

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING
THURSDAY, SEPTEMBER 4, 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

Mayor Polimeni asked for a moment of silence in remembrance of Rochester Police officer Daryl Pearson, who was slain in the line of duty, and for his family and all those involved in public safety who serve our community every day.

Review Core Values: Councilmember-at-Large Terwilliger 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.

Public Hearings: North shore Development – Amendment to final Site Plan

Mayor Polimeni opened the public hearing at 7:05 PM

Jerry Goldman, attorney and agent for Morgan Lechase development along with Dave Cox, Passero Engineering, Kevin Hoffman Morgan Lechase and Jared Coon, Hanlon Architect reviewed amendments to the site plan for phase 1 of the project.

- Increase surface parking from 100 to 116 spaces
- Parking garage single entrance
- Fully reconstruct parking lot behind Hess station
- Sanitary sewer piping installed for future phases.
- Building A will be reduced from 18,000 to 15000 square feet to allow for additional parking.
- Building B residential units reduced from 137 to 135 to allow for additional parking and will include balconies.

Public Comments:

- Gretchen Hoekelman, 96 Hubbell Street:
 - Did the City or developer have any face to face contact with DEC during and since the Brownfield process?
 - Who were the members on the Morgan Lechase focus group and what was the criteria for being a member of this group?
 - One of the CADC members owns a bank, have they been approached for funding, what was their response?
 - Request that City Council give Mr. Genecco two weeks to demolish the old Kellogs restaurant because it is an eyesore to the public.
- Carol Houle, taxpayer of the State of New York:
 - Environmental study, who paid for it and who did it?
 - When you disturb ground did you allow for changes in toxicity?
 - We need to protect the lake and we just gave away our lake property.
 - Shouldn't we treat this as a hazmat site? Where is the DEC?
- Joel Freedman, 329 North Main St:
 - The questions raised tonight are good questions and ties into preserving our environment and our lake.

There will be a PUD meeting on the 18th at the Hurley Building where they will respond to the questions from the public hearing.

Mayor Polimeni closed the public hearing at 7:19 PM

Approval of Minutes: Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of August 7, 2014. Councilmember-at-Large Taylor seconded the motion.

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

Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of August 21, 2014. Councilmember, Ward 1 Cutri seconded the motion.

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

Recognition of Guests:

- City Manager David Forrest introduced the New City Manager, John Goodwin.
- Mayor Polimeni recognized John Thompson for his years of service to the City.

Committee Reports:

Environmental: Councilmember-at-Large Taylor reported that the Environmental Committee met on August 12th and discussed the following:

Minutes – Attachment 11A

- Special Event –
 - A Walk into the Past
 - Pontiac Car Show- BID
 - Jack-O-Lantern Jog

- Boy Scout Project, Kiosk at Lagoon Park
- County Solid Waste Management Plan
- Community Rating System

Ordinance: Councilmember-at-Large Whitcomb reported that the Ordinance Committee met on August 19th and discussed the following:

- Lakeshore Drive Speed Limit
- Food Trucks
- Pesticide Use

Finance: Councilmember-at-Large Terwilliger reported that the Finance Committee met on August 26th and discussed the following:

Minutes – Attachment 11B

- Request for funding Downtown Trash/ Recycle bins
- Sonnenberg Tennis Court Replacement
- Capital Improvement Program
- Executive Session
- Salary Adjustment for non-union employees

Planning: Councilmember Ward 4 Wade reported that the Planning Committee met on August 5th and September 2 and Councilmember Ward 4 Wade and discussed the following:

August 5: **Minutes – Attachment 11C**

- Dog Park

September 2: **Minutes – Attachment 11D**

- Canandaigua Cardinals
- Dog Park
- Lakeshore Drive-Concerns about Traffic
- City Branding
- Strategic Plan Objectives – Downtown Redevelopment
- Communication Plan
- Training for Council Members

Chamber of Commerce: Alison Grems, President of the Chamber of Commerce spoke about the upcoming events.

Resolutions:

Resolution #2014-073:

Councilmember-at-Large Taylor read the following Resolution and moved for its adoption. Councilmember-at-Large Whitcomb seconded the motion.

**A RESOLUTION AUTHORIZING SPECIAL EVENTS
*A Walk Into the Past; Pontiac Car Show; Jack-O-Lantern Jog***

WHEREAS, the City Council of the City of Canandaigua has received the following applications for special events in the City of Canandaigua:

- ***A Walk Into the Past***
 - Date: September 13, 2014
 - Location: West Avenue Cemetery
 - Coordinator: Ontario County Historical Society
 - Time: 2:00 p.m. – 8:00 p.m.
 - Purpose: Educational Program
 - Expected Number of Participants: 100

- ***Pontiac Car Show***
 - Date: September 6, 2014
 - Location: Main Street & Parking Lot by Chamber, Sidewalk by Lot (minimal)
 - Coordinator: BID, Lisa Thompson
 - Time: 9:30 am – 3:00 pm.
 - Purpose: Promote Downtown
 - Expected Number of Participants: 200

- ***Jack-O-Lantern Jog***
 - Date: October 25, 2014
 - Location: Begin and End at the YMCA
 - Coordinator: YMCA – Lindsey Marianetti
 - Time: 9:00 am – 10:00 pm.
 - Purpose: Survey the Public
 - Expected Number of Participants: 200

WHEREAS, these requests were reviewed and approved at the August 12, 2014 Environmental Committee meeting;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Canandaigua that permission is granted to hold the abovementioned special events at the time and locations listed under the following conditions:

- 1) that no fee or admission shall be charged to the general public for admission to the special events; and

- 2) that alcoholic beverages are not permitted to be sold or consumed on public property; and
- 3) that if the event coordinators intend to place any signs in the Main Street median, such signs shall only be allowed by permit of New York State Department of Transportation; and
- 4) that the event coordinators will ensure that all tents that are required to be inspected will be inspected prior to the start of the special events; and
- 5) that a detailed summary of all costs under the City's special event policy will be provided to the event coordinators for reimbursement.

BE IT FURTHER RESOLVED that the organizers of the Special Events shall adhere to any regulations that the City Manager, or the City Police Department, shall establish to insure the health and safety of Canandaigua residents and visitors throughout these events.

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

Resolution #2014-074:

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

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ALLOCATE AN ADDITIONAL ONE-PERCENT WAGE INCREASE TO NON-UNION EMPLOYEES

WHEREAS, the 2014 budget contained a two-percent pay increase for non-union employees; and

WHEREAS, subsequent to the adoption of the 2014 budget, a three-percent pay increase was negotiated with Canandaigua police officers; and

WHEREAS, the City Council desires to maintain an equitable and fair compensation system; and

WHEREAS, the City Council believes non-union wages should remain competitive with union wages in order to attract and retain qualified employees;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Canandaigua hereby authorizes the City Manager to allocate an additional one-percent wage increase to non-union employees. The increase in wages will first be funded from within the operational budgets of the General, Water and Sewer Funds with any remaining amounts funded from contingency.

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 #2014-009: *(Introduced and tabled at the July 1, 2014 Council Meeting)*

**AN ORDINANCE AMENDING THE ZONING ORDINANCE
RELATIVE TO MOBILE FOOD VENDING OPERATION**

Lift from the table: Councilmember-at-Large Whitcomb moved to lift Ordinance 2014-009 from the table. Councilmember-at-Large Taylor seconded the motion.

Vote Result: Carried unanimously by voice vote.

Discussion: Councilmember-at-Large Whitcomb explained that this ordinance needs to be revised to make sure all the issues are addressed and goals of the Council are accomplished. Therefore, this ordinance should be voted down so that the council can reintroduce a revised ordinance after additional committee work.

Vote: Councilmember-at-Large Whitcomb moved to approve Ordinance 2014-009. Councilmember Ward 3 White seconded the motion.

The motion FAILED BY MAJORITY on the following vote:

AYES: None.

NOES: Councilmember, 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.

Ordinance #2014-011:

Councilmember Ward 2 Boni read the following ordinance and placed it on the table.

**AN ORDINANCE AMENDING
CHAPTER 648 OF THE MUNICIPAL CODE
TO REDUCE THE SPEED LIMIT ON LAKESHORE DRIVE**

BE IT ENACTED by the City Council of the City of Canandaigua that:

Sec. 1 That chapter 648, section 648-15 of the Municipal Code, is hereby amended as follows:

§648-15	Speed limits.
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Thirty miles per hour is hereby established as the maximum speed at which vehicles may proceed on or along highways within the corporate limits of the City except on the following highways:

Name of Street	Speed Limit(mph)	Location
Chapel Street	15	Between a point 300 feet westerly of the extension of the west building line of the Canandaigua Middle School building and a point 300 feet easterly of the extension of the easterly building line of the Canandaigua Middle School
Eastern Boulevard	40	Entire length
East Street	15	Between a point three 300 feet southerly of the extension of the south building line of the "school" and a point 300 feet northerly of the extension of the northerly building line of the "school" building
Fort Hill Avenue	25	Entire length
Granger Street	15	Between North Pleasant Street and the Canandaigua Middle School
Howell Street	25	East of Park Street and west of Charlotte Street
Jefferson Avenue	25	North of Saltonstall Street and south of Phoenix Street
Lakeshore Drive	25	From South Main Street to a point 600 feet west of the center line intersection of Carousel Lane <i>Entire length</i>
North Pearl Street	15	From the northern right-of-way line of West Gibson Street to a point 1,320 feet north thereof
Telyea Street	25	Entire length
Western Boulevard (Routes 5 & 20 Bypass)	55	Between the west end of the bridge over Sucker Brook and the western boundary of the City
West Gibson Street	15	Between a point 300 feet easterly of the extension of the east building line of the Elementary School building and a point 300 feet westerly of the extension of the west building line of the Elementary School Building

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

Ordinance #2014-012:

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

**AN ORDINANCE AMENDING
CHAPTER 292 OF THE MUNICIPAL CODE
TO PROHIBIT PESTICIDES ON RIGHTS-OF-WAY**

BE IT ENACTED by the City Council of the City of Canandaigua that:

Sec. 1 That chapter 292, is hereby amended as follows (*new language shown in italics*):

CHAPTER 292 Brush, Grass and Weeds

§292-1.1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Natural, organic land care: *An extension of the principles and practices of organic agriculture to the care of turf and landscape.*

Pesticide : *Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.*

City Rights-of Way: *All land between the center-line of a street and the boundary line of the adjacent property owner.*

Pest: *Any undesirable insect, plant, fungi, bacteria, virus or micro-organism.*

Public Property - *all City-owned or maintained property that is open to the general public, including but not limited to parks, playgrounds, cemeteries, and rights-of-way.*

Turf and Landscape Management Policy - *the City of Canandaigua Turf and Landscape Management Policy, as adopted in 2010 and as may be amended from time-to-time.*

§292-1.2 Control and Removal of Grass, Weeds, and Other Rank Vegetation.

A. Height of Vegetation limited.

It shall be unlawful for any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any occupied or unoccupied lot or land or any part thereof in the City to permit or maintain on any such lot or land or any part thereof in the City to permit or maintain on any such lot or land any growth of weeds, grass or other rank vegetation to a greater height than eight inches on the average, or any accumulation of dead weeds, grass or brush; or to permit or maintain on or along the sidewalk, street or alley adjacent to such lot or land between the property line and the curb, or between the property line and the traveled portion of such street or alley where there is no curb, any growth of weeds, grass or other vegetation to a greater height than eight inches on the average.

B. Pesticide Usage on City Rights-of-Way.

The following provisions shall be applicable to all turf, landscape, and outdoor pest management activities on City rights-of way.

1.) Permitted: Use or application of natural, organic land care protocols.

2.) Prohibited: It shall be unlawful for any owner, lessee or occupant, or any agent, servant, representative or employee of any such owner, lessee or occupant, having control of any occupied or unoccupied lot or land or any part thereof in the City to use or allow the application of chemical pesticides, other than pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25.

3.) Exemptions:

a) Use of pesticides classified by the US Environmental Protection Agency as exempt materials under 40 CFR 152.25.

b) A specific exemption is made for poison ivy and other harmful plant control as required by §§292-2, 292-3 of this Chapter, using the least toxic product in accordance with the US Environmental Protection Agency under 40 CFR 152.5.

c) *The State of New York, or its designee, in administration, application, or enforcement of New York State's Turf Management Policy with respect to rights-of-way on New York State roads and highways.*

4.) *Emergency waiver: If an emergency situation warrants the use of non-exempt pesticides, the Director of Public Works may, upon written request, grant a thirty (30) day temporary waiver. The waiver may be extended to a six (6) month total period. Waiver approval shall be subject to the use of the least toxic material available to address the given emergency and in accordance with the City's Turf and Landscape Management Policy. The presence of weeds or common fungal diseases in the usual course of turf maintenance shall not constitute an emergency.*

(a) Waiver determination shall be based on the following criteria:

The pest situation present 1) an immediate threat to human health or environmental quality, or 2) an immediate threat of substantial property damage or loss; and viable alternatives consistent with this Chapter do not exist.

§ 292-2 Removal of poison ivy and other harmful plants.

It shall also be unlawful for any such person or persons to cause, suffer or allow poison ivy, ragweed or other poisonous plants, or plants detrimental to health to grow on any such lot or land in such manner that any part of such ivy, ragweed or other poisonous or harmful weed shall extend upon, overhang or border any public place or allow the seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.

§ 292-3 Duty of owner, lessee or occupant.

It shall be the duty of any owner, lessee or occupant of any lot or land to cut and remove or cause to be cut and removed all such weeds, grass or other rank, poisonous or harmful vegetation as often as may be necessary to comply with the provisions of this chapter.

§ 292-4 Performance of work by City; assessment of costs.

A. If the provisions of the foregoing sections are not complied with, the Code Enforcement Officer shall serve written notice upon the owner, lessee or occupant or any person having the care or control of any lot or land to comply with the provisions of this Article.

B. If the person upon whom the notice is served fails, neglects or refuses to cut and remove or to cause to be cut and removed such weeds, grass or other vegetation within five days' service of such notice, or if no person can be found in the City who either is or claims to be the owner of such lot or land or who either represents or claims to represent such owner, the City shall cause such weeds, grass or other vegetation on such lot or land to be cut and removed, and the actual cost of such cutting and removal, plus 50% for inspection and other additional costs in connection therewith, shall be certified by the Code Enforcement Officer and shall thereupon become and be a lien upon the property on which such weeds, grass and other vegetation were located and shall be added to and become a part of the taxes next to be assessed and levied upon such lot or land and shall bear interest at the same rate as taxes and shall be collected and enforced by the same officer and in the same manner as taxes.

§ 292-5 Exceptions.

The provisions of § [292-4](#), insofar as they relate to cutting weeds, grass and rank vegetation from lot or lands, shall not apply to any lots or lands which are under cultivation or from which crops are regularly harvested for actual use.

§ 292-6 Penalties for offenses.

A. *Presumptions.* *For purposes of this Chapter the presence of markers in the City right-of-way, which provides visual notification pursuant to New York State Environmental Conservation Law §33-1003, is presumptive evidence of the prohibited use or application of pesticides on the City right-of-way.*

B. Any person who shall violate any of the provisions of this chapter shall, upon conviction, be punishable by a fine not exceeding \$250 or imprisonment in the County Jail of Ontario County for not more than 15 days, or both such fine and imprisonment. Each day on which any such violation continues shall constitute a separate offense.

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

Local Law: None

Manager's Report:

City Manager David Forrest reported on the following:

- Standard and Poor's upgraded our bond rating from A+ to AA-

Miscellaneous:

Roundtable comments by Councilmembers:

- Councilmember, Ward 1 Cutri commented on new construction in northeast section of City.
- Councilmember-at-Large Bucci reminded everyone about primary day September 9th.
- Councilmember-at-Large Taylor reminded everyone about the triathlon this weekend and that school starts this week so be extra careful driving.
- Michele Smith, Corporation Council reminded everyone that the school speed limits are in force from 7am to 4pm.
- Mayor Polimeni added that if a school bus is stopped on Main Street all lanes must stop.

Executive Session:

Councilmember-at-Large Taylor moved to close the regular meeting to go into executive session at 8:20 PM to discuss real estate. Councilmember-at-Large Bucci seconded the motion.

Vote Result: Carried unanimously by voice vote

Councilmember-at-Large Taylor moved to close the executive session and return to the regular meeting at 8:40 PM. Councilmember-at-Large Whitcomb seconded the motion.

Vote Result: Carried unanimously by voice vote.

Regular Session:

Councilmember Ward 3 White moved to adjourn the regular session at 8:40 PM.
Councilmember-at-Large Whitcomb seconded the motion.

Vote Result: Carried unanimously by voice vote

Nancy C. Abdallah
City Clerk-Treasurer