

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING  
THURSDAY, AUGUST 2, 2018 7:00 P.M.  
City Council Chambers  
City Website: canandaiguanewyork.gov

**Pledge of Allegiance:**

**Roll Call:**

**Members Present:** Councilmember Ward 1 Nick Cutri  
Councilmember Ward 2 Robert Palumbo  
Councilmember Ward 3 Karen White  
Councilmember Ward 4 Renée Sutton  
Councilmember-at-Large Robert O'Brien  
Councilmember-at-Large James Terwilliger  
Councilmember-at-Large Stephen Uebbing  
Councilmember-at-Large David Whitcomb  
Mayor Ellen Polimeni

**Also Present:** City Manager John D. Goodwin  
City Clerk-Treasurer Nancy C. Abdallah  
Corporation Counsel Terence Robinson, Boylan Code  
Assistant City Manager Rob Richardson

Mayor Polimeni asked for a moment of silence for Carl Miller, a former City Councilmember who passed away in July.

Councilmember Ward 4 Sutton moved to amend the Council Agenda to add three additional items to the agenda. Councilmember Ward 3 White seconded the motion.

*The motion CARRIED on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing and Mayor Polimeni.*

*NOES: Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb*

**Review of Community Core Values:** Councilmember-at-Large Uebbing read 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:**

July 5 2018 Moved: Councilmember-at-Large Terwilliger  
Seconded: Councilmember-at-Large Uebbing  
*Vote Result: Carried unanimously by voice vote (9-0)*

July 10, 2018 (Special Council Meeting)  
Moved: Councilmember-at-Large Terwilliger  
Seconded: Councilmember-at-Large Uebbing  
*Vote Result: Carried unanimously by voice vote (9-0)*

**Recognition of Guests:**

- Fire Chief Frank Magnera was congratulated on behalf of the City of Canandaigua Fire Department for being honored at the 100th Department Convention in Rochester as the New York State American Legion's Fire Department of the Year.

**Committee Reports:**

*Committee of the Whole:* July 31, 2018 (Appendix A)

- RG&E Streetlight Authorization
- Street Reconstruction Design Amendment
- Capital Budget Amendment – Lift for Central Garage
- Special Event- 2nd Annual Canandaigua End of Summer Spectacular
- Temporary Waste Water Treatment Plant Operator Position

*Fire Study Presentation:* July 31, 2018 (Appendix A)

- Center for Public Safety Management (CPSM) Fire Operational & Analysis Presentation

**Public Hearing on Ordinance 2018-007** Amending Chapter 850 of the Municipal Code Entitled “Zoning” Regarding Window Signs in the Business Improvement District

Mayor Polimeni opened the public hearing at 7:14 PM.

No one was present to speak at the public hearing.

Mayor Polimeni closed the public hearing at 7:16 PM.

**Resolutions:**

**Resolution #2018-068**

Moved: Council Member Ward 1 Cutri

Seconded: Councilmember-at-Large Whitcomb

**A RESOLUTION AGREEING TO PURCHASE STREET LIGHTS FROM ROCHESTER GAS & ELECTRIC**

**WHEREAS**, the City has been working toward the purchase of all street lights within the City from Rochester Gas and Electric (RG&E) with the goal of converting them to LED; and

**WHEREAS**, this process began last year with selection of SmartWatt to be the City’s energy performance contractor; and

**WHEREAS**, RG&E recently provided the requested Street Light Facilities Sales Proposal to purchase of the street light inventory within the City (1,138 cobra-head and decorative fixtures) for a total cost of \$196,134 which was significantly lower than the original estimated cost; and

**WHEREAS**, the project will be financed via a performance contract in accordance with Article 9 of New York State Energy Law; and

**WHEREAS**, at its June 7<sup>th</sup> meeting, City Council passed Resolution #2018-053 accepting RG&E’s proposal and authorized the City Manager to execute a letter of intent; and

**WHEREAS**, Staff recommends authorizing the attached agreement to purchase the streetlights from RG&E subject to approval by the New York State Public Service Commission; and

**WHEREAS**, this recommendation was reviewed at the July 31<sup>st</sup> Committee of the Whole meeting;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Canandaigua hereby authorizes the City Manager execute an agreement with Rochester Gas and Electric for the City's purchase of the street light inventory within the City (1,138 cobra-head and decorative fixtures) for a total cost of \$196,134 in substantially the same form as attached hereto.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

**Resolution #2018-069:**

Moved: Councilmember-at-Large O'Brien

Seconded: Council Member Ward 2 Palumbo

**A RESOLUTION AUTHORIZING A STREET RECONSTRUCTION DESIGN AMENDMENT**

**WHEREAS**, at its July 5<sup>th</sup> Meeting, City Council passed Resolution #2018-060 awarding a contract to Hunt Engineering for engineering services to complete the design of the proposed 2019 multiple streets reconstruction project and provide full-time observation during construction; and

**WHEREAS**, the funding (\$63,000) was appropriated from the General Fund Capital Reserve, however the project involves replacement of water and sewer systems meaning the cost for design is must be spread appropriately across the General Fund, Water Fund and Sewer Fund; and

**WHEREAS**, further, in order to complete the design work, a subsurface structural investigation is necessary and the costs (\$25,000) were included in the Construction Support portion of the bid price and needs to be added to the funding; and

**WHEREAS**, as such, the resolution awarding the contract to Hunt needs to be amended to appropriate an additional \$25,000 and split amongst the aforementioned funds; and

**WHEREAS**, Staff recommends 50% of the cost go to the General Fund (\$44,250), and 25% of the cost go to both the Water (\$22,125) and Sewer Funds (\$22,125) respectively; and

**WHEREAS**, this recommendation was reviewed at the July 31<sup>st</sup> Committee of the Whole meeting;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council for the City of Canandaigua hereby amends Resolution #2018-060 awarding a contract to Hunt Engineering to distribute the cost appropriately across the General Fund, Water Fund and Sewer Fund with 50% of the cost go to the General Fund (\$44,250), and 25% of the cost go to both the Water (\$22,125) and Sewer Funds (\$22,125) respectively.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

**Resolution #2018-070:**

Moved: Council Member Ward 2 Palumbo

Seconded: Councilmember-at-Large Uebbing

**A RESOLUTION AUTHORIZING A CAPITAL BUDGET AMENDMENT**

**WHEREAS**, the lifts for Central Garage utilized to raise vehicles and trucks for repair, which are nearly thirty years old, recently failed and need to be replaced; and

**WHEREAS**, an amendment to the Capital Budget is required to fund the purchase; and

**WHEREAS**, Staff received quotes from three vendors, with the lowest quote being submitted by SEFAC, U.S.A. Inc. located at 381 Nina Way in Warminster, PA for \$27,779 plus \$1,595 for freight resulting in a total purchase of \$29,374; and

**WHEREAS**, Staff is recommending appropriating \$30,000 from Capital Reserve to the Capital Fund to purchase the required replacements; and

**WHEREAS**, this recommendation was reviewed at the July 31<sup>st</sup> Committee of the Whole meeting;

**NOW, THEREFORE, BE IT RESOLVED**, the City Council for the City of Canandaigua hereby amends the Capital Budget and appropriates \$30,000 from Capital Reserve to the Capital Fund to purchase new lifts for Central Garage.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O'Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

**Resolution #2018-071**

Moved: Councilmember Ward 4 Sutton

Seconded: Councilmember Ward 3 White

**A RESOLUTION AUTHORIZING A SPECIAL EVENT:  
2<sup>ND</sup> ANNUAL CANANDAIGUA END OF SUMMER SPECTACULAR**

**WHEREAS**, the City Council of the City of Canandaigua has received the following application for a special event in the City of Canandaigua:

- *2<sup>nd</sup> Annual Canandaigua End of Summer Spectacular*

Date: August 18, 2018

Location: Park Avenue, Canandaigua, NY

Coordinator: George Newton

Time: 12-8 p.m.

Purpose: Talent Showcase/ Community Engagement

Expected Number of Participants: 100

**WHEREAS**, this request was reviewed and approved at the July 31, 2018 Committee of the Whole meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that permission is granted to hold the above-mentioned special event at the time and location listed under the following conditions:

- 1) that no fee or admission shall be charged to the general public for admission to the special event; 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 coordinator will ensure that all tents that are required to be inspected will be inspected prior to the start of the special event; 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 organizer of the Special Event 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 #2018-072:**

Moved: Councilmember Ward 3 White

Seconded: Council Member Ward 2 Palumbo

**A RESOLUTION CREATING A TEMPORARY  
CHIEF WASTE WATER TREATMENT PLANT OPERATOR POSITION**

**WHEREAS**, with the retirement of Will Clark, who operated the Waste Water Treatment Plant for over 35 years, the City hired a new Chief Plant Operator; and

**WHEREAS**, due to the timing and Civil Service rules and regulations, there was no opportunity for an overlap for training; and

**WHEREAS**, the WWTP is about to start the engineering for the effluent disinfection project and Will's extensive knowledge of the plant will be helpful in supporting this project; and

**WHEREAS**, Staff recommends creating a Temporary Chief Waste Water Treatment Plant Operator position to allow us to bring Will back to train the new Chief Waste Water Treatment Plant Operator as well as assist with the effluent disinfection project ensuring a smooth transition at this critical position as well as successful execution of the project; and

**WHEREAS**, it should be noted that the position cannot exceed 90 days and that there is sufficient funding in existing appropriations within the Sewer Fund; and

**WHEREAS**, this recommendation was reviewed at the July 31<sup>st</sup> Committee of the Whole meeting;

**NOW, THEREFORE, BE IT RESOLVED**, the City Council for the City of Canandaigua hereby authorizes the creation a Temporary Chief Waste Water Treatment Plant Operator position.

Discussion:

*Councilmember Ward 4 Sutton is not in favor of this resolution because this was not an unanticipated retirement and therefore staff should have had a plan for this such as redundancy of skills and manuals prepared so we do not have to bring staff back after retirement at an additional expense.*

*Mayor Polimeni explained that the City Manager indicated that due to vacation plans of the retiring employee, there was no time to train the new employee when he started.*

*City Manager John D. Goodwin also explained that he will also be working on the effluent disinfection project which was started under his tenure.*

*Councilmember-at-Large Uebbing stated that in his own experience with retirements, it is often desirable to have overlap in positions, especially one that is highly technical in nature.*

*Councilmember Ward 3 White asked if we would have still had this expense if the training was done before Will left?*

*City Manager John D. Goodwin explained that yes, we would have incurred at least 2 weeks of overlap as allowed by Civil Service. This 140-hr. request for a temporary position is a little longer than normally allowed by Civil Service.*

*Stefania Campagna, Jefferson Ave – Normally in job positions someone else knows it so she does not understand expanding two weeks to 90 days. How would the plant operate normally if this person is sick or on vacation? This feels like a waste of money to expand this to 90 days.*

*City Manager John D. Goodwin, explained that there are other operators in the plant but there are aspects of the plant and institutional knowledge that Will has that will be helpful to the new Chief operator. There also is a special project that he will be working on.*

*Councilmember-at-Large Whitcomb explained that there are only six employees in the plant to begin with which does not leave a lot of people to cross train and fill a void for a 35-year employee.*

*Councilmember-at-Large Terwilliger stated that this request is about 3.5 weeks and seems very reasonable.*

*City Manager John D. Goodwin further explained that this will be funded out of the seasonable budget that was not used in anticipation of this retirement.*

*The motion CARRIED on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember-at-Large O'Brien, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: Councilmember Ward 4 Sutton*

**Resolution #2018-073:**

Moved: Council Member Ward 2 Palumbo

Seconded: Councilmember Ward 4 Sutton

**A RESOLUTION AMENDING THE 2018 ADOPTED BUDGET FOR FIRE DEPARTMENT STAFFING**

**WHEREAS**, the City Charter prohibits the City Council or any of its members from controlling or demanding the appointment or removal of any City employee whom the City Manager is empowered to appoint, but allows for the City Council to express its views and fully and freely discuss with the City Manager anything pertaining to appointment of employees; and

**WHEREAS**, the 2018 Adopted Budget included funding, as recommended by the City Manager, for a Deputy Fire Chief position; and

**WHEREAS**, in February, the City Manager recommended hiring a firefighter instead of a Deputy Fire Chief; and

**WHEREAS**, the position has remained vacant as it is part of the local match requirement of the Staffing for Adequate Fire and Emergency Response (SAFER) grant application submitted to hire five firefighters to bring the total staffing of the Fire Department to 14; and

**WHEREAS**, the collective bargaining agreement with the Canandaigua Firefighters Association expired on December 31, 2016 and a successor agreement has not yet been agreed to resulting in salary and benefits for new hires undetermined; and

**WHEREAS**, although City Council understands and agrees with the reasoning behind leaving the funded position vacant, the City Council wishes to express its commitment to addressing the Fire Department staffing issue, by funding another position and requesting that the City Manager appoint qualified individuals pursuant to Civil Service Law as soon as practicable to both positions; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council for the City of Canandaigua hereby appropriates \$30,000 from the contingency to fund a new firefighter position salary and health insurance for the last five months of the year; and

**BE IT FURTHER RESOLVED**, the City Council hereby authorizes the appointment of a firefighter in lieu of a Deputy Fire Chief; and

**BE IT FURTHER RESOLVED**, the City Council, in accordance with the City Charter, expresses its view that the City Manager appoint qualified individuals pursuant to Civil Service Law, rules and regulations as soon as practicable to both positions.

Discussion:

*Council Member Ward 2 Palumbo: We had approved money in the budget for an additional firefighter which we should hire as soon as possible. He understands that the 10<sup>th</sup> position was in the budget and used for the SAFER grant and thought it would really show an effort on behalf of the City if we went ahead and hired for this position.*

*City Manager John D. Goodwin: If we say we are doing “xyz” for the grant and then go ahead and do “xyz”, before we are awarded the grant, then it is not eligible for the grant after the award. We would have to re-appropriate funds for our share of the 5 firefighters hired with the grant. This resolution was written to add an 11<sup>th</sup> firefighter, appropriate additional funds for the position and change the deputy Chief position to a firefighter.*

*Council Member Ward 2 Palumbo: The Town will then pay for a 12<sup>th</sup> position. City Manager John D. Goodwin said that although the Town Supervisor indicated his intent to fund a firefighter the Town Board had not approved funding for an additional firefighter.*

*Councilmember-at-Large Uebbing: If we don't get the SAFER grant we should hire the additional FF, but we should wait for the grant decision and although we will have a solution in the near future, we need to be careful on how we move forward.*

*Councilmember-at-Large Whitcomb: The staff recommended that we hire a deputy chief but it was since changed to a firefighter position and that position was used for the SAFER grant. We then will need to budget an additional \$30,000 for this firefighter after we just spent ½ hour on \$5,700 of expenditures due to a vacancy in the Wastewater Plant. We also have not finalized the union contract which would affect the benefits for any new employees. We should stick to the plan that was laid out.*

*Councilmember Ward 4 Sutton: It was not part of the understanding that the firefighter was linked to the SAFER grant when the decision was made to change the Deputy Chief position to a firefighter. Since we ultimately need 18 plus a Chief, we will have plenty of opportunity to add to our own staff so I am not worried about compromising the SAFER grant.*

*Council Member Ward 2 Palumbo: Resolution 2018-074 was initiated to carry on the discussion from Tuesday night. The City would hire Firefighter 10 and 11, the Town would fund a 12<sup>th</sup> firefighter and with the 5 hired with the SAFER grant it would bring us to 17 firefighters. We also need to add firefighters now to cover retirements. The SAFER grant cannot be used to cover retirements so we will still need to add firefighters. Adding the 11<sup>th</sup> firefighter now will help offset future retirements.*

*Mayor Polimeni: Knowing we are to hear about the SAFER grant soon, can we leave this as is until then. We can include the 10<sup>th</sup> position with the 11<sup>th</sup> position after we hear about the grant.*

*Council Member Ward 2 Palumbo: What would be wrong if we hire the 11<sup>th</sup> firefighter but leave the 10<sup>th</sup> position for the SAFER grant.*

*Councilmember-at-Large Uebbing: I was hoping that tonight we would be talking about operationalizing the recommendations set forth in the study and put together a joint operations committee with the Town. We need to create a unified plan complete with a funding mechanism. We need to understand the tax consequences and address other areas of the budget such as increasing or decreasing service levels that will have an effect on our budget*

*Council Member Ward 2 Palumbo: Do we need another plan? This has been going on so long. Hiring a firefighter shows the Town we are moving forward with this.*

*Councilmember-at-Large Terwilliger: I agree with Steve that we need a plan. The Town has stepped up without our urging so we should not go on our own. The Town wants to be our partner so we need to develop the strategy with the Town.*

*Councilmember-at-Large Whitcomb: I am not in support of this resolution and agree we need a plan and work with the Town on the plan. We had a plan in 2009 but personally think it failed. We needed to increase people with volunteers but that did not happen.*

*Mayor Polimeni: Thanked Bob for putting forth these resolutions for discussion. We know we need to add firefighters.*

*Councilmember-at-Large Uebbing: I think it's dangerous having one firefighter at each station. My sense is to get to 3 firefighters on duty as soon as possible. The need to get to two in and two out is the goal to ensure our employee's safety when they put their lives on the line.*

*Councilmember Ward 4 Sutton: Moving forward as soon as possible? There was even opposition to the SAFER grant so I do not have a lot of faith in what the Council will do.*

*Council Member Ward 2 Palumbo: What more of a plan do we need? Two studies have showed that that we need more firefighters. We should not touch the 10<sup>th</sup> firefighter position but approve the 11<sup>th</sup>. Given the retirements next year we need to add someone now.*

*Councilmember-at-Large O'Brien: We are playing with semantics when we start numbering firefighter positions. We should not change the numbers already given to the government for the grant. There are numerous other recommendations in the report we should discuss.*

*Councilmember-at-Large Uebbing: What message will this send if we vote this down? We should not vote on this now but should be ready to implement all the recommendations, not just staffing.*

*Mike Yarger, Rochester NY and property owner: Staffing has been at critical condition for many years but nothing ever gets done. There are firefighters ready to retire so the Council needs to step up and start hiring. The Council has a responsibility to ensure the safety of the community and the firefighters.*

*Ryan Wilmer, Parrish St: Data collection from the 911 was appalling. There is only one dispatcher per shift for fire and we need to work with the County to improve this.*

*Eric Cooper, Hubble St.: Hesitant in believing City Council because we need to hire more firefighters but have seen no action. Regardless of the other recommendations, the one that is most important is staffing and the need to hire more firefighters. We should not worry about the Town because we can't support ourselves right now. Give us a deadline for having a plan.*

*Lee DeRuyter, Canandaigua Firefighter: The 10<sup>th</sup> position was in the budget and asked what happened to that position. We were told it was included as part of the SAFER Grant but there were some councilmembers who did not remember that was supposed to happen. Something happened that was not authorized by Council. The SAFER grant does not "number" positions but is for 5 positions. There is funding for a firefighter in the budget and what better way to show good faith than to hire for that position.*

*George Smith, West Ave.: Nobody has asked the Chief about hiring the 10 position. You cannot staff 24 hours with 9 firefighters. The 10<sup>th</sup> position would fill holes in the schedule now and would add someone to respond to fires. I wrote many grants for the City and I do not remember that the grant would care if you hired a firefighter now.*

*Stefania Campagna, Jefferson Ave: Agree with what others have said about the need for more firefighters. There are a lot of holes in this fire study and the money spent on it could have been put toward a new firefighter.*

*Council Member Ward 2 Palumbo read Resolution 2018-073 and moved for its adoption. Councilmember Ward 4 Sutton seconded the motion.*

*Councilmember Ward 3 White: Thanked everyone for their comments. I attended the meeting on the fire study and have a lot of questions. We need to get a better handle on the numbers and the overall plan for our community.*

*Councilmember-at-Large Terwilliger: We need to develop a plan with the Town as our partner. We wanted to add a person the day shift as a way to give us the greater protection when its needed. We need to look into different shift arrangements.*

*Mayor Polimeni: I am in support of this resolution because we are going to hire a firefighter. This will send a message to the public that we are serious. We know we need a plan and sill work with the Town to make this happen.*

*Motion: Councilmember-at-Large Whitcomb moved to table Resolution 2018-073. Councilmember Ward 3 White seconded the motion:*

*The motion CARRIED on the following vote:*

*AYES: Councilmember Ward 3 White, Councilmember-at-Large O'Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing and Councilmember-at-Large Whitcomb*

*NOES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 4 Sutton and Mayor Polimeni.*

*Council Member Ward 2 Palumbo withdrew Resolution 2018-074.*

## **Resolution #2018-074: Resolution Withdrawn**

### **A RESOLUTION EXPRESSING INTENT IN REGARD TO FIRE DEPARTMENT STAFFING**

**Ordinances:**

**Ordinance #2018-007:**

**AN ORDINANCE AMENDING CHAPTER 850  
OF THE MUNICIPAL CODE ENTITLED “ZONING”  
Regarding Window Signs  
In the Business Improvement District**

*Lift from the Table:*

Moved: Councilmember-at-Large Whitcomb

Seconded: Council Member Ward 1 Cutri

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

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*Vote on ordinance:*

Moved: Councilmember-at-Large Whitcomb

Seconded: Council Member Ward 1 Cutri

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, Councilmember Ward 3 White, Councilmember Ward 4 Sutton, Councilmember-at-Large O’Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing, Councilmember-at-Large Whitcomb and Mayor Polimeni.*

*NOES: None*

**Ordinance #2018-008:**

Councilmember Ward 3 White read the following ordinance and a statement in support, 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 Laws: (None)**

**Manager's Report:** City Manager John Goodwin reported the following:

- We have had a couple of pedestrian accidents downtown recently and reminded motorists to pay attention to pedestrians and for pedestrians to pay attention to the vehicles before crossing the street.

**Appointments:** None

**Miscellaneous:**

**Executive Session:**

Councilmember Ward 4 Sutton moved to close the regular meeting to go into Executive Session at 9:26 PM to discuss contract negotiations. Council Member Ward 2 Palumbo seconded the motion.

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

**Regular Session:**

Councilmember Ward 4 Sutton moved to close the executive session and return to the regular meeting at 10:07 PM. Council Member Ward 2 Palumbo seconded the motion.

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

**Adjournment**

Councilmember Ward 4 Sutton moved to adjourn the regular session at 10:07 PM. Council Member Council Member Ward 2 Palumbo seconded the motion.

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

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Nancy C. Abdallah, Clerk Treasurer  
City of Canandaigua

**APPENDIX A**  
**CITY COUNCIL COMMITTEE OF THE WHOLE**  
**Tuesday, July 31, 2018**  
**6:00 P.M.**  
**Wood Library- Mary Parmele Hamlin Room**

**Committee:** Ellen Polimeni, Mayor

Nick Cutri (absent)	Robert O'Brien
Bob Palumbo	Jim Terwilliger
Karen White	Steve Uebbing
Renée Sutton	Dave Whitcomb

**Staff:** John D. Goodwin, Rob Richardson, Frank Magnera, Jim Sprague

**6:00-7:00 pm:**

**1. RG&E Streetlight Authorization**

At its June 7<sup>th</sup> meeting, City Council passed Resolution #2018-053 accepting the Street Light Facilities Sales Proposal from RG&E and authorized the execution of a letter of intent to purchase of the street light inventory within the City (1,138 cobra-head and decorative fixtures) for a total cost of \$196,134. In order to move to the next step, Public Service Commission review, the City must execute purchase agreement which is contingent upon the Public Service Commission approval. Staff recommends authorizing the City Manager to execute the purchase agreement.

John gave a brief synopsis of the project and progress thus far. He referred Council to the spreadsheets included in the attachments showing the projects that would be completed as part of the performance contract. Dave asked if the price was still the same, and John said yes.

**Dave moved to accept the recommendation, Renée seconded.**

**8 in favor, 0 opposed. Motion carries to full City Council.**

**2. Street Reconstruction Design Amendment**

At its July 5<sup>th</sup> meeting, City Council passed Resolution #2018-060 awarding a contract to Hunt Engineering for engineering services to complete the design of the proposed 2019 multiple streets reconstruction project and provide full-time observation during construction. The funding (\$63,000) was appropriated from the General Fund Capital Reserve. However, because the project involves replacement of water and sewer systems, the cost for design is required to be spread appropriately across the General Fund, Water Fund and Sewer Fund. Further, in order to complete the design work, a subsurface structural investigation is necessary. The costs (\$25,000) were included in the Construction Support portion of the bid price and needs to be added to the funding. As such, the resolution awarding the contract to Hunt needs to be amended to appropriate an additional \$25,000 and split amongst the aforementioned funds. Staff recommends 50% of the cost go to the General Fund (\$44,250), and 25% of the cost go to both the Water (\$22,125) and Sewer Funds (\$22,125) respectively.

John provided a brief synopsis of the project thus far and explained the cost should have been separated among the three aforementioned funding sources. Jim explained why the additional \$25,000 is necessary to prevent the stone issues they experienced 4 years ago. Renée asked if other bids were received, and both John and Jim confirmed they were. Robert asked how they go about finding rocks, and Jim stated

they would drill bore holes to try and find potential obstructions. Robert asked if we can track these in the future, and Jim said the rocks will be on the project design drawings. John stated that even though they are doing these tests, there might still be rocks- they won't really know unless they break ground. Jim discussed the previous issues with Hunt to avoid a repeat of 2015.

**Robert moved to accept the recommendation, Bob seconded.**

**8 in favor, 0 opposed. Motion carries to full City Council.**

### **3. Capital Budget Amendment – Lift for Central Garage**

The lifts for Central Garage utilized to raise vehicles and trucks for repair have recently failed and need to be replaced. The current lifts are nearly 30 years old. An amendment to the Capital Budget is required to fund the purchase. Staff received quotes from three vendors, with the lowest quote being submitted by SEFAC, U.S.A. Inc. located at 381 Nina Way in Warminster, PA for \$27,779 plus \$1,595 for freight resulting in a total purchase of \$29,374. As such, Staff is recommending appropriating \$30,000 from Capital Reserve to the Capital Fund.

John provided a synopsis on the aforementioned situation. Renée asked what the useful life for this equipment is, and Jim said we've been lucky to get these to last this long. They were purchased in 1991 and have last 27 years. Dave asked if we considered adding these in the initial project, and Jim said yes. They were removed to keep the project under budget. They are now failing and need to be replaced now. Steve asked where the funding would come from, and John said the Capital Reserve. Steve asked where that would leave the reserve, and John said he would present that information at the next Finance Committee meeting.

**Dave moved to approve the recommendation, Renée seconded.**

Steve asked John if he could provide the information at Thursday's meeting instead, and he said yes.

**8 in favor, 0 opposed. Motion carries to full City Council.**

### **4. Special Event- 2<sup>nd</sup> Annual Canandaigua End of Summer Spectacular**

City resident George Newton has submitted an application for this event, which will be a block party type gathering held on the Park Avenue area Saturday, August 18<sup>th</sup> from 12-8 p.m. The event is intended showcase young talent from the community and include food trucks and a bounce house for children on private property. Although the event is advertised as the 2<sup>nd</sup> annual, it needs to go before City Council for approval because the inaugural Canandaigua End of Summer Spectacular was not held in the City. It should be noted that a petition is required to be submitted from 60% of the residents on the street being closed. At the time of this writing, a petition with signatures representing 22 residences have been submitted which is five (5) short of the requirement. Staff has requested that five (5) additional signatures be submitted. George Newton has been invited to the meeting to discuss the event and answer questions.

George Newton was at the meeting to discuss the event. He has been performing his entire life, and part of his mission in life is to allow young artists and actors to showcase their talent. This is essentially a glorified block party that is about the kids- no alcohol will be part of the event. He already has several local youth acts, including full bands, lined up to perform. There will be free popcorn and cotton candy for the kids, and there will be food trucks at the event. He has the required signatures and insurance in place and is requesting the City approve the permit he needs for the event. Renée asked if there will be a stage constructed, and George said he will place a small one on his lawn. Renée asked what his company affiliation is with the event, and George said there is none. His company only provides him the opportunity to do these types of events. There is no monetary gain in this, it's a passion project. Renée

asked if we need a safety inspection on the stage/risers, and John he would work out those details to ensure safety. George confirmed 100% of the neighborhood has been notified.

**Bob moved to approve the event, Karen seconded.**

**8 in favor, 0 opposed. Motion carries to Full City Council.**

##### **5. Temporary Waste Water Treatment Plant Operator Position**

With the retirement of Will Clark, who operated the Waste Water Treatment Plant for over 35 years, the City hired a new Chief Plant Operator. Due to the timing and Civil Service rules and regulations, there was no opportunity for an overlap for training. Further, the WWTP is about to start the engineering for the effluent disinfection project and Will's extensive knowledge of the plant will be helpful in supporting this project. Staff recommends creating a Temporary Chief Waste Water Treatment Plant Operator position to allow us to bring Will back to train the new Chief Waste Water Treatment Plant Operator as well as assist with the effluent disinfection project ensuring a smooth transition at this critical position as well as successful execution of the project. It should be noted that the position cannot exceed 90 days and that there is sufficient funding in existing appropriations within the Sewer Fund.

John explained the situation (see above), and we are hoping to bring in Will to help with the transition and affluent disinfection project. The Mayor asked if this is a civil service issue, and John said it is but those bases are covered. Dave asked if we considered bringing him back as an outside consultant, and John said we could do that but the position would be gone in 90 days anyway. Renée asked what the plan would have been if Will was not available, and John said we would continue to do what we are doing. Phil has the required qualifications and is learning from the Staff. Renée asked if he would be coming back at his original salary, and John said yes. He will only be paid his hourly rate for the ours he works at a \$38.52, and we only have enough funding for about 150 hours. Steve asked if there are any retirement conflicts, and John said he would not because he would be a part time employee. He would be well under the \$30,000 limit (roughly \$5,700). Bob asked if there had been any issues since Will left, and Jim said thus far the transition has gone smoothly. Will knows the affluent disinfection project inside and out which provides a huge benefit.

**Steve moved to approved the recommendation, Robert seconded.**

**8 in favor, 0 opposed. Motion carries to Full City Council.**

Karen brought up an issue she has discussed with John regarding noise at their worksite. They are in a neighborhood and have begun working way to early in the morning. He also mentioned we have little jurisdiction over the State, but he will contact them and see what he can do.

The Mayor mentioned there was another issue on West Lake Rd regarding a barge. John said he would look into it and try to figure out an issue. Renée asked about the birds abandoning Squaw Island, and John has not heard anything new. Bob asked about the signage for public parking he requested, and John said he will work with Jim to make sure the lot has proper signage. The Mayor asked us about having a table at the St. Mary's festival with municipal information and is looking for Council Members to sit the table for a short time. The Mayor also stated she has gotten great feedback regarding last weekend's lake front arts festival. Steve said he saw it was well attended. Jim noted that the previous event planner now has an event in direct competition on the same weekend in Webster and wanted to know if there was any impact. The Mayor said she didn't think so, and that many of the vendors returned this year instead of switching to the event in Webster. The Mayor asked Jim to compliment his staff on the work they have

done at Kershaw Park. Jim asked if there was an update on the Dog Park, and he replied the fence is going up and they are working on resolving the driveway issue.

**Bob motioned to adjourn this portion of the meeting, Dave seconded.**

**The Mayor adjourned this portion of the meeting at 6:37 p.m.**

**7:00 pm:**

**6. Center for Public Safety Management (CPSM) Fire Operational & Analysis Presentation**

Earlier this year, both the City Council and the Town Board contracted with the Center for Public Safety Management (CPSM) to complete an analysis of the fire services-service delivery and fire staffing models of each entity (City and Town). As described in the report, “This analysis is designed to provide the City and Town with a thorough and unbiased review of services provided to the City by the Canandaigua Fire Department and those fire departments serving the Town.” Representatives from CPSM will be on hand to present their findings and answer questions regarding their recommendations.

Pete Finley from CPSM was at the meeting to present the finding of the study. After his presentation, questions were first taken from members of the Canandaigua Town Board and Canandaigua City Council.

After explaining his history with the fire department, Bob asked if a financial analysis was done regarding the City’s ability to pay. Pete confirmed he did not, and he made his statements based on what he heard while he was here. Renée asked whether or not our equipment is current based on Recommendation #5, and Pete said he felt like it was not. Frank pointed out we currently have the proper hoses and equipment, we just need more staffing. Renée also pointed out the recommendation that the City encourage employees to be firefighters as well. The Mayor asked for clarification on his staffing recommendations, and Pete stated he is trying to take into consideration the City’s ability to fund a larger department. In a perfect world we could hire what we need, but the City doesn’t appear to have the ability to fund 4 people on duty. He suggested incrementally adding staff to make it financially sustainable. She also asked if he had spoken with the Merrill’s at all, and Pete said he did not. Bob also questioned the wisdom of closing Station #2 because even though there are fewer calls in the area, there are still calls. This is also a rapidly growing area in the community, to which Pete replied that is a decision that Council will need to make. He believes having one properly manned station is better than having 2 undermanned stations. His recommendation would be to run a full crew out of Station #2- if the volunteer program works perhaps Station #2 could be where the live-in program operates. The Mayor asked about the regional approach recommendation, and whether or not other departments could be brought in. Also, this is a long-term vision. She asked Pete if he has seen this be successful where he lives, and he said no but pointed to the County wide EMS system in Gloucester NJ and that everything in Maryland and DC is done county wide. Dave asked why the VA was not more prevalent in the report, and what Pete’s thoughts were about having them provide more support. Pete said he thinks they are an excellent automatic aid resource but they can’t always be counted on for automatic response. Chief pointed out the last two times they were called the VA had a delayed response. Dave asked if that is on par with Crystal Beach and other units who have their own responsibilities, and Pete said they are a great resource to utilize. They are close and a guaranteed response, which are two benefits.

Mike Northrup stated he appreciates the education he provided the elected officials, but he asked about the training standards for volunteers in particular interior qualification not being part of Fire Fighter One. Ben pointed out there is no requirement for live burn in FF1, and if they miss that day they will still be qualified. Mike spoke to a State Fire Instructor who said live burn is part of FF1. Mike pointed out these

qualifications are all suggested are subjective because there is no State law requiring them. No Chief would put their guys in harm's way.

Sam Loiacono added his recommendations are things we have heard before and already utilize. He was at the Scotland Rd fire and requested help within 30 seconds but still needed to wait for support. Most of these recommendations don't give them the staff they need for an initial response, which is where they are running into dangerous situations. Between now and the time his recommendations are enacted is to hire more career firefighters now. Pete added this is a decision for the governing body to make. Pete feels his recommendations will get the department where they need to be, but ultimately funding comes from Council. He recommends they work towards 3 and maybe a 4<sup>th</sup>, but that comes down to what Council is willing to fund.

Renée added she expected the recommendations would be made based on risk assessment, not what Pete thinks we need to do. The recommendation for career firefighters is watered down, and she wanted to know if a financial analysis is usually disregarded during data collection.

Rebecca Flynn's father is a fallen firefighter for the City of Canandaigua. There is no amount of risk that is acceptable to put firefighters at risk, and they need to find more money for firefighters if that is what we need.

Susan McCarthy owned 22 Scotland Rd, and she is angry citizens are considered stakeholders. No City official has come to ask them what they think is appropriate. She would have been heartbroken had anyone been lost responding to her home and asking firefighters to do more with less is unacceptable. You staff for potential risk and injury in her profession of nursing, and if surgery operated like our fire department then the patient would be at risk. She is telling her City officials to fix this problem now.

Tim from the East Bloomfield Fire Department wants to know why if we need more firefighters why removing Bloomfield and Bristol is appropriate. Pete said he recommended they don't contract but thought they would still be part of the regional approach. He also wants to know who is covering his portion if they don't. Pete said if staffing levels are raised to what he suggested and the regional approach is utilized then it would be successful and others would want to participate. This is a long-term plan though. It's up to the governing bodies to decide how to move forward.

A woman who refused to give her name said this whole thing is ridiculous, because the community has been complaining about an understaffed fire fighting for years. Pete felt he addressed these concerns in his recommendations. Her issue is that the City paid for CPSM with tax payer money and that is a waste of her tax dollars.

Adam Fayville wants to know which truck we would take if both firefighters are at the same station, especially if there is a train. They often need multiple trucks at the scene and having everyone deploy on one piece of equipment prevents that from happening. Pete pointed out this is an operational decision, and he stands by his recommendations.

A woman wants to know what the time frame on making a decision on this, and she feels that if OSHA says we have 4 on staff then it is unacceptable that we don't. If they aren't properly staffed at her job they get shut down.

Greg Westbrook got up and offered two solutions- solutions he hasn't vetted with the entire town board or the Mayor. He would like Doug to amend the fire contract to say 2 people at station 1. This decision would need to go in front of the board in August, and he agrees we need action. He also proposed having

the town participate in helping the City resolve this issue, including asking Doug and John to work together to do a budget impact analysis regarding hiring 3 additional career firefighters to bring the number to 12 by February 1, 2019. He believes the town can back the cost to increase career staffing. He doesn't think this is a significant hit for town residents to absorb considering they have nearly a \$1.4 billion in assessed property. He doesn't want to hear about the past- he wants to move forward.

The Mayor added we met in February with the goal of working with the Town to address these issues, and this study has provided a road map to move forward. She understands the need for additional firefighters, but how is it accomplished with the least impact on the community. She wants Doug, John and Frank to sit down and look at what it is going to take to start moving forward. She pointed out the people on City Council are willing to listen to residents. This cannot be solved overnight, and it will take a little time to come to conclusions on how to move forward. She feels the volunteer issue is one we should continue to look at because we are a combination department. Hopefully we will be able to move forward with this data to find viable solutions.

George Smith's son asked why there were layoffs if they need more firefighters. The Mayor said it was a financial issue.

Nate the Chief from Bristol wanted to know where his 2014-2016 numbers came from, because his numbers don't jive with Pete's numbers. Frank added he got the information from the County 911 center but did not provide numbers for other departments. Nate says their numbers don't match with Bristol's records. He is also frustrated by the recommendation to eliminate their contract, because he can be there in 9 minutes but the City can't. He also pointed out this could impact people's home owner's insurance rates. Pete restated he stands by his recommendations and that it is up to the governing body to make those decisions.

Kevin asked if response time bleeds were based on national averages and Pete said yes. Bob added that residents should attend City Council meeting Thursday and as many future meetings as possible.

**The Library closed at 9:00 p.m., and after several prompts from library staff the Q & A and meeting adjourned at 9:07 p.m.**