Director of Administration and Finance Reagan noted that this contract could be reaffirmed on a two (2) year increment in January or February.

Alderman Michales asked how soon this could take place. Interim Director of Administration and Finance Reagan indicated that the successful candidate could start tomorrow morning and the actual contract itself could take a couple of days to finalize and put in place for the short tenure of now to January and reaffirming tenure of 2012. Corporation Counsel Perfetti noted that there should be some compensation addressed for Mr. Reagan to cover the transition period.

Alderman Quail questioned the time frame of the contracts to coincide with the Council elected terms. Corporation Counsel Perfetti said this contract would address that.

Alderman Tobin asked if the Council should go into executive session to discuss this so everyone understands what this agreement entails and discuss its details. He felt the dates were the critical issue, but he felt that they had a strong candidate and he wanted to be sure everything was done appropriately.

Mayor Feiszli introduced Mack Cook, Director of Administration and Finance. Director of Administration and Finance Cook thanked everyone and made a statement of acceptance.

By: Alderman Ferrer
Seconded: Alderman Quail

Approved: Ayes – 7
Nays – 0

Resolution #189 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #190 OF 2011 – Local Law #1 of 2011 – prohibit the City of Cortland from Accepting Untreated Horizontal Natural Gas Drilling Waste Water for Treatment or Processing at the Leroy R. Summerson Waste Water Treatment Plant, Cortland, New York.

By: Alderman Tobin
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

Resolution #190 Adopted by Mayor _____ Vetoed by Mayor _____

Item No. 3 – Introduction of Local law #3 of 2011 to adopt as a Local Law Lawn Sign Code changes. (Corp. Counsel)

Alderman Dye asked for clarification regarding the numbering of the local laws. Alderman Ferrer wanted to do this properly. Alderman Quail gave a history of the original sign ordinance and why it was drafted. It was not meant to limit free speech.

Alderman Tobin wanted to be assured that the new law was not more restrictive and he asked for more catch-all wording. Corporation Counsel Perfetti noted his concern and commented on Alderman Quail's history of the original law and its many varieties of signs. He thought perhaps a code writer had done the work. Alderman Quail noted that was not correct, that an attorney had drafted it after working with a group of about fifteen (15) people for twelve (12) weeks.

Corporation Counsel Perfetti questioned the need for so many different categories of signs. He explained his opinions on this topic. He noted that there was political speech and commercial speech and that the sign ordinance could be divided that way and that maybe there could be less than nineteen (19) sections currently in use and he was open for suggestions.

Barrie Gewanter suggested some changes that could be made to the local law. Corporation Counsel Perfetti noted that this was complex because it had three (3) separate sections. There was further discussion regarding various changes. The Council

did not want to impede the sight of drivers at intersections. Alderman Ferguson wanted to go through the wording of this law piece by piece and didn't want to adopt it tonight. Corporation Counsel Perfetti asked for a clear directive to redraft this law and he reminded the Council that he is not enforcing this.

Barrie Gewanter wanted to collaborate with the City on the drafting of this law to avoid getting into problems. Alderman Michales asked that clarification be made on animated signs and he wanted the entire law done right the first time, so that the Council didn't have to revisit this again in six (6) months. Asst. Corporation Counsel Hertzberg would provide the information regarding animated signage.

Ruth Grunberg asked for clarification regarding window signage. Mayor Feiszli indicated that there was no problem with her signage.

Item No. 5 – Discussion regarding the City's approval (adoption) of the Boundary for the Wellhead Protection Overlay District. (Mayor Feiszli)

Mayor Feiszli recognized the group who worked on this and gave background on the development of this item.

Corporation Counsel Perfetti clarified that this would have to be a local law noting that the draft law was sent out to the Council. He noted that a technical memorandum was sent out and the three (3) overlay maps and is intended to be appendix A to the proposed legislation. He noted that Soil and Water provided the technical expertise in the drafting of this law and he felt that this law is what the community has been waiting for to protect their drinking water.

Alderman Michales asked what the square area of the overlay district was. Mayor Feiszli asked that this be posted to the City website. Corporation Counsel Perfetti noted it was a fairly large area and the map must be included in the legislation. Corporation Counsel Perfetti indicated that a Public Hearing needs to be set for this for October 4, 2011.

Alderman Michales asked if adoption of the local law would affect any current projects such as the construction of a gas station on the corner of Broadway and Tompkins as well as the proposed College project. Corporation Counsel Perfetti stated that it would depend on what state of the process these projects are through. He felt that the College project would need to address that in their site plan review process. He noted that the gas station on that site would be grandfathered, but they would have to meet proper regulations.

Jo Schaffer noted that the gas station met and followed all SEQR review requirements and the actual site lay just outside the overlay boundary.

Item No. 6 – Discussion regarding Non Union and Non Department Head Employees Memo. (Director of Administration and Finance)

Interim Director of Administration and Finance Reagan brought to the Council's attention that some of the people are not covered by the local law #2, just department heads and sub-department heads. He noted that there are some key employees that are not covered

under local law #2, but they are covered under the 1973 resolution which should stay in effect. His suggestion is to address them with a local law as passed tonight and this will be on the floor for the next Council meeting.

Mayor Feiszli stated that the 1973 resolution will stay in effect until this local law is in place. Alderman Dye noted that this is something that needs to be done and he felt that those people need to be assured that the 1973 resolution will still apply to them. He was given that assurance by Corporation Counsel Perfetti and Mayor Feiszli.

RESOLUTION #191 OF 2011 – Resolution to lift hiring freeze to hire a part time clerical person in the City Clerk’s office, to fill a vacancy previously budgeted for.

Alderman Tobin noted that it was budgeted for, but he wanted to know where it stood financially currently. Interim Director of Administration and Finance Reagan stated that it would come from contingency and some from the Finance Office to cover the person who was assigned there for six (6) months.

Alderman Quail asked how long the position had been vacant. Mayor Feiszli stated that it was about a month. Interim Director of Administration and Finance Reagan explained that the office generated about \$70,000 for the City and if there was not a part time person in there, the office would have to be closed at some point during the day for lunches, vacations or illness as well as coverage of the work flow.

Alderman Tobin was concerned about any transfers from contingency and as there would be a need for additional funds from contingency to cover increased fuel costs. He wanted to know what the impact would be if the window was closed. Interim Director of Administration and Finance Reagan noted that there was no cross training and it might be more than a lunch hour if someone called in sick when another was on vacation.

City Clerk Judi Chamberlin noted that she has observed the need of a great deal of complicated training in order to put someone in the office. She noted it’s not just answering phones.

Alderman Ferguson asked how much it would cost to put a part time person in that office until December. City Clerk Chamberlin stated that it was approximately one hundred seventy (170) dollars a week. Alderman Quail recommended approval, but wanted the position reviewed at budget time. He estimated it would cost about three grand (\$3,000) to cover this position until December.

By: Alderman Ferrer
Seconded: Alderman Quail

Approved: Ayes – 6
Nays – 1 (Tobin)

Resolution #191 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #192 OF 2011 – Resolution to change the Yield sign at the corner of Frank St. at Squires St. to a Stop sign, approved by the Public Safety Commission. This requires changing the City Code 11-41 (Stop signs) and 11-42 (Yield signs). (Alderman Tobin)

Alderman Tobin noted that some of the residents were concerned about the intersection as people approached and the impact on pedestrians. It was noted that this was approved by Public Safety Committee and recommended to the Council.

Alderman Michales wanted assurance that the change would be noted. Chief Catalano noted that the white stop line usually alerted people as well as the sign.

By: Alderman Tobin
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #192 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #193 OF 2011 – a) Resolution to approve the transfer of funds from within the Wastewater Department.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #193 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #194 OF 2011 – b) Resolution to approve the transfer of funds from within the Water Department.

Alderman Michales asked what the grain line was for. Interim Director of Administration and Finance Reagan stated that this was to cover the grain for feeding the deer. Mayor Feiszli noted that she would like to discuss the concern regarding the growing deer population at the Water Works with the Council.

By: Alderman Tobin
Seconded: Alderman Ferrer

Approved: Ayes – 7
Nays – 0

Resolution #194 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #195 OF 2011 – c) Resolution to approve the transfer of funds from the General Fund Contingency account to the DPW Department to cover Fuel and Patching expenses.

Alderman Tobin asked if this was an unexpected expense. Interim Director of Administration and Finance Reagan noted it was to cover the increase in fuel costs and it was noted that DPW was unable to lock in a price for the year from the suppliers.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #195 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #196 OF 2011 – d) Resolution to approve the transfer of funds from within the DPW's Department, sanitary sewer.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #196 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #197 OF 2011 – e) Resolution to approve the transfer of funds from within the Mayor's Department.

By: Alderman Ferrer
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #197 Adopted by Mayor _____ Vetoed by Mayor _____

RESOLUTION #198 OF 2011 – f) Resolution to approve the transfer of two thousand five hundred (\$2,500) dollars of funds from the General Fund Contingency account to the Law Department to cover contractual agreements.

Alderman Quail asked how much money was being asked for. Interim Director of Administration and Finance Reagan stated that it was currently twenty-five hundred (\$2,500) dollars. These transfers were being done as they are needed every two (2) weeks to cover salary.

By: Alderman Ferrer

Seconded: Alderman Dye

Approved: Ayes – 7
Nays – 0

Resolution #198 Adopted by Mayor _____ Vetoed by Mayor _____

Executive Sessions:

Corporation Counsel Perfetti withdrew the discussion regarding Local Law #3 and asked to move the collective bargaining agreement with the Professional Wastewater Operator's Association discussion up while Atty. Peterman was present.

Motion to go into executive session to discuss proposed collective bargaining agreement with the Professional Wastewater Operator's Association.

By: Alderman Quail
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Motion to come out of executive session:

By: Alderman Quail
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Motion to go into executive session to discuss outstanding invoice.

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 7
Nays – 0

Motion to come out of executive session:

By: Alderman Ferrer
Seconded: Alderman Ferguson

Approved: Ayes – 7
Nays – 0

RESOLUTION #199 OF 2011 – Resolution to direct the Law Department to formally protest the outstanding invoice from the subject contractor for services not performed.

By: Alderman Quail
Seconded: Alderman Craig

Approved: Ayes – 7
Nays – 0

Resolution #199 Adopted by Mayor _____ Vetoed by Mayor _____

Adjournment

By: Alderman Quail
Seconded: Alderman Ferguson

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 20th 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.

JUDITH CHAMBERLIN, CITY CLERK

MAYOR FEISZLI