

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING  
THURSDAY, SEPTEMBER 5, 2013 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:**

Mayor Polimeni asked for a moment of silence for Sam Loiacono who passed away August 16<sup>th</sup>. Mr. Loiacono worked at the DPW for 36 years and has done quite a bit for the City.

**Roll Call:**

**Members Present:** Councilmember Ward 1 David Whitcomb  
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 Meg McMullen Reston  
Mayor Ellen Polimeni

**Members Absent:** Councilmember Ward 2 David Winter

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

Mayor Polimeni stated that David Winter is traveling for work and will not be here this evening

**Public Hearing:** Public Hearing on Ordinance 2013-008: An Ordinance Amending Section 850-11 of the Municipal Code, Regulations Applicable to all Districts. Zoning Certificate

Mayor Polimeni opened the public hearing at 7:02 PM.

Mayor Polimeni closed the public hearing at 7:03 PM with no comments.

**Public Hearing:** Public Hearing on Local Law 2013-001: An Local Law Authorizing a Property Tax Levy in Excess of the Limit Established in General Municipal Law §3-C

Mayor Polimeni opened the public hearing at 7:04 PM.

Mayor Polimeni closed the public hearing at 7:05 PM with no comments.

**Review Core Values:** Councilmember-at-Large Bucci 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 August 1, 2013. Councilmember, Ward 1 Whitcomb seconded the motion.  
*Vote Result: Carried unanimously by voice vote*

**Recognition of Guests:**

- Kelly Meath, 217 Bristol Street, made an invitation on behalf of Wood Library to the “Superstar Showcase and Entertainment Extravaganza” on September 14<sup>th</sup> which will be held at the Finger Lakes Community College Student Center Auditorium. This is a major fund raiser for the library.
- Penny L. Gugino, Coalition Director for Tobacco Action Coalition of the Finger Lakes, supported the efforts for a tobacco free policy in City Parks.
- Eric Beyer, 162 Thad Chapin St., is a pediatrician who also supports a no smoking policy in public parks.

**Committee Reports:**

**Environmental:** No Meeting to report

**Ordinance:** Councilmember, Ward 1 Whitcomb reported that the Ordinance Committee met on August 20<sup>th</sup>, and discussed the following:

- Proposed Ordinance for Rental Registration Program
- Parrish and West Lake Road Intersection

**Finance:** Councilmember-at-Large Terwilliger reported that the Finance Committee met on August 27<sup>th</sup>, and discussed the following:

Minutes – (Attachment 13A)

- Roller Bid
- 2<sup>nd</sup> Quarter Financial Report (Attachment 13B)
- Public Works Fees Revisited
- Fire and Police Staffing – Cost Figures (Attachment 13C)

**Planning:** Councilmember, Ward 4 Wade reported that the Planning Committee met on August 6<sup>th</sup> and September 3<sup>rd</sup> and discussed the following:

- Comprehensive Plan Review

**PUD** - No Meeting

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

**Business Improvement District** – Katherine Nevin, Manager of the Business Improvement District spoke about upcoming events. Visit [WWW.downtowncanandaigua.com](http://WWW.downtowncanandaigua.com) or call (585) 396-0300 for the latest updates and details.

**Resolutions:**

**Resolution #2013-066:**

Councilmember-at-Large Taylor read the following Resolution and moved for its adoption. Councilmember Ward 3 White seconded the motion.

**A RESOLUTION AUTHORIZING THE PURCHASE OF A  
NEW AND UNUSED 2013 DOUBLE DRUM ROLLER**

WHEREAS, the City of Canandaigua opened bids for a new and unused 2013 double drum roller on August 8, 2013 with six bidders participating; and

WHEREAS, the four lowest bidders all noted exceptions to the requested specifications that made their bids non-compliant with the request for bids; and

WHEREAS, the bid submitted by Southworth-Milton Cat, Inc. for a Caterpillar CB54B roller was the only fully compliant bid; and

WHEREAS, the City Manager and Director of Public Works recommend a contract award to Southworth-Milton Cat, Inc.; and

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby authorizes the City Manager to execute a contract with Southworth-Milton Cat, Inc, 4610 E. Saile Drive, Batavia, NY 14020 for the purchase of one 22013 Caterpillar CB54B Double Drum Roller in an amount not to exceed \$112,455.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:** Councilmember Ward 1 Whitcomb, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Reston and Mayor Polimeni.  
**NOES:** None.

**Resolution #2013-067:**

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

**A RESOLUTION SETTING THE TIME AND PLACE OF A PUBLIC HEARING ON  
PROPOSED AMENDMENT TO THE  
CITY OF CANANDAIGUA  
COMPREHENSIVE PLAN**

**WHEREAS**, the City of Canandaigua desires to amend its 2002 Comprehensive Plan; and

**WHEREAS**, in accordance with NYS General City Law Section §28-a there shall be a Public Hearing on the draft plan following a period of public review; and

**WHEREAS**, in accordance with NYS General City Law §28-a and General Municipal Law §239-m, the draft plan shall be referred to the County Planning Board;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that:

1. The draft 2013 Amendment of the City of Canandaigua Comprehensive Plan shall be available from Public Review on September 24, 2103 at the City Clerk/Treasurer's office, the Wood Library, and the City's website.
2. A Public Hearing on the draft plan shall be held in the City Council Chambers, City Hall, 2 North Main Street, Canandaigua, New York during the City Council meeting held at 7:00 p.m. on October 3, 2013.
3. The environmental review of the draft plan shall be initially conducted by the City Environmental Review Committee on October 8, 2013, with final environmental review to be conducted by the City Council at its meeting held on November 7, 2013.
4. The draft shall be referred to the Ontario County Planning Board to be reviewed at their meeting of October 9, 2013; and

**BE IT FURTHER RESOLVED** that the City Clerk shall cause notice of the public hearing to be published as required by General City Law Section 28-a, at least 10 days prior to the public hearing date.

*Vote Result: Carried unanimously by voice vote*

**Ordinances:**

**Ordinance #2013-006:** *(Introduced and tabled at the June 6<sup>th</sup> Council meeting)*

**AN ORDINANCE TO EXTEND FOR 9 MONTHS A MORATORIUM ON AND PROHIBITION OF NATURAL GAS AND PETROLEUM EXPLORATION AND EXTRACTION ACTIVITIES, UNDERGROUND STORAGE OF NATURAL GAS, AND DISPOSAL OF NATURAL GAS OR PETROLEUM EXTRACTION, EXPLORATION, AND PRODUCTION WASTES WITHIN THE CITY OF CANANDAIGUA.**

**Lift from table:** Councilmember-at-Large Reston moved to lift Ordinance 2013-006 from the table. Councilmember Ward 3 White seconded the motion.

*Vote Result: Carried unanimously by voice vote*

**Adoption:** Councilmember-at-Large Reston moved for the adoption of Ordinance 2013-006. Councilmember-at-Large Bucci seconded the motion.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:** Councilmember Ward 1 Whitcomb, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Reston and Mayor Polimeni.

**NOES:** None.

**Ordinance #2013-008:** *(Introduced and tabled at the August 1<sup>st</sup> Council meeting)*

**AN ORDINANCE AMENDING  
SECTION 850-11 OF THE MUNICIPAL CODE,  
REGULATIONS APPLICABLE TO ALL DISTRICTS  
(ZONING CERTIFICATE)**

**Lift from table:** Councilmember, Ward 1 Whitcomb moved to lift Ordinance 2013-008 from the table. Councilmember, Ward 3 White seconded the motion.

*Vote Result: Carried unanimously by voice vote*

**Adoption:** Councilmember, Ward 1 Whitcomb moved for the adoption of Ordinance 2013-008. Councilmember-at-Large Reston seconded the motion.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:** Councilmember Ward 1 Whitcomb, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Reston and Mayor Polimeni.

**NOES:** None.

**Ordinance #2013-009:**

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

**AN ORDINANCE CREATING  
CHAPTER 560 OF THE MUNICIPAL CODE,  
"RENTAL REGISTRATION HOUSING LAW"**

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

**Sec. 1** That chapter 560 of the Municipal Code, is hereby created as follows:

**Chapter 560: Rental Registration Housing Law (New chapter)**

**§560-1. General Provisions**

This article shall be known as the "Canandaigua Rental Registration Housing Law," and will be referred to as such in this Chapter.

**§560-2. Findings and Purpose.**

The City Council has determined that there exists in the City of Canandaigua issues arising from the relatively large proportion of residential rental property, which currently accounts for approximately 50% of all residential units in the City. A number of these rental units may, from time to time, be substandard or in violation of the New York State Uniform Fire Prevention and Building Code, the New York State Multiple Residence Law, or other state codes or local codes. The City Council finds that the large number of rental units encourages a transient population, which often accounts for a disproportionate number of complaints of public nuisances, including but not limited to noise, disorderly conduct, and property damage. The City Council also finds that identifying and contacting a responsible party to address code violations, nuisance calls, and emergencies associated with residential rental properties is frequently a challenge for City staff because contact information for the owner or his/her agent is not routinely gathered and updated.

In light of these findings, the City Council further has determined that it is in the public interest to establish an annual rental property registration and permit program, wherein owners of residential rental property shall provide, annually to the City, contact and other information that will aid staff in identifying a responsible party

**§560-3. Scope, applicability and exceptions.**

A. The provisions of this Chapter shall apply to all residential rental buildings and structures now in existence or hereafter constructed, rehabilitated, renovated or converted to residential use within the City limits, except those buildings and structures specifically excluded from the provisions of this chapter..

B. Nothing in this Article shall be deemed to change the validity of or requirements for a Certificate of Occupancy under the Building Code of New York State

C. Exceptions. The provisions of this Chapter do not apply to:

- (1) Buildings, structures and uses owned and operated by any governmental unit or governmental agency, including the State of New York, or the County of Ontario.
- (2) Single-family dwellings occupied by a record title holder.
- (3) Transient shelters and group homes subject to state inspection.
- (4) Residential structures of which ownership passes to a governmental unit.
- (5) Hotels or motels.
- (6) Tourist homes or bed-and-breakfast dwellings.
- (7) Nursing homes, intermediate care nursing homes or convalescent dwellings.

D. Where a nonresidential business or activity or a state-licensed or state-approved use occupies a portion of a building and the building contains premises which would otherwise be subject to this Chapter, this Chapter shall be and remain applicable to the residential and common or public areas of such building and premises.

**§560-4. Rental Permit Required.**

No property owner shall rent, let, lease, or otherwise allow the occupancy of any rental building or structure unless that owner holds a valid Rental Permit from the City of Canandaigua.

**§560-5. Fees; Duration of Permits and Renewal; Issuance of Permits.**

A. A Rental Permit will be issued by the City of Canandaigua for each calendar year and shall be valid for such year unless invalidated as provided in this Chapter. Property Owners must complete a City Rental Registration form in order to qualify for a Rental Permit.

B. Rental Permits may be renewed each successive year by the property owner completing a City registration form and paying the associated fee by December 31st of the preceding year.

C. Rental Permit fees will be charged in the amount set forth in the Fee Schedule adopted by the City Council by resolution.

D. Rental Permits shall be issued when all requirements of this Chapter have been met.

**§560-6. Information Required From Owner and Agent - Rental Registration.**

A. Owners of residential rental property that is located in the City shall complete and sign a Rental Registration form provided by the Code Enforcement Office. The form shall indicate the name, physical address, and telephone number of each owner and agent, if applicable; the number and address of each rental dwelling for which a Rental Permit is sought, the number of dwelling units contained within each rental dwelling, whether the premises are governed by a written lease or an oral lease, daytime and evening telephone numbers of the owner and agent, if applicable, the maximum number of tenants, and any other pertinent data sought by the Code Enforcement Officer. The form shall indicate an address for receipt of notices by mailing under this Chapter. The permittee shall be responsible for timely updating such information in the event that changed circumstances would render the information in the registration form inaccurate.

B. Owners of residential rental property located in the City, who reside in any county other than Ontario County or contiguous counties, shall provide the Code Enforcement Office with the name, physical address, and 24-hour phone number of an individual over the age of 18 who shall reside in Ontario County or any county contiguous thereto and who shall be designated as agent for receiving mailed notice or service of process and acting on behalf of the owner in his absence. Such agent shall be deemed to have the rights and responsibilities of a permittee for the purposes of this Article. A new permittee shall provide the information required in this subsection within five days from the date of any change of ownership.

**§560-7. Contents of Rental Permit.**

The Rental Permit issued under this Chapter shall contain the following information:

A. The address, type of structure, and structure classification.

B. The date of latest inspection.

C. The date of issuance.

D. The expiration date.

E. Number of dwelling units.

- F. A statement indicating whether the structure is equipped with a fire alarm system.
- G. A statement indicating whether the structure is equipped with a sprinkler system.
- H. The phone number of the Canandaigua Code Enforcement Department for tenant complaints.

**§560-8. Transferability of Permit; Display Required.**

- A. A current Rental Permit issued under this Chapter shall be invalidated by sale or transfer of the property.
- B. The owner of a rental building or structure shall conspicuously display a copy of the Rental Permit on the main entrance door of each building, or in a common area immediately adjacent thereto.

**§560-9. Transition Rules.**

Owners of rental buildings or structures existing on the date of adoption of this Article must register in accordance with §560-6, by no later than January 30th of the year following adoption.

**§560-10. Prohibited Actions.**

It shall be unlawful and a violation of this Chapter for any owner of a rental building or structure to lease, let, rent or permit the occupancy and use as a rental building or structure, without first having obtained a valid Rental Permit from the City of Canandaigua as provided herein.

- B. It is a violation of the Chapter to provide false, misleading, or inaccurate information on the Rental Registration form.

**§560-11. Levies Upon Real Property.**

All rental permit fees, reinspection fees, administrative costs and legal costs incurred by the City of Canandaigua in the enforcement of this Chapter may be collected by an assessment or levy placed against the real property to be collected as a property tax or by judgment entered against the owner personally or against the real property.

**§560-12. Abatement of Violations.**

- A. It shall be unlawful for any person, firm or corporation to use or occupy any building, structure or part thereof in a manner not permitted by this Chapter.
- B. Appropriate action and proceedings may be taken at law or in equity to prevent illegal occupancy of a building, structure, or premises and these remedies shall be in addition to penalties otherwise prescribed by law.
- C. Whenever the Code Enforcement Officer has notified a property owner in writing of any violation of this Chapter, and within two years of that written notification a subsequent notice of violation or order of violation is issued to the same property owner for a violation of this same Chapter then a repeat inspection fee may be assessed for each subsequent notice of violation or order of violation that is sent to the property owner by the Code Enforcement Officer by certified mail.

**§560-13. Filing of Notice.**

Appeals by an aggrieved person of any determination or action of a Code Enforcement Officer may be taken to the City Zoning Board of Appeals pursuant to §850-18. A notice of appeal shall be filed with the Code Enforcement Officer within 15 days of the date of service of the notice of violation.

**§560-14. Penalties for Offenses.**

A. Any property owner, who commits or permits any acts in violation of any of the provisions of this Chapter or fails to comply with the provisions thereof shall be deemed to have committed an offense against such Chapter and also be liable for any such violation or penalty. Each day such violation shall continue or be permitted to exist shall constitute a separate violation.

B. For every violation of any provision of this Chapter, the person violating the same shall be subject to a fine of not more than \$250 and/or 15 days in jail for each such offense. Such penalty shall be collectible by and in the name of the City for each day that such violation shall continue.

C. In addition to the above-provided fine, the City of Canandaigua may also maintain an action or proceeding in the name of the City in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of such chapter, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

**§560-15. Legal Actions to Enjoin.**

In addition to the penalties provided in this Chapter, when any dwelling, building or structure is used or occupied in violation of any section of this Chapter, the City may bring suit in an appropriate court of competent jurisdiction to:

- A. Prevent the occupation of the dwelling, building or structure;
- B. Prevent any other violation of this chapter; and
- C. Obtain a judgment for costs and expenses to enforce this Chapter.

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

**Local Law:**

**Local Law #2013-001:** *(Introduced and tabled at the August 1<sup>st</sup> Council meeting)*

**Local Law No. 2013-001  
City of Canandaigua, County of Ontario  
A Local Law Authorizing A Property Tax Levy In Excess Of The Limit  
Established In General Municipal Law §3-C**

**Lift from table:** Councilmember Ward 3 White moved to lift Local Law 2013-001 from the table. Councilmember-at-Large Taylor seconded the motion.

*Vote Result: Carried unanimously by voice vote*

**Adoption:** Councilmember Ward 3 White moved for the adoption of Local Law 2013-001. Councilmember-at-Large Taylor seconded the motion.

The motion CARRIED UNANIMOUSLY on the following vote:

**AYES:** Councilmember Ward 1 Whitcomb, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Bucci, Councilmember-at-Large Taylor, Councilmember-at-Large Terwilliger, Councilmember-at-Large Reston and Mayor Polimeni.

**NOES:** None.

**Bills:** Councilmember-at-Large Terwilliger reviewed the bills paid for August

**Manager's Report:**

City Manager David R. Forrest report: No report

**Miscellaneous:**

Mayor Polimeni asked each Councilmembers to talk about any personal observations or comments.

**Executive Session: 7:58:52 PM**

Councilmember-at-Large Taylor moved to close the regular meeting to go into Executive Session at 8:00 PM to discuss the employment history of a particular person and pending litigation. Councilmember Ward 3 White seconded the motion.

*Vote Result: Carried unanimously by voice vote*

Councilmember-at-Large Reston moved to close the executive session and return to the regular meeting at 9:00 PM. Councilmember Ward 4 Wade seconded the motion.

*Vote Result: Carried unanimously by voice vote.*

**Regular Session:**

Councilmember Ward 1 Whitcomb moved to adjourn the regular session at 9:00 PM. Councilmember-at-Large Terwilliger seconded the motion.

*Vote Result: Carried unanimously by voice vote*

---

Nancy C. Abdallah  
City Clerk-Treasurer