

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING  
THURSDAY, FEBRUARY 6, 2014 7:00 P.M.  
City Council Chambers  
City Website: canandaiguanewyork.gov

Mayor Polimeni called the meeting to order at 7:00 PM

**Pledge of Allegiance:**

**Roll Call:**

**Members Present:**

Councilmember Ward 1 Nick Cutri  
Councilmember Ward 2 Ian Boni  
Councilmember Ward 3 Karen White  
Councilmember Ward 4 Cindy Wade  
Councilmember-at-Large Maria Bucci  
Councilmember-at-Large William Taylor  
Councilmember-at-Large James Terwilliger  
Councilmember-at-Large David Whitcomb  
Mayor Ellen Polimeni

**Also Present:**

City Manager David R. Forrest  
Corporation Counsel Michele O. Smith  
City Clerk-Treasurer Nancy C. Abdallah

**Review Core Values:** Councilmember, Ward 1 Cutri read the Community Core Values: As residents, city staff and appointed & elected officials of the City of Canandaigua, our decisions and actions will be guided by these core values: Responsive, Participatory Governance; Caring & Respect; Integrity; Heritage; Stewardship; and Continuous Improvement.

**Approval of Minutes:** Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of December 5, 2013. Councilmember-at-Large David Whitcomb seconded the motion.

*Vote Result: Carried unanimously by voice vote*

Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of December 19, 2013. Councilmember-at-Large Taylor seconded the motion.

*Vote Result: Carried unanimously by voice vote*

Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of January 6, 2014. Councilmember-at-Large Taylor seconded the motion.

*Vote Result: Carried unanimously by voice vote*

**Recognition of Guests:**

- Time Capsule Presentation – Nicole Mahoney from Break the Ice Media was in charge of the activities for the past Centennial Year celebration for the City of Canandaigua. Ms.

Mahoney worked with a committee that oversaw all of the events, ending with the City of Canandaigua Centennial Time Capsule. Nicole Mahoney, Ed Varno, Executive Director of the Ontario County Historical Society, Earl Coleates, former Mayor of Canandaigua and Kathi Nevin, Historical Society presented the time capsule to City Council along with a sample of items that will be placed in the capsule. Mr. Coleates designed the capsule and Steve Pettinger built the capsule. The final items were placed in the capsule; the capsule was sealed and will be stored at the Ontario County Historical Society until the year 2063. Mayor Polimeni, on behalf of the Council, thanked all those who worked over the past year on the City of Canandaigua Centennial Celebration.

- Joel Freedman, 329 North Main St., talked about the dangers of lawn chemicals and urged residents not to use them. He also would like to see chemicals banned on all City property.

### **Committee Reports:**

**Environmental:** Councilmember-at-Large Taylor reported that the Environmental Committee met on January 14, and discussed the following:

- Hydrofracking Moratorium
- Sonnenberg Park Improvements
- Main Street Safety Plan
- Route 332 Safety Plan
- Main Street to Pleasant Street & West Avenue to Gibson Street Trails
- Dog Park Committee
- Recycling Container
- Lagoon Park
- MS4 Storm Water Management
- Habitat for Humanity Housing Rehab Program

**Ordinance:** Councilmember, Ward 1 Whitcomb reported that the Ordinance Committee met on January 21<sup>st</sup>, and discussed the following:

- Parking Lot Changes
- Tax Cap Override
- Fire Proceeds Lien
- Parking Violations Bureau

**Finance:** Councilmember-at-Large Terwilliger reported that the Finance Committee met on January 28<sup>th</sup>, and discussed the following:

Minutes – Attachment 2A

Agenda:

- Main Street Streetscape Final Cost Figures

- SRO Agreement
- Agreements with Town of Canandaigua for Fire Services
- 2015 Road Program

**Planning:** No Report

**PUD** – Councilmember-at-Large David Whitcomb reported that the PUD Committee met on February 4<sup>th</sup> and discussed the following:

- Pilot Increment Financing (PIF)

**Chamber of Commerce** – Alison Grems, Director of the Chamber reported on events and activities for the Chamber.

**Watershed Council** – Mayor Polimeni reported that the Watershed Council met on February 4<sup>th</sup> and discussed the updated revision of the lake plan.

**Resolutions:**

**Resolution #2014-006:**

Councilmember-at-Large Taylor read the following Resolution and moved for its adoption. Councilmember, Ward 1 Cutri seconded the motion.

**A RESOLUTION OFFERING A REVOCABLE LICENSE  
TO AUSTIN HARVARD, LLC DBA WATERFRONT ART FESTIVAL,  
TO USE KERSHAW PARK  
FOR THE 2014 WATERFRONT ART FESTIVAL**

**WHEREAS**, Austin Harvard, LLC has in the past promoted the Waterfront Art Festival at Kershaw Park in Canandaigua and desires to do so in 2014; and

**WHEREAS**, the City can allow the Park to be used for purposes that are incidental to the park's purpose and which promote the park and recreational use of the land provided that it is pursuant to a revocable license and the City receives adequate consideration (as determined by the City Council); and

**WHEREAS**, the City Council has considered the use of Kershaw Park for such purpose;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that the City Manager is authorized to offer to and execute with Austin Harvard, LLC a revocable license agreement to use Kershaw Park for the 2014 Waterfront Art Festival under terms and conditions as specified by the City Manager, which shall include that adequate consideration shall be two-thirds of any gate fee admissions.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:**Council Member Ward 1 Cutri, Council Member Ward 2 Boni, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Whitcomb and Mayor Polimeni.

**NOES:** None

**Resolution #2014-007:**

Councilmember Ward 4 Wade read the following Resolution and moved for its adoption. Councilmember-at-Large Bucci seconded the motion.

**A RESOLUTION AUTHORIZING THE CITY OF CANANDAIGUA TO ENTER INTO A FIRE SERVICES AGREEMENT WITH THE TOWN OF CANANDAIGUA**

**WHEREAS**, the Town of Canandaigua (Town) is desirous of the City of Canandaigua (City) to provide fire protection services to its constituents; and

**WHEREAS**, the City has been conducting fire services to the Town for many years; and

**WHEREAS**, the City has the equipment, personnel and experience to provide adequate fire protection services to this area; and

**WHEREAS**, the term of this agreement is January 1, 2014 – December 31, 2016; and

**WHEREAS**, in consideration of this service, the Town agrees to pay the City an annual payment of \$392,876 as set forth in the agreement;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Canandaigua hereby authorizes the City Manager to execute a fire services agreement with the Town of Canandaigua; and

**BE IT FURTHER RESOLVED** that an annual payment of \$392,876 shall be paid to the City of Canandaigua for these services.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:**Council Member Ward 1 Cutri, Council Member Ward 2 Boni, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Whitcomb and Mayor Polimeni.

**NOES:** None

**Resolution #2014-008:**

Councilmember Ward 3 White read the following Resolution and moved for its adoption. Councilmember Ward 4 Wade seconded the motion.

**A RESOLUTION AUTHORIZING THE CITY OF CANANDAIGUA TO ENTER INTO  
A FIRE STATION LEASE AGREEMENT WITH THE TOWN OF CANANDAIGUA**

**WHEREAS**, the City of Canandaigua provides fire protection services to the Town of Canandaigua (Town); and

**WHEREAS**, the Town owns a Fire Station located in the fire protection district in which the City of Canandaigua services; and

**WHEREAS**, the Town is offering the City of Canandaigua to utilize said fire station for purposes of providing fire protection services to the Town as well as having an increased presence and response time in the area; and

**WHEREAS**, the City of Canandaigua is desirous of occupying this space for the term of January 1, 2014 – December 31, 2016 at a rent of one dollar (\$1.00);

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Canandaigua hereby authorizes the City Manager to execute a fire station lease agreement with the Town of Canandaigua in which the rent payment will be one dollar (\$1.00).

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:**Council Member Ward 1 Cutri, Council Member Ward 2 Boni, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Whitcomb and Mayor Polimeni.

**NOES:** None

**Resolution #2014-009:**

Councilmember, Ward 1 Cutri read the following Resolution and moved for its adoption. Councilmember Ward 2 Boni seconded the motion.

**A RESOLUTION AWARDING A BUILDING DEMOLITION CONTRACT FOR  
41 SALTONSTALL STREET**

**WHEREAS**, the structure located at 41 Saltonstall Street was recently damaged by fire beyond repair; and

**WHEREAS**, the City of Canandaigua had the structure reviewed by a structural engineer who has found it to be unsafe and has recommended its demolition; and

**WHEREAS**, the owner of the property does not have the logistical or financial means to accomplish the required demolition; and

**WHEREAS**, bids to demolish this structure and return this site to an acceptable condition were received on January 29, 2014 with two contractors submitting bids; and

**WHEREAS**, the bid from Frederico Construction & Demolition LLC, 1005 Chili Avenue, Suite 2, Rochester, New York 14611, in the amount of \$22,625, has been determined to be the lowest responsive bidder; and

**WHEREAS**, the City is required to hire an asbestos project monitor to test the air quality in and around the site while demolition occurs. An amount not to exceed \$2,500 will be used for said purposes; and

**WHEREAS**, funding for the demolition and asbestos project monitor will be appropriated from the Contingency Fund; and

**WHEREAS**, the City Manager and the Director of Public Works recommend a contract be awarded to Frederico Construction & Demolition to complete the necessary demolition and site restoration;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to execute a contract with Frederico Construction & Demolition LLC, 1005 Chili Avenue, Suite 2, Rochester, New York, 14611, to complete the necessary demolition and site restoration for a fee not-to-exceed \$22,625 and that an additional appropriation up to \$2,500 for purposes of asbestos project monitoring shall be taken from the City of Canandaigua Contingency Fund.

Councilmember-at-Large Whitcomb abstained from voting due to a potential conflict of interest.

The motion CARRIED on the following vote:

**AYES:**Council Member Ward 1 Cutri, Council Member Ward 2 Boni, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger and Mayor Polimeni.

**NOES:** None

**Resolution #2014-010:**

Councilmember-at-Large Terwilliger read the following Resolution and moved for its adoption. Councilmember, Ward 1 Cutri seconded the motion.

**A RESOLUTION SETTING THE TIME AND PLACE OF A PUBLIC HEARING ON  
LOCAL LAW No. 1 OF 2014,  
RELATIVE TO A LIEN OF FIRE INSURANCE PROCEEDS  
IN ACCORDANCE WITH GENERAL MUNICIPAL LAW §22  
AND ON  
LOCAL LAW No. 2 OF 2014,  
AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT  
ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C**

**WHEREAS**, Section 3.14 of the Canandaigua City Charter and Section 20 of the Municipal Home Rule Law requires a public hearing on a proposed local law;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that a public hearing regarding Local Law No. 1 of 2014 relative to a lien of fire insurance proceeds in accordance with General Municipal Law §22 and Local Law No. 2 of 2014 relative to authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c, shall be held in the City Council Chambers, City Hall, 2 North Main Street, Canandaigua, New York during the meeting held at 7:00 p.m. on March 6, 2014; and

**BE IT FURTHER RESOLVED** that the City Clerk shall cause notice to be given as required by Section 3.14 of the Canandaigua City Charter and Section 20 of the Municipal Home Rule Law.

*Vote Result: Carried unanimously by voice vote. (9-0)*

**Resolution #2014-011:**

Councilmember Ward 2 Boni read the following Resolution and moved for its adoption. Councilmember Ward 4 Wade seconded the motion.

**A RESOLUTION AUTHORIZING AN AGREEMENT WITH  
THE CANANDAIGUA CITY SCHOOL DISTRICT TO PROVIDE SCHOOL  
RESOURCE OFFICER SERVICES**

**WHEREAS**, the Canandaigua City School District desires to continue the school resource officer (SRO) program, to maintain a strong, supportive relationship between students, faculty and law enforcement in order to deter criminal behavior and maintain a safe learning environment; and

**WHEREAS**, the City of Canandaigua desires to continue to provide school resource officer services to the School District; and

**WHEREAS**, it is in the best interests of the citizens of the City and the School District to maintain this program; and

**WHEREAS**, the term of this agreement shall commence on September 1, 2013 and terminate on June 30, 2014; and

**WHEREAS**, the School District has agreed to reimburse the City for 100% of the expense for the SRO program during the school year; and

**WHEREAS**, it is also agreed if these accumulated costs reach \$37,000 for the school year, the SRO program will immediately be terminated;

**NOW, THEREFORE BE IT RESOLVED** by the Canandaigua City Council that the City Manager and Corporation Counsel are authorized to execute a municipal cooperation agreement with the Canandaigua City School District in order to provide School Resource Officer services to the district.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:**Council Member Ward 1 Cutri, Council Member Ward 2 Boni, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Whitcomb and Mayor Polimeni.

**NOES:** None

**Ordinances:**

**Ordinance #2014-001:**

Councilmember-at-Large Whitcomb read the following Ordinance and placed it on the table.

**AN ORDINANCE AMENDING CHAPTER 648 OF THE MUNICIPAL CODE  
DESIGNATING PARKING TIME LIMIT RESTRICTIONS FOR PUBLIC PARKING  
LOTS IN THE CITY OF CANANDAIGUA**

BE IT ENACTED by the City Council of the City of Canandaigua as follows:

**Sec. 1 That section 648-23. Parking Time Limits in public parking lots, be amended to read as follows [deletions striken, additions underlined]:**

A. The City Council shall adopt, and may from time to time amend by Resolution, the City of Canandaigua Public Parking Lots Map, which shall designate parking time limit restrictions for public parking lots in the City of Canandaigua. Time restrictions in public parking lots shall be established upon such map, using the following identification code to designate time restrictions:(1).

(1) Identification Code **“A.”** For public parking lots, or portions thereof, designated by Code **“A”**, parking shall be restricted as follows:

- a. ~~Two hour~~ Three-hour maximum parking between the hours of 9:00 a.m. and 5:00 p.m.
- b. No parking between the hours of 2:00 a.m. and 5:00 a.m.

(2) Identification Code **“B.”** For public parking lots, or portions thereof, designated by Code **“B,”** parking shall be restricted as follows: ~~no parking between the hours of 2:00 a.m. and 5:00 p.m.~~ All day parking; no parking between the hours of 2:00 a.m. and 5:00 a.m. Mondays, Wednesdays, Fridays and Sundays.

(3) Identification Code **“C.”** For public parking lots, or portions thereof, designated by Code **“C.”** parking shall be restricted as follows: ~~no parking between the hours of 2:00 a.m. and~~

~~5:00 a.m. Mondays, Wednesdays, Fridays and Sundays. All day parking; no parking between the hours of 2:00 a.m. and 5:00 a.m. Tuesdays, Thursdays and Saturdays.~~

- (4) Identification Code “D.” For public parking lots, or portions thereof, marked by Code “D,” parking shall be ~~restricted as follows: no parking between the hours of 2:00 a.m. and 5:00 a.m., Tuesdays, Thursdays, and Saturdays.~~ Unlimited.
- (5) Identification Code “H.” For public parking lots, or portions thereof, designated by Code “H”, parking shall be restricted to vehicles displaying parking permits issued pursuant to §1203-a of the Vehicle and Traffic Law of the State of New York as follows:  
All-day parking; No parking between the hours of 2:00 a.m. and 5:00 a.m.
- (6) ~~Identification Code “E.” for public parking lots, or portions thereof, marked by Code “E”:~~  
a. ~~Parking shall be restricted as follows: one hour maximum parking between the hours of 9:00 a.m. and 6:00 p.m.~~  
b. ~~No parking between the hours of 2:00 a.m. and 5:00 a.m.~~
- (7) ~~Identification Code “F.” For public parking lots, or portions thereof, marked by Code “F,” parking shall be unlimited.~~

**Sec. 2 That section 648-27. Parking for Handicap Persons, be amended to read as follows [deletions stricken, additions underlined]:**

A. The City Council shall, from time to time, as it shall deem appropriate, designate certain portions of public parking areas for the location of parking spaces to be reserved exclusively for vehicles displaying parking permits issued pursuant to §1203-a of the Vehicle and Traffic Law of the State of New York. Spaces so designated will be marked accordingly.

B. It shall be unlawful for any person to stop, park, or stand (or permit another to stop, park or stand) a vehicle in a space so designated unless a valid handicapped parking permit is properly displayed upon such vehicle.

C. Designated handicapped parking spaces.

1. North Main Street, in front of St. John's Church.
2. Handicapped spaces in the Downtown Business Improvement District municipal parking lots shall be set forth on the City of Canandaigua Public Parking Lots Map (the "Map"), which may be amended from time to time by resolution of the City Council. Such designated handicapped spaces shall not have a time restriction, but unless otherwise designated, parking shall not be permitted in such spaces from 2:00 a.m. to 5:00 a.m.
3. City Pier, four spaces, one immediately north of and adjacent to the rest room building; one immediately south of and adjacent to the rest room building, both facing west; one on the west side at the very south end, facing west; one on the west side at the very north end, facing west.
4. City Hall Parking Lot (West Avenue side), two easterly most parking spaces facing south.

- 5. Kershaw Parking Lot (west lot), four spaces in the southeast corner and four spaces in the southwest corner.
- 6. Kershaw Parking Lot (east lot), two spaces in the northeast corner.

~~D. Designated all day handicapped parking spaces.~~

- ~~1. The Bristol/Coach Street Parking Lot, the easternmost space at the southeast corner facing south.~~
- ~~2. Lafayette Avenue Parking Lot on the westerly end, adjacent to Main Street, the eastern most of the two adjacent handicap spaces on the north side facing north.~~
- ~~3. The Mill Street Parking Lot on the western side of Mill Street, the two westerly most parking spaces in the parking zone that abuts the south side of the building in the center of the lot.~~

E D. Designated alternate all-night parking.

- 1. Coy Street parking lot (south lot) located as follows:
  - a. In the handicap spaces in the area adjacent to the area designated "D2B" on the Map, the western most spaces which faces ~~south west~~, as posted; and
  - b. In the handicap spaces in the area adjacent to the area designated "A 3D" on the Map, ~~the diagonal 2 handicap parking spaces~~ facing east in the ~~southwest-northeast~~ corner of the "A D" area, as posted.
- 2. Bristol/Coach Street Lot, the two southeasterly most spaces facing south and two ~~two-hour~~ parking spaces located in the first and fifth marked spaces south of Coach Street in the area marked ~~10A~~ on the ~~Official Canandaigua Parking Lot Map~~, alternate all-night parking as posted.

**Sec. 3 This Ordinance shall be effective thirty (30) days following its enactment.**

**Ordinance #2014-002:**

Councilmember-at-Large Bucci read the following Ordinance and placed it on the table.

**AN ORDINANCE AMENDING CHAPTER 648 OF THE MUNICIPAL CODE TO AUTHORIZE THE CREATION OF A TRAFFIC VIOLATION BUREAU**

*BE IT ENACTED by the City Council of the City of Canandaigua as follows:*

**Sec. 1 That section 648-5 be amended, in its entirety, to read as follows:**

**§648-5 TRAFFIC VIOLATIONS BUREAU**

**A. Authority to Establish**

The City Court of the City of Canandaigua is hereby authorized to establish a Traffic Violations Bureau, pursuant to Article 14-B of the New York State General Municipal Law,

and to designate the official in charge of such Bureau. Said Bureau shall be known as the "City of Canandaigua Traffic Violations Bureau," and shall have the same hours of operation as the City Court's Office.

**B. Powers and Duties.**

- (1.) The Bureau so established shall be authorized to dispose of parking, standing, and stopping violations by permitting a person with said violation to answer, within a specified time (set forth in paragraph F), at the Traffic Violations Bureau, either in person or by written power of attorney, by paying a prescribed fine and, in writing, waiving a hearing in court, pleading guilty to the charge, and authorizing the person in charge of the Bureau to enter such a plea or admission and accept payment of said fine. Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the violation or of the liability, and the violator shall be given a receipt which so states. If a person charged with a traffic violation does not answer as hereinbefore prescribed, within a designated time (set forth in paragraph F), the Bureau may cause a complaint to be entered against him forthwith and a warrant to be issued for his arrest and appearance before the City Court, such summons to be predicated upon the personal service of said summons upon the person charged with the infraction.
- (2.) The City Court shall have the authority to modify or reduce the prescribed fine, upon good cause shown, and upon a guilty plea in person or by written power of attorney to enter said guilty plea to the charged violation.
- (3.) Notwithstanding any provision herein, such Bureau shall not be authorized to deprive a person from his/her right to counsel or from exercising his/her right to appear in City Court to answer to, explain, or defend any charge of a violation of any traffic law, ordinance, rule or regulation, or to have a trial upon the charged violation.

**C. Procedures.**

- (1.) A person may answer a violation, within a specified time (set forth in paragraph F), by either appearing at the Traffic Violations Bureau, in person or by written power of attorney, by paying a fine established by the City Court and, in writing, waiving a hearing in court, pleading guilty to the charge, and authorizing the person in charge of the Bureau to enter such a plea or admission and accept payment of said fine.
- (2.) The City Court shall designate the fines to be paid for offenses, which may be satisfied at the Bureau as hereinbefore stated, provided that such fines are within the limits established as penalties for such offenses.
- (3.) Acceptance of the prescribed fine and power of attorney by the Bureau shall be deemed complete satisfaction for the violation, and the violator shall be given a receipt which so states..
- (4.) The City Court Judge shall establish a prescribed penalty amount for a failure to answer within a designated period of time, to be in addition to the original fine. If a person charged with a traffic violation does not answer, as hereinbefore prescribed, within the designated time, the Bureau shall cause a complaint to be entered against him forthwith and a warrant to be issued for his arrest and appearance before the City Court Judge.
- (5.) The Bureau may make application to the City Court for a default guilty plea after a continued failure to answer within a designated period of time, pursuant to § 1806(a) of the

New York State Vehicle and Traffic Law, and may enter a judgment for the amount due pursuant to said section.

(6.) Any person who shall have been, within the preceding 12 months, guilty of more than six parking, standing or stopping violations shall not be permitted to appear in answer to a subsequent violation at the Traffic Violations Bureau, but must appear in City Court at a time specified by the Bureau and the Court.

(7.) The City of Canandaigua may make use of an outside collection agency for the purposes of collection of delinquent amounts due, and the City Court Judge may establish a prescribed administrative charge to be in addition to any fine and late penalty due, for those matters turned over to outside collection

**D. Records and Reports.**

In accordance with general Municipal Law §373, the Bureau shall keep records and submit detailed monthly reports of all violations of which each person has been guilty, whether established in Court or at said Bureau and all fines collected and the disposition thereof and such other information as may be prescribed by the City Court Judge or by law to the City Court Judge and the City Clerk/Treasurer, and transmit with said reports all sums collected to the City Clerk/Treasurer.

**E. Fines.**

Every person convicted of a traffic infraction for a violation of any provision of this chapter which is not a violation of any provision of the Vehicle and Traffic Law of the State of New York shall for a first conviction thereof be punished by a fine, as established by the City Court pursuant to Vehicle and Traffic Law §1805, of not more than \$150 or by imprisonment for not more than 15 days or by both such fine and imprisonment; for a second such conviction within 18 months thereafter such person shall be punished by a fine of not more than \$300 or by imprisonment of not more than 45 days or by both such fine and imprisonment; upon a third or subsequent conviction within 18 months after the first conviction such person shall be punished by a fine of not more than \$450 or by imprisonment for not more than 90 days or by both such fine and imprisonment.

**F. Time to plea.** In accordance with Vehicle and Traffic Law §1806

(1) The owner or operator of a vehicle which has been issued a parking ticket may plead guilty to the offense within 48 hours of issuance, in person to the Traffic Violations Bureau at the Office of the City Court Clerk, or in writing by paying the prescribed fine and in writing waiving a hearing in Court, pleading guilty to the offense charged, and authorizing the Court to make such plea.

(2) The owner or operator of a vehicle which has been issued a parking ticket may plead not guilty to the offense within 48 hours of issuance, in person or in writing at the Office of the to the Traffic Violations Bureau at the Office of the City Court Clerk, by indicating in writing a plea of not guilty and requesting a hearing.

**G. Compounding of fines.**

Pursuant to Vehicle and Traffic Law §1805 fines will be designated by the Court. After 15 days from issuance, fines will double; after 30 days from issuance, the original fine will be

tripled, with the exception of the fine for parking on the grass on the City Pier, which will not change. After 90 days from issuance, a surcharge of \$20 will be added to all fines. Owners or operators of vehicles on which tickets were issued and where no plea has been made or fine has been paid within 60 days of issuance of the ticket shall be reported to the New York State Department of Motor Vehicles for suspension of registration and/or within 90 days reported to a collection agency.

**H. Impoundment.**

(1) In addition to any other penalties or fines imposed for parking violations, this section shall apply to vehicles which have three or more outstanding and unpaid parking violations issued against them and which, after mailing to the registered owner three notices, are found operated or parked on any public street, public highway, public parking area, any portion of the width between the boundary lines of any way publicly maintained when any part thereof is open to the use of the public for purpose of vehicular traffic, or on any property leased by or in the possession and control of the City of Canandaigua.

(a) Any such vehicle may be removed or caused to be removed under the direction of an Officer of the Canandaigua Police Department by towing or otherwise. Upon inquiry, the Police Department shall notify the owner of such vehicle where it may be recovered and the conditions under which it will be released.

(b) Before the owner or person in charge of any vehicle taken into custody shall be allowed to repossess or secure the release of said vehicle, the owner or his/her agent shall pay the following:

[1] All sums due for any City of Canandaigua parking violations issued and outstanding against such vehicle.

[2] The cost of towing, payable to the towing service.

[3] To the towing service, the cost of storage for each day, or portions of a day, that such vehicle is so stored in excess of the first 24 hours.

(2) No such vehicle shall be released until the owner or his agent has established his/her identity and right to possession and has signed a proper receipt therefor.

(3) Any person who, after having a vehicle towed, shall remove such vehicle without complying with the above subsections shall, in addition to other charges provided for be subject to an additional fine of \$500 and possible criminal charges.

**I. Form of Waiver and Power of Attorney.**

The waiver and power of attorney referenced herein and referred to in §371 of the General Municipal Law shall be in substantially the following form:

Date \_\_\_\_\_

I, the undersigned, hereby waive a hearing in court and plead guilty to the traffic violation as charged on the reverse side hereof, and duly constitute the Clerk of the City Court of Canandaigua as my attorney and authorize her to appear in Court, enter my plea, and pay my fine, which is enclosed herewith.

Signature

This is my \_\_\_\_\_ offense for this violation within the current calendar year.

**J. Interpretation**

Any ambiguity with respect to any provision herein or interpretation hereof shall be governed by Article 14-B of the General Municipal Law, as amended.

**Sec. 2** This ordinance shall be effective thirty (30) days following its enactment.

**Local Law:**

**Local Law #2014-001**

Councilmember-at-Large Taylor read the following Local Law and placed it on the table.

**A LOCAL LAW AUTHORIZING A LIEN OF FIRE INSURANCE PROCEEDS  
IN ACCORDANCE WITH GENERAL MUNICIPAL LAW §22**

**WHEREAS**, New York State General Municipal Law §22 authorizes and empowers the City of Canandaigua to file a claim against the proceeds of a policy of fire insurance issued on real property located in the City to the extent of any lien thereon.

**NOW, THEREFORE, BE IT ENACTED** by the City Council of the City of Canandaigua, that Chapter 435, of the Municipal Code of the City of Canandaigua is created and enacted as follows:

**CHAPTER 435 INSURANCE  
Article I - Fire Claims**

**§435-1. Definitions**

As used in this chapter, any inconsistent provision of law notwithstanding, the following terms shall have the following meanings:

**Lien** Any lien including liens for taxes, special ad valorem levies, special assessments and municipal charges arising by operation of law against property in favor of the City and remaining undischarged for a period of one (1) year or more.

**Real Property** Property upon which there is erected any residence or commercial or industrial building or structure, except a one- or two-family residence structure.

**Special Lien** A lien upon fire insurance proceeds pursuant to this chapter and New York General Municipal Law §22 and Insurance Law §§331 and 3410.

**§ 435-2. Filing with State Superintendent of Financial Services.**

Pursuant to the provisions of §22 of the General Municipal Law and subsequent to the adoption of a resolution by the City Council providing therefor, the City Clerk/Treasurer shall file a notice of intention to claim against the proceeds of fire insurance policies with the State Superintendent of Financial Services. Said notice shall be entered in the index of liens maintained by the State Superintendent of Financial Services as provided in §331 of the Insurance Law. Said notice shall constitute constructive notice to each insurer of real property of the City's claim against any proceeds payable under the provisions of any fire insurance policy.

**§ 435-3. Service of Certificate of Lien by City Clerk/Treasurer.**

Prior to the payment of any proceeds of a policy of insurance for damages caused by fire to real property situated within the City of Canandaigua, each insurer shall notify the City Clerk/Treasurer that a loss has been sustained and demand that the Treasurer's Certificate indicating the amount of all liens of the City against said property, including interest and penalties to the date of the Certificate, be served, at a specified address, in person or by certified mail, upon the insurer, within twenty (20) days from the date of mailing such demand. Within ten (10) days of receipt of such Certificate of Lien and a final determination of the insurer's obligation to pay such proceeds, the insurer shall pay therefrom the amounts specified in the Certificate to the City Clerk/Treasurer. Notice of the filing of the Certificate shall be given to the insured by the City Clerk/Treasurer by certified mail.

**§ 435-4. Special Lien.**

The claim filed by the City Clerk/Treasurer shall constitute a special lien against the proceeds of a fire insurance policy on real property and shall be prior to all other liens and claims against said proceeds except the claim of a mortgagee of record named in the fire insurance policy.

**§ 435-5. Lien not to Impair Other Rights.**

The provisions of this chapter shall not be deemed or construed to alter or impair the right of the City to acquire or enforce any lien against real property, but shall be in addition to any other power provided by law to acquire or enforce such right.

**§ 435-6. Release of Return of Proceeds to Property Owner.**

A. All or part of the proceeds of a policy of fire insurance paid or to be paid to the City of Canandaigua, as set forth hereinabove, may be paid or released to the insured by the City, if the insured satisfies the City that repairs or restoration of the affected premises are in the public interest and have been or will be made by the insured. To secure such payment or release of proceeds, the insured must notify the City Clerk/Treasurer that he intends to restore or repair the affected premises to the same or improved condition it was in prior to the time the lien against the property arose. Such notification must be filed with the City Clerk/Treasurer within forty-five (45) days of the mailing by the City to the insured of the notice of the filing of the Special Lien.

B. The release or return of the fire insurance proceeds by the City to the insured shall be subject to the following conditions:

(1) The insured shall file an affidavit with the City Clerk/Treasurer, with such supporting documentation as the Clerk/Treasurer shall require, containing a complete description of the nature and extent of the damage to the insured premises and of the condition of the premises prior to the lien held by the City against the property; a complete description of the nature of the repairs or restoration to be undertaken and the cost thereof; a statement as to the source of funds needed to complete such repairs or restoration, if the insurance proceeds are not sufficient therefor; the name and address of each contractor who will effect such repair or restoration; an estimated time schedule showing how long the repairs or restoration will take; and such other information as may be required by the City Clerk/Treasurer to enable her to determine whether the repairs or restoration are in the public interest and will be or have been timely and properly made.

(2) Upon preliminary approval by the Clerk/Treasurer of the application, as set forth in Subsection B(1) of this section, the Clerk/Treasurer shall notify the applicant, in writing, evidencing the right of release to the insured of part or all of the insurance proceeds. The repairs or restoration required by the Clerk/Treasurer shall be completed in compliance with the terms and conditions set forth in said notification prior to the release or return of any part of the insurance proceeds unless the Clerk/Treasurer, upon the written request of the insured and in the discretion of the Clerk/Treasurer, approves a prior release of such proceeds or a portion thereof. The Clerk/Treasurer may not approve such prior release unless the insured certifies and demonstrates that such release is necessary to permit the repairs or restoration to go forward. The Clerk/Treasurer shall require guarantee from the insured of performance of such obligation including, but not limited to, an agreement to deposit such proceeds in an escrow account or that the insured shall obtain a performance bond. The Clerk/Treasurer may release said proceeds or any portion thereof directly to the contractor or contractors.

(3) The release or return of the fire insurance proceeds or any part thereof shall be subject to the repair or restoration of the affected premises in accordance with applicable building and zoning codes, to the condition it was in prior to the time the lien of the village against the property arose or to an improved condition.

(4) If the insured fails to notify the City Clerk/Treasurer of his intention to repair or restore the affected premises as set forth in Subsection B(1) hereof, or fails to file a completed application, or fails to supply the Clerk/Treasurer with specified documentation as required or fails to obtain the approval of the Clerk/Treasurer to the repairs or restoration within the time set forth, the right of the insured to assert a claim against the insurance proceeds, except to the extent said proceeds exceed the amount of the City's Special Lien, shall terminate.

**§ 435-7. Special Fund.**

Any insurance proceeds received by the City of Canandaigua pursuant to this chapter shall be deposited in a special fund and retained therein until such time as the insured's right to claim against the proceeds has terminated. The proceeds shall then be applied to the liens held by the

City against the real property affected and may be transferred to the general fund. The lien or liens against the real property affected shall continue in full force and effect, except to the extent that such lien or liens are or have been paid.

**Local Law #2014-002**

Councilmember Ward 4 Wade read the following Local Law and placed it on the table.

**A Local Law Authorizing A Property Tax Levy In Excess Of The Limit  
Established In General Municipal Law §3-C**

**Section 1. Legislative Intent**

It is the intent of this local law to allow the City of Canandaigua to adopt a budget for the fiscal year commencing January 01, 2015 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

**Section 2. Authority**

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the next fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

**Section 3. Tax Levy Limit Override**

The City Council of the City of Canandaigua, County of Ontario, is hereby authorized to adopt a budget for the fiscal year commencing January 01, 2015 that may require a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

**Section 4. Severability**

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date**

This local law shall take effect immediately upon filing with the Secretary of State.

**Manager's Report:**

City Manager David R. Forrest acknowledged the great job the DPW crews have been doing during this rough, very cold, winter.

**Miscellaneous:**

Michele Smith. Corporation Counsel stated that the City received the Judge’s decision on the eminent domain case in which he agreed with the City’s Appraiser. The Judge did make a

slight adjustment of about \$300,000 to be paid for the property; however this is substantially lower than the \$2,000,000 requested in the law suit.

**Executive Session:**

Councilmember Ward 1 Whitcomb moved to close the regular meeting to go into Executive Session at 8:25 PM to discuss contract negotiations. Councilmember-at-Large Bucci seconded the motion.

*Vote Result: Carried unanimously by voice vote*

Councilmember-at-Large Whitcomb moved to close the executive session and return to the regular meeting at 8:56 PM. Councilmember Ward 2 Boni seconded the motion.

*Vote Result: Carried unanimously by voice vote.*

**Regular Session:**

Councilmember-at-Large Whitcomb moved to adjourn the regular session at 8:56 PM. Councilmember Ward 4 Wade seconded the motion.

*Vote Result: Carried unanimously by voice vote*

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Nancy C. Abdallah  
City Clerk-Treasure