

MINUTES OF THE CANANDAIGUA CITY COUNCIL MEETING
THURSDAY, OCTOBER 4, 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
Mayor Ellen Polimeni

Members Absent: Councilmember-at-Large David Whitcomb (Arrived at 7:03 PM)

Also Present: City manager, John Goodwin
City Clerk-Treasurer Nancy C. Abdallah
Corporation Counsel Terence Robinson, Boylan Code

Public Hearing on Local Law 2018-001: A 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 7:16 PM.
No one was present to speak at the public hearing.
Mayor Polimeni closed the public hearing at 7:17 PM.

Review of Community Core Values: Council Member Ward 1 Cutri 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:

August 2, 2018 Moved: Councilmember-at-Large Terwilliger
Seconded: Councilmember-at-Large Uebbing
Vote Result: Carried unanimously by voice vote (9-0)

September 6, 2018 Moved: Councilmember-at-Large Terwilliger
Seconded: Councilmember-at-Large Uebbing
Vote Result: Carried unanimously by voice vote (9-0)

Recognition of Guests:

Joel Freedman, North Main St. – Spoke in regards to the hate crime that was committed in the City of Canandaigua and urged Council to do something beyond the police investigation. City Council should consider sending a statement to the two young ladies who were a victim to such crime. He also spoke about

the pesticide ordinance and is upset because it appears that the City does not really want to enact this. The questions raised about the legality of this ordinance is not right and City residents are being poisoned, in the air we breathe and the water we drink.

Denise Chaapel – Downtown Manager for the BID talked about the events coming up and new businesses opening on Main street.

Committee Reports:

Ordinance/PUD Committee Meeting: September 18, 2018 (Exhibit A)

- Ordinance Regarding Pesticides in the Right-of-Way
- Short Term Rental Ordinance
- Phoenix Street Closing

Paper Straws

Planning/Development Committee Meeting: October 2, 2018 (Appendix B)

Finance/Budget Committee Meeting: October 2, 2018 (Exhibit B)

- Capital Equipment – Compact Wheeler Loader
- Capital Equipment - Lifts for Central Garage Purchase
- Dog Park Discussions
- Budget Amendment for WWTP
- Concerns on uneven road surfaces on South Main St.

Environmental/Parks Committee Meeting: No Meeting

Resolutions:

Resolution #2018-087

Moved: Council Member Ward 1 Cutri

Seconded: Councilmember-at-Large Uebbing

A RESOLUTION SETTING THE TIME AND PLACE FOR A PUBLIC HEARING ON ORDINANCE #2018-010 AMENDING CHAPTER 850 OF THE MUNICIPAL CODE ENTITLED “ZONING” REGARDING “SHORT TERM RENTALS”

WHEREAS, at its May 3rd meeting, City Council adopted Ordinance #2018-001 amending Chapter 850 of the Municipal Code Entitled “Zoning” Regarding “Short Term Rentals” to require all short-term rental properties to adhere to similar safety and regulatory standards as traditional bed and breakfast establishments; and

WHEREAS, after receiving community feedback, the City of Canandaigua is contemplating further amendments to Chapter 850 of the Municipal Code regarding short-term rentals; and

WHEREAS, making amendments to the Municipal Code requires that a public hearing be held to obtain citizen comments;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Canandaigua that a public hearing regarding the proposed amendments to Chapter 850 of the Municipal Code 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 November 1, 2018; and

BE IT FURTHER RESOLVED, that the City Clerk shall cause notice to be given and published as required by law.

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

Resolution #2018-088:

Moved: Councilmember-at-Large O'Brien
Seconded: Councilmember Ward 4 Sutton

A RESOLUTION AUTHORIZING THE PURCHASE OF A COMPACT WHEEL LOADER

WHEREAS, at its April 5th meeting, City Council passed Resolution #2018-026 amending the Capital Budget to purchase a mini pay loader (aka compact wheel loader) for an amount not to exceed \$38,500; and

WHEREAS, after receiving bids for the similar machines, Avant 528LX, MultiOne 5.2 and MultiOne 7.2 respectively, with the lowest bid received for the MultiOne 5.2 at a total cost of \$34,659, staff compared the product specifications and found that the MultiOne 5.2 did not meet the bid specifications;

WHEREAS, after testing both the Avant 528LX and the MultiOne7.2, City Staff recommends purchasing the MultiOne 7.2, the lowest responsible bid received from Martin's Power Equipment, located at 1506 Routes 5 & 20 in Geneva, New York for a total cost of \$36,790; and

WHEREAS, this proposal was reviewed and approved at the joint meeting of the Planning/Development and Finance/Budget Committees held October 2nd;

NOW, THEREFORE, BE IT RESOLVED, City Council hereby authorizes the purchase of the MultiOne 7.2 compact wheel loader from Martin's Power Equipment for an amount not to exceed \$36,790.

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 #2018-089:

Moved: Council Member Ward 2 Palumbo
Seconded: Council Member Ward 1 Cutri

A RESOLUTION AUTHORIZING THE PURCHASE OF LIFTS FOR CENTRAL GARAGE

WHEREAS, at its August 2nd meeting, City Council passed Resolution #2018-070 amending the Capital Budget and appropriating \$30,000 from Capital Reserve to the Capital Fund to purchase new lifts for Central Garage; and

WHEREAS, Staff subsequently went out to bid to purchase the lifts with only two vendors returning bids; and

WHEREAS, the lowest responsible bid was submitted by SEFAC USA, Inc., located at 381 Nina Way in Warminster, PA for \$27,779 for the lifts plus \$1,595 for freight resulting in a total purchase of \$29,374; and

WHEREAS, Staff recommends awarding the contract for the purchase of the lifts for Central Garage to SEFAC USA, Inc.; and

WHEREAS, this proposal was reviewed and approved at the joint meeting of the Planning/Development and Finance/Budget Committees held October 2nd;

NOW, THEREFORE, BE IT RESOLVED, City Council hereby authorizes the purchase of new lifts for Central Garage from SEFAC USA, Inc. for an amount not to exceed \$29,374.

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 #2018-090

Moved: Councilmember Ward 4 Sutton

Seconded: Councilmember Ward 3 White

Amendment: Councilmember-at-Large Terwilliger moved to amend the resolution to make the veteran and military discount to City and Town residents only. Councilmember-at-Large O'Brien moved to second 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 O'Brien, Councilmember-at-Large Terwilliger, Councilmember-at-Large Uebbing and Mayor Polimeni.

NOES: Councilmember-at-Large Whitcomb

Amendment: Councilmember-at-Large Terwilliger moved to amend the resolution to indicate that the annual fee paid in 2018 will be good for the entirety of 2019. Councilmember-at-Large O'Brien seconded the motion.

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

**AMENDED
RESOLUTION #2018-090**

**A RESOLUTION ESTABLISHING A FEE STRUCTURE FOR
CANANDAIGUA CANINE CAMPUS**

WHEREAS, Canandaigua Canine Campus (CCC), a volunteer organization, has been working towards building a dog park for the City of Canandaigua; and

WHEREAS, the advisory committee responsible for developing the project determined the best approach would be to create a membership dog park ensuring only registered dogs and their owners are permitted to use the space significantly reducing health and safety risks for both dogs and their owners; and

WHEREAS, the membership model requires park users to annually register their dogs, provide a valid dog license and proof of vaccination(s) and pay a fee that helps to underwrite park operation costs; and

WHEREAS, CCC has recommended a fee structure of \$30 per dog for City of Canandaigua and Town of Canandaigua residents and \$40 per dog for non-residents with an additional \$10 charge for extra fobs or key cards; and

WHEREAS, CCC also recommends offering a discounted rate to active, reserve, or retired veterans as well as senior citizens of \$25 for the first dog and \$15 for each additional dog to cover the cost of the fob and collar; and

WHEREAS, this proposal was reviewed and approved at the joint meeting of the Planning/Development and Finance/Budget Committees held October 2nd;

NOW, THEREFORE, BE IT RESOLVED, that City Council hereby establishes a membership fee structure for Canandaigua Canine Campus of \$30 per dog for City of Canandaigua and Town of Canandaigua residents and \$40 per dog for non-residents with an additional \$10 charge for extra fobs or key cards; and

BE IT FURTHER RESOLVED, City Council also establishes a discounted membership fee structure for City and Town Residents who are active, reserve or retired veterans and/or senior of \$25 for the first dog and \$15 for each additional dog to cover the cost of the fob or key card and collar; and

BE IT FURTHER RESOLVED, that any membership purchased in 2018 shall also be good for the entirety of 2019.

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 #2018-091:

Moved: Councilmember-at-Large Terwilliger

Seconded: Councilmember-at-Large Uebbing

A RESOLUTION AMENDING THE 2018 SEWER FUND BUDGET

WHEREAS, there are several anticipated retirements expected amongst the staff at the Waste Water Treatment Plant to the extent that half of the staff will be retiring within the first three months of the new year; and

WHEREAS, to prepare of this transition and ensure that the treatment plant continues to operate effectively without notice to residents and assist in the circulation of institutional knowledge, the City Manager is recommending amending the 2018 Sewer Fund Budget to fund two new positions, for the remainder of the year (\$34,125); and

WHEREAS, due to changes in health care coverage and a retirement in 2018, additional funding is needed to cover unbudgeted benefit expenses at the treatment plant (\$10,000); and

WHEREAS, the estimated costs to fund the two positions and cover the unbudgeted expense totals \$44,125;

WHEREAS, this proposal was reviewed and approved at the joint meeting of the Planning/Development and Finance/Budget Committees held October 2nd;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Canandaigua hereby appropriates \$44,125 from the Sewer Fund, Fund Balance to fund two positions for the remainder of 2018 and cover unbudgeted benefit expenses.

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

Ordinances:

Ordinance #2018-008: *(Remains on the Table)*

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

Ordinance #2018-010:

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

**AN ORDINANCE AMENDING CHAPTER 850
OF THE MUNICIPAL CODE ENTITLED "ZONING"
REGARDING "SHORT TERM RENTALS"**

Be it enacted by the City Council of the City of Canandaigua as follows:

SECTION 1. Chapter 850 is hereby amended as follows [new language is *in bold italics*, deleted language is stricken]

§ 850-12. Definitions and word usage

SHORT TERM RENTAL

A residential dwelling unit, or portion thereof, rented for habitation for a period of less than 30 days. Such properties are regulated under § 850-110.5

SECTION 2. Chapter 850 is hereby amended as follows [new language is in bold italics, deleted language is stricken]

§ 850-76. Use Requiring Special Use Permit Application

§ 850-110.5 Short Term Rental

Short Term Rentals may be permitted in a residential structure in any zone district, provided that the Planning Commission determines that the following standards are met:

- A. The Planning Commission finds that the proposed use is compatible with adjacent properties, will not adversely affect property values and is consistent with the objectives of the City Comprehensive Plan.
- B. The proposed use shall be in compliance with Chapter 748, Housing Standards, of the Code of the City of Canandaigua and the New York State Uniform Fire Prevention and Building Code.
- C. The use shall be conducted entirely within the primary residence.
- D. The rental units shall be registered and inspected in compliance with the City of Canandaigua Rental Inspection Program.
- E. The use of the premises shall not require or involve any exterior alterations to the structure.
- F. The short term rental property shall be the owner's primary residence.
- G. The establishment shall not operate as a restaurant by selling meals other than to bona fide overnight guests.
- H. The establishment shall not operate as a rooming house or boardinghouse as defined in § 850-12.
- I. The property shall be considered a lodging facility. Applicable county and local lodging tax shall be collected.
- J. The owner shall maintain records identifying names and permanent addresses of all renters and the duration of their stay.
- K. The Planning Commission shall determine on a case-by-case basis the maximum occupancy of the short term rental.
- L. Off-street parking shall be provided. The Planning Commission may determine on a case-by-case basis what the parking requirement shall be, provided that such requirement shall not exceed the requirements of Schedule II.

Notwithstanding any other requirement of this Chapter, any property that was rented for a period of less than 30 days at any point from January 1, 2017, to August 1, 2018, shall be exempt from the requirements of Chapter 850-110.5(F) until such time as the property is sold, transferred, assigned, or otherwise conveyed to another individual or entity.

SECTION 3. This ordinance shall take effect 30 days after adoption.

Local Laws:

Local Law #2018-001:

**A LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY
IN EXCESS OF THE LIMIT
ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C**

Lift from the Table:

Moved: Councilmember-at-Large Uebbing
Seconded: Councilmember-at-Large Whitcomb

Vote on local law:

Moved: Councilmember-at-Large Whitcomb

Seconded: Council Member Ward 2 Palumbo

The motion CARRIED the following vote:

AYES: Council Member Ward 1 Cutri, Council Member Ward 2 Palumbo, 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: Councilmember Ward 3 White

Manager's Report: City Manager John D. Goodwin reported the following:

- In regards to the press conference held today in reference to the officer involved shooting earlier this year, City Manager John D. Goodwin sends condolences to the family and refers to his press statement released today. There has been a complaint filed in federal court and the City will not comment on ongoing litigation however it is important to remind the community that the matter was fully and independently investigated by the NYS State Police which concluded our officers conduct was justified. This information was presented to a grand jury which found no grounds for an indictment.

Councilmember-at-Large Uebbing asked for a moment of silence for this terrible tragedy.

Appointments: None

Miscellaneous: None

Executive Session:

Councilmember Ward 3 White moved to close the regular meeting to go into Executive Session at 8:16 PM for potential litigation. Councilmember Ward 4 Sutton seconded the motion.

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

Regular Session:

Councilmember Ward 3 White moved to close the executive session and return to the regular meeting at 9:17 PM. Council Member Ward 2 Palumbo seconded the motion.

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

Adjournment

Councilmember Ward 3 White moved to adjourn the regular session at 9:17 PM. Council Member Ward 2 Palumbo

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

Nancy C. Abdallah, Clerk Treasurer
City of Canandaigua

APPENDIX A
ORDINANCE COMMITTEE
Tuesday, September 18, 2018
7:00 PM
Wood Library

Committee: David Whitcomb, Chair
Nick Cutri
Jim Terwilliger (**absent**)
Karen White

Other Council Members: Mayor Polimeni, Bob Palumbo, Renée Sutton, Robert O'Brien, Steve Uebbing

Staff: John D. Goodwin, Rob Richardson, Terence Robinson, Steve Hedworth, Frank Magnera

1. Ordinance Regarding Pesticides in the Right-of-Way

At the joint Environmental/Parks and Ordinance Committee meeting on May 8th, the committee voted against sending an ordinance banning the use of pesticides in public rights-of-ways to full City Council. At the August 2nd City Council meeting, Councilmember Karen White requested the ordinance be reintroduced for further consideration. At the August 21st Ordinance Committee Meeting, Council requested Corporation Counsel draft a new version of the ordinance that would match City Council's intent while being enforceable. An ordinance has been drafted and will be presented by Corporation Counsel Terence Robinson for discussion.

This item was addressed second after the straw's discussion. Terence discussed two issues, simplification and enforcement. He has tried to simplify the language so it's easier to understand, and the enforcement would be 2 forms of evidence- pesticide notification markers or some sort of photographic/ eye witness testimony along with photos/documentation. He is trying to keep this relevant and wants to avoid unnecessary investigations. If he has enough to go to court, then great. He added that State Law may preempt us from doing this at all, and he still isn't sure if we can. Home Rule Law prevents municipalities from regulating issues monitored by the State, and in his opinion this Law may be illegal. Dave asked about A2 public land- City owned and maintained property- how do you prove it was a violation if the Right of Way is unclear? Terence said that issue still remains, but there is no way getting around proving where the pesticide was spread. Karen asked why this is different from the noise ordinance where the issue isn't always air tight, and she thinks we need to find a way to make it stand. She thinks the legislation in place allowing the use of these poisons is a result of lobbying. If we put this in place and its challenged by the DEC then fine but at this point the Right of Way is clear in most places. She also compared it to someone challenging a sidewalk on the right of way and private property but still needs to challenge. She thinks we're working harder to make this not happen than to make it happen. Renée is willing to fight this considering the algae blooms in the lake and the investment that is about to be made at the water plant. This is an economic and tourism issue as well, and we need to protect the lake. Robert asked Terence what would happen if we sent this in, could it be shot down? What are other challenges we face? He supports this, and we should have the right to fight this if it's worth it. Terence said it's possible the ordinance could be approved, but what would happen is an article 78 litigation/ private challenge. The City could then rescind the ordinance or push on and go to litigation. He asked if the State could shoot it down right away, and Terence said he'd like to check before giving him an answer. Steve asked if we have more leeway dealing with commercial enterprise as opposed to a homeowner. They need licenses from the DEC, can we prevent them from using certain pesticides? Terence said no, and Dave pointed to the preemption from a few months ago about permits to apply pesticides. Bob sees this as a long approval process, and he'd like to see some sort of education program start now. Is there money in the budget for advertising? Some immediate action to educate the public, especially considering the algae in the lake, should happen now. He's hung up on the enforcement still, but public education is the place to begin. Dave sees the law as flawed, unenforceable and unconstitutional- if City Council wants to pass something let's make it easy. For example, you can't spray anything 10 feet or less from the road. If we are going to pass an illegal law, we may as well pass a message law with the language we want. Renée asked how it's flawed, and Dave said commissioner jurisdiction and the amount of work that would be required to prove these cases and the lack of clarity makes it difficult. Renée asked if we

could ask for a variance, and Terence said to his knowledge there is no authority to grant variances. We can always ask for one, but there is no established procedure. Renée thinks it's worth asking if he has the jurisdiction, and if the answer is no you won't know until we ask. Steve would like to see us move away from pesticide use period, and he did that while superintendent. He'd be interested in exploring a way to create a pesticide free city. He doesn't support this law because he thinks it will be a technicality filled boondoggle that would prevent us from actually making progress. He asked what percentage is Right-of-Way, he's heard it's only about 1.5%. He thinks at this point most people aren't using them in ROWs anyway. Is this symbolic, or meaningful? He also wants to know what the impact is on the lake, which makes him think that it's not a huge factor. If we are going to defend this, we need to know that first. Our time is better utilized fighting a fight for a pesticide free community, and he doesn't think this will get us to our goal. The Mayor asked what Terence's reaction to Dave suggestion, and while he appreciates Dave's intent is honorable but there are still issues. The Mayor said it's not a ROW, just 10 feet, and Terence says we're going a step further than banning them in the ROW. It would hurt our defense. Renée went back to Steve's point, and referred to the Town of Canandaigua newsletter which says the prosperous is feeding the algae in the lake. Robert agrees with Steve- if our goal is to become a more responsible, green community what is the best route to get there? Does passing a nonsense law that is shot down and creates bad press that accomplishes nothing. We're attacking a small thing, but maybe we should be taking a bigger stand. Dave sees the issue as, at the end of the day, the vision for the City of Canandaigua is something we don't have the power to do. The State will win every time. We've been trying to "sneak in" some of these things, but we have a grand plan that isn't implementable. Dave agrees with what Steve is saying, and doesn't think this law will accomplish its purpose. We keep trying to do something we can't- doesn't mean we give up but sometimes we have to be more pragmatic. Until this is addressed by State legislature, there is nothing we can do.

Karen added one of her biggest regrets about cancelling last week's meeting is Mr. Whitcomb is running this meeting and running the conversation. She hears a lot of passive aggressive behavior and reasons why we shouldn't do this. She likes what Steve said, but doesn't like the fact he doesn't support the law. She's prepared to fight any challenge. She plans on bringing this up at the next City Council meeting and calling it to a vote. Renée pointed to Wisconsin's stringent preemption law, and one municipality was able to win. Maybe we should look at banning synthetics like they did. Bob asked if Kevin has ever addressed this, and John said he's come to various meetings. John said he will ask Kevin to write something up discussing how serious these issues are in relation to the lake. Joel pointed to the section which he thinks annuls the moratorium. There is already a waiver in place, and we need to take out the language on authorized language. He'd also like the evidence requirement removed. If someone reports it, there would likely not be willing to gather the evidence required to prove it happened. He would also like the penalty included in the ordinance. He added if we were ever sued we could call agencies like Earth Justice who work pro bono to protect community interests. He has quoted the watershed reports in prior meetings, and the watershed has acknowledged the herbicides hurt the lake. Also, Round-up is probably considered less dangerous because you don't need a license to use it. We should ban that too, because we use round up in Lagoon Park. There are 5,000 pending cases against fertilizer companies including the makers of Round Up- and this is considered the least toxic. Someone asked if the City could put out a list of recommended products and tell residents what they CAN use. Robert would like to see a WHEREAS Clause regarding impact on the Lake added to the ordinance. Steve asked if we can put this out for a referendum, such as should the City of Canandaigua make the use of pesticides illegal in the City. He'd like to engage the community to see what their perceptions are, and with enough community support we might appeal to a higher level of government. The Mayor says we need to do a better job of actually engaging these government bodies for support.

2. Short Term Rental Ordinance

At the May 3rd City Council meeting, Ordinance #2018-001 was adopted amending Chapter 850 of the Municipal Code Entitled "Zoning" Regarding "Short Term Rentals." The ordinance requires all short-term rental properties to adhere to similar safety and regulatory standards as traditional bed and breakfast establishments, and outlines the criteria for receiving an operating permit from the City. Since the ordinance was passed, several residents who own properties they use for short term rentals raised concerns. At the August 21st Ordinance Committee meeting these residents voiced their concerns, but a motion to amend the ordinance to strike Article F requiring the short-term rental property to be the owner's primary residence did not pass. Council discussed the idea of grandfathering in certain properties and asked Staff to come back with alternate language. An ordinance has been drafted and will be presented by Corporation Counsel Terence Robinson for discussion.

Terence discussed the changes he made to the ordinance. The main adjustment is a carve out allowing folks who operated as short-term rental properties for a period of time prior to the ordinance being enacted to grandfather these properties in. Essentially, these people would not need to use it as a primary residence.

Nick moved to approve the ordinance, Karen seconded.

Robert asked how they would prove they qualify for the exemption, and Terence said some evidence that satisfies code enforcement.

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

3. Phoenix Street Closing

The City of Canandaigua's Strategic Plan has included a project to turn Phoenix Street into a pedestrian plaza for several years. The City has also included this project in its Downtown Revitalization Initiative (DRI) applications, however has not yet been selected for the award. The project is included in this year's DRI application, however the winner for the Finger Lakes Region has not been announced. Councilmember Whitcomb requested that the City test the idea by closing down Phoenix Streets on Friday and Saturday nights to create a pedestrian plaza even without a formal project. At the September 4th Planning and Development meeting Council requested Staff speak with Geneva and come back with some ideas for how to make this happen prior to the end of the year, as well as invite both the Fire and Police Chief in to be part of the discussion. Fire Chief Frank Magnera and Police Chief Steve Hedworth will be at the meeting to discuss the topic.

Both Chief Magnera and Chief Hedworth were at the meeting to offer their opinion. John spoke to Geneva City Manager Sage Girling, who said that Linden Ave was not a City initiative but one down and run by business owners. The first year it was hit or miss and they almost got rid of it, but the property owners hired someone part time to run the project from Memorial to Columbus Day. There are no permanent bollards- they use a trough to close the street. John said if we want to do this we need to put together a comprehensive group and effort to try and do this for 2019. TJ said some of the people Mike said were on board at the last meeting weren't completely on board. Dave agrees with John that we need to do something more involved. The BID also has some concerns, and Denise said there are some things that need to get ironed out with property owners first. She can't have the BID running this as well, and she is concerned about the environment of Phoenix Street and the current situation. She'd like to see something similar to what was included in the DRI and ALL property owners need to be on board. Sage told John the Geneva BID does nothing with this, and there is a separate complaint line that goes directly to the part-time staffer running the project. Dave added we need to create the opportunity to facilitate the project through legislation, but it really is up to the business owners. John added this is part of the strategic plan for years but the property owners have traditionally been resistant so it got put on the back burner. The Mayor added there is a new Community Events Committee taking shape, and maybe they could work with the property owners on Phoenix Street to make this happen. Chief Magnera said access wouldn't be an issue as long as the barriers and tables aren't permanent. Until he sees a plan it's difficult to say whether or not this could be safe. Chief Hedworth said he likes the long-term plan for Linden Street and it's a nice environment, which he could see for Phoenix Street but not with the way things are now. Even in small space like blood alley it could be difficult for the Police to be effective. He likes the idea but wants to take our time with implementation. Dave would like to see these meetings take place so we can head into next year with a plan. Someone from the gallery suggested we look at other cities with pedestrian plazas to look at how we could do this. Mike added that, in terms of truck access, we should remove the wooden poles and bury the utilities which would improve the overall aesthetic as well. Dave said Phoenix Street will get redone at some point, and these issues will be addressed.

4. Paper Straws

Earlier this year, Seattle became the first major US city to ban single-use plastic straws and utensils. San Francisco followed suit with an ordinance that's expected to take effect in 2019. Corporate plastic bans are also quickly gaining momentum, with companies like Starbucks, Aramark and American Airlines vowing to stop offering plastic straws. Councilmember Dave Whitcomb would like to explore the possibility of enacting a similar ordinance in the City of Canandaigua banning the use of plastic straws. At his request, this item was added to the agenda for further discussion.

This item was moved to the first item on the agenda. Dave began by discussing his proposal, and he wanted to have a discussion at the Council level to see what could be done. The City has done a lot over the last several years to make the community greener, and all the solid waste going to the landfill costs the City money. He recapped some programs the City has implemented, include recycling and composting, which have had a positive reception and impact. The landfill will be closing soon and anything we can do to divert unnecessary solid waste is worth exploring- every little bit helps. Thai By Night voluntarily switched to paper straws about 5 months ago, and the product is more expensive but they see it as important.

Karen added the issue is really single use plastics that can't be recycled effectively. Paper straws serve the same purpose and are biodegradable. She hopes this will be the first of many efforts to eliminate single use plastics including bags, plates and flatware. Renée doesn't think this goes far enough, and would like to see the City move towards eliminating all single use plastics. She supports getting rid of straws to start, but this is more symbolic than meaningful. It all counts, but there are greater issues going into the landfill. Steve asked how we would do this? Ban the sale? The use in commercial establishments? Dave said it would be the elimination of use in commercial settings like restaurants and bars. Someone asked what about hospitals, and Dave said communities exempt certain businesses like hospitals. Steve added so the only difference would be a paper straw in my soda instead of plastic, and Dave said yes. Someone in the audience was concerned that this would increase the use of lumber and create trees shortages, and Dave said that is a fair statement. A lot of times what we do to try and solve environmental problems creates new issues. Renée said it's about preference, and it's about hoping to educate people and encourage them to change their behavior. Joel supports this and discussed some testing published in USA Today. Everything we do causes us to take in microscopic bits of plastic but this is a drop in the bucket. He uses paper bags and suggested banning Styrofoam too. A gentleman in the audience said if we are going to start banning things we should start banning neurotoxins like fluoride in our water. A woman in the gallery was concerned about passing the cost of paper straws on to business owners, and Robert O'Brien stated the cost increase for his business was minimal. He'd rather see no lids and straws. Someone asked if we've talked to fast food restaurants, and Dave said this is the first time we've talked about it. A woman representing the disabled community is concerned that it will impact people who need them, and Dave said hospitals, nursing homes, etc. are usually exempted. A gentleman asked if people would be given a straw if they asked for one, and Dave said yes. Dave added the goal isn't to change the type of straws in the community, but also to hopefully eliminate them altogether when unnecessary. The gentleman asked how the fines structure would work, and Terence added this would not be criminal but a code violation. Fines could be determined. He asked who would monitor this, and Terence said citations would come from Code Enforcement or Police if they are granted authority. The fines stay in City coffers. Karen added most of the code enforcement is done based on reports that come in from other community members. Steve thinks this would be fairly transparent to the general public, and he thinks all the discussion it generates is awesome. Robert O'Brien asked if this is ordinance worthy considering some businesses are already making the choice to use paper straws. Dave said his preference would be to come back to the October Ordinance Committee meeting with a draft ordinance to discuss and go from there. He would like to see an ordinance passed. The Mayor said she would like to see us approach fast food places to see if we could get them on board. These businesses likely represent most of the straw usage. Steve added McDonanld's UK is banning plastic straws next year. Karen added the entire State of California bans the use of plastic bags, so this can be done. Renée added these businesses exist in the communities where similar laws/ordinances have passed, so they can adjust to the needs and desires of the community. This was tabled to the next Ordinance Committee meeting.

Karen motioned to go into Executive Session, Nick Seconded.

Meeting briefly adjourned prior to Executive Session at 8:32 p.m.

Nick motioned to adjourn, Karen seconded.

Meeting adjourned at 8:52 p.m.

**APPENDIX B
JOINT MEETING
PLANNING/DEVELOPMENT COMMITTEE
& FINANCE/BUDGET COMMITTEE
Tuesday, October 2, 2018
7:00 p.m.
Wood Library – Ewing Family Community Room**

Planning/Development Committee: Robert O'Brien, Chair
Bob Palumbo
Steve Uebbing
Renée Sutton

Finance/Budget Committee: James Terwilliger, Chair

Robert O'Brien

Steve Uebbing

Nick Cutri (**absent**)

Other Council Members: Mayor Polimeni, Karen White

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

5. Compact Wheel Loader

At its April 5th meeting, City Council passed Resolution #2018-026 amending the Capital Budget to purchase a mini pay loader (aka compact wheel loader) for an amount not to exceed \$38,500. After receiving bids for the Avant as well as 2 other similar machines, the MultiOne 5.2 and MultiOne 7.2 respectively, staff compared the product specs and found no discernable difference between the Avant Mode 528 and MultiOne 7.2 machines. Having tested the Avant earlier in the year, Staff tested the Multi-One 7.2 to determine which machine to purchase. After testing, Staff has decided to recommend purchasing the MultiOne 7.2. The lowest responsible bid was received from Martin's Power Equipment, located at 1506 Routes 5 & 20 in Geneva, New York for a total cost of \$36,790. Staff recommends awarding the contract for the purchase of the MultiOne 7.2 to Martin's Power Equipment.

John stated we have discussed this in the past and done the budget amendments, then went to bid. We now need to award the contracts. Jim stated another option was made available that was not available the first time. The MultiOne will allow them to work in tight spaces on the sidewalks and in parks. Jim asked what the difference in bid was, but it was minimal. After testing both machines, they are confident they are making the right purchase.

Steve moved to award the contract, Rob seconded.

Rob asked about warranty, and Jim said they have 36 months. Rob asked if we can service these machines internally, and Jim said there shouldn't be any surprises. There is a dealership in Geneva where parts are readily available and they anticipate this lasting at least 10-12 years.

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

6. Lifts for Central Garage

At its August 2nd meeting, City Council passed Resolution #2018-070 amending the Capital Budget and appropriating \$30,000 from Capital Reserve to the Capital Fund to purchase new lifts for Central Garage. Staff subsequently went out to bid to purchase the lifts with only two vendors returning bids. The lowest responsible bid

was submitted by SEFAC USA, Inc., located at 381 Nina Way in Warminster, PA for \$27,779 for the lifts plus \$1,595 for freight resulting in a total purchase of \$29,374. Staff recommends awarding the contract for the purchase of the lifts for Central Garage to SEFAC USA, Inc. Jim Sprague will be at the meeting to answer any questions.

Jim added this is the same manufacturer of the lifts they have now, and they have had them since 1991. He is confident these will last.

Robert moved to approve the contract, Steve seconded.

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

7. Dog Park Discussion

Nancy McCarthy has been invited to provide City Council with an update regarding the Canandaigua Canine Campus's fundraising efforts and request that City Council approve a fee structure for membership and park rules. City Staff recommends a simple resident and non-resident fee structure of \$30 per year for residents and \$40 per year for non-residents.

Nancy McCarthy was at the meeting to discuss the project thus far. She started by discussing fundraising efforts. She began working on this project in 2012- keeping motivation high through the years has been a challenge. She will only support a membership model for this dog park. She has raised nearly \$56,000 but is looking for \$78,000. She put an editorial out in the paper but only received another \$75. She feels its inequitable to expect dog owners to solely pay for the cost of the park, which is not the case for other parks. She is frustrated the City would not release the information of citizens to solicit dog park donations. She feels the delays are hurting motivation from donors. There is a fundraiser planned for this Saturday she hopes will close the gap. She and her husband have decided to make a substantial contribution and have a check in hand tonight. She needs to be done with this- she and her family have put a lot of time and effort into this. In her eyes, the City and Town could care less about this park. She thanks Jim and the Mayor for their active support in this endeavor. After this weekend, she is done with fundraising for this project.

John mentioned CCCs suggestion for the membership model, which would be \$30 per dog for residents and \$40 for non-resident dogs each. There was a proposed senior/military discount of \$15 dollars a dog, which is not considered standard. Staff recommends, for simplicity's sake, to keep it classified as residents and non-residents. Jim recommends the first fee covering 2018 and 2019 if it opens by the end of the year.

Renée asked what the status is. Most of the park is built but we are waiting on the army corp of engineers to address the wetlands issue. They have been submitting what the corp has asked for and now they are waiting for them. Jim needed to resubmit their requests, and once we have their approval we can finish the driveway. The Mayor likes the idea of a senior/military discount and would like to see that added. Steve asked if there was a consideration for offering a lifetime membership, which would encourage more donations. Steve would also like to see the McCarthy's receive a lifetime membership for free. He sees it as a nice way to recognize people to do more. Jim asked if there would be a distinction between seniors/military for outside Canandaigua, and Nancy said she sees these discounts applying only to City and Town residents. Renée asked what these fees are meant to address, and John said they are for maintenance and systems needed for park operation. Nancy added these were set at this level so the City would not lose money on the purchase. John added one concern on the lifetime membership would be owners not maintaining vaccinations, etc. Nancy added the collar tags and faubs change every year, so owners would need to come back in annually to show the dogs are safe. Someone from the audience added the licenses need to be updated annually anyway, so people in the dog park with lifetime memberships would already need to have their animals vetted. John added we are trying to move as much of this process online as possible for resident convenience. The audience asked where the fees would go, and John said it is up to Council to decide that. Another gentleman suggested having military/seniors only pay a flat fee instead of additionally per dog. Renée asked if we offer any military/senior discounts for other services, John said no, those would need to be defined. Steve would like to add a lifetime membership to the fee structure. He thinks these people should also be recognized.

Jim suggested breaking this up into 3 parts, first being resident and non-resident.

Robert moved to approve the \$30 per dog for City/Town residents and \$40 per dog for non-residents. Steve seconded.

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

The second motion dealt with discounts.

Steve moved to allow active, retired or reserve military/senior discounts for \$25 the first dog and \$15 for each additional dog. Robert seconded.

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

Third is the lifetime membership model.

Steve moved that a legacy membership with recognition be added for \$500 for the life of the dog owner for up to 3 dogs.

Karen asked what about people who have already made a \$500 donation, and Steve said we can review the donor list and include them. Renée's objection is that people who can't afford that price point are being penalized. Steve added that philanthropy should be encouraged, and is a great way to close funding gaps. Robert suggested giving a certain amount of memberships to CCC and let them determine who they go to. Renée doesn't think that after all the work that has gone into developing a fee structure we shouldn't mess with it. Karen agrees. The Mayor added there are donors who do not even have dogs, and we should continue the conversation further.

Steve withdrew his motion.

John suggested we add this to next week's Environmental/Parks agenda, and Karen agreed.

A woman from the audience expressed extreme frustration that the park isn't open yet, as it was supposed to open this summer. She has people ask her all the time why the project has been stalled. She wants anyone with any power to move this project along to do so. John and the Mayor added there are lots of frustrated people, and the City also wants the dog park open as soon as possible. The army corp of engineers is a tough group to work with, and Jim added that no one has any sway with them. Jim said he would reach out to them again to see where we are.

John said the timetable revolves around the corp's approval. He also added that, so far, the budget is right point. He also added the original \$60,000 allocation from the City has not been rescinded, and the intent was always to use the donations for phase 2 amenities. Nancy added she felt more could have been done and this should have moved forward more by now. She felt it was supposed to be a 45-day process, and we are going on 5 months. Jim suggested Staff work with the CCC to finalize forms and park rules, and John said Council should have input on the rules. Jim is looking for a rules recommendation from Staff at the Environmental/Parks meeting next week.

8. Budget Amendment- Waste Water Treatment Plant Staff

There are several anticipated retirements expected the staff at the Waste Water Treatment Plant to the extent that half of the staff will be leaving within the first three months of the new year. To prepare of this transition and ensure that the treatment plant continues to operate effective without notice to residents, the City Manager is recommending amending the Sewer Fund 2018 Budget to fund two positions for the remainder of the year (\$34,112.74). Further, due to changes in health care coverage and a retirement in 2018, additional funding is needed to cover unbudgeted expenses at the treatment plant (\$10,000) bringing the total recommended budget amendment to \$44,112.74 which would be an appropriation from the Sewer Fund, Fund Balance.

John gave a brief synopsis of the situation. In order to continue to operate seamlessly, he suggests funding these positions so that the retirements don't impact operations. He added that the DEC is looking at our staffing and may require us to add an additional operator to meet their benchmarks. There were also unanticipated costs with people coming onto the City's health care. Jim asked if this would be a one-time expense, and John said yes.

Steve asked if we budget for worst case scenario, and John said yes. Because there is a different fund, however, it can't be mixed with the general fund. Jim stated he likes the intent of the recommendation. Robert asked what

happens if someone changes their mind, and Jim said all retiring staff are over 60 and 2 have over 30 years in. Bob said he is surprised DEC has input on staffing, and Jim said it is a relatively new process. He said the word is recommended, but he thinks this is DEC's response to retirements across the State. John is waiting for the final report. Renée said she disagrees with this practice- in the private sector when someone leaves they get replaced. Bob kind of agrees, but anything to do with trades is far more difficult to find replacements. Jim said that is absolutely correct. He likes the idea of having someone ready to go, especially because these folks are getting harder to harder to find. Jim asked if we will be double staffed for the next several months, and Jim said no. If Council approves this tonight, he wouldn't be able to bring in a plant operator until the beginning of December. The laborer would take less time but at least a month. Jim wondered if a better way to deal with this is to allow 1-2 months prior to the retirement date, and both John and Jim said that is the intent. John budgeted as if we are hiring October 1st, and that will not happen. Jim added they only get 3 week's notice from the State when someone retires. Jim thinks that is a dangerous practice. The Mayor referenced the issue with Will Clark a few months ago, and that John is trying to prevent that from happening again. She also agrees with Bob, and we can't expect new hires to be onboarded immediately. Karen said this is best for continuity of operations, and this is an area where we shouldn't gamble with staffing. Robert asked what other places do in this situation- dealing with imminent retirements. John stated this is an issue throughout municipalities, and some are being proactive. Others are bringing people back after retirement or dealing with growing pains. Renée asked who is responsible for training new positions, and Jim said the Chief Operator. Steve said he doesn't see this as a luxury but a good human resource practice. Literature suggests that if you can do it, you should.

Steve moved to approve the amendment, Robert seconded.

Renée is concerned we do so many budget amendments, and we should try to anticipate these during budget season. Steve agrees. Jim added we don't have contingencies in other funds, so this is necessary. Robert stated we can do our best to plan but you can't anticipate everything. We don't want to overbudget. We are very short staffed in these departments, and we need to make sure we're doing everything we can.

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

Jim will support this as long as Jim and John use appropriate discretion.

9. South Main St. (NYS Rt. 332) Concerns

New York State Route 332 pass through the City of Canandaigua as North and South Main Street. The City maintains this route for the New York State Department of Transportation under an arterial maintenance agreement (the reimbursement rate has not increased since 1987). Several City Councilmembers have expressed concerns about the condition of South Main Street. After a particular harsh winter season for our roadways, pot holes were filled on South Main Street by City DPW crews in May. Many of the potholes were actually transverse failures of the pavement above a joint in the sub-base. Truly repairing these failures will take a project on the scale of the rehabilitation of Eastern Boulevard that was completed a few years ago. That scale of effort is beyond the City's responsibilities under the arterial maintenance agreement. As previously reported, City Staff has communicated numerous times with the NYSDOT regarding the condition of South Main Street over the years with the most recent letter send in August. NYSDOT has responded and is planning to schedule a meeting with City Staff in the near future.

There is a meeting on the books with DOT October 15th to discuss this, and John deferred to Jim. Storm drainage drop-ins are failing, and they have been fixing them as they fail. We maintain it under arterial maintenance, but rebuilds aren't part of that. They've made progress with the current resident engineers. In addition, the pavement is failing particularly at the concrete base between the slabs under the asphalt. It's similar to the failure on Eastern Blvd where they came in and reconstructed from the ground up. He'd hope to see that on Main St. There are also issues with the curbing due to age and the street being over layed several times. The storm drains and street need a major comprehensive project. Staff wrote a letter to Scott Robinson, and that got some traction. The planning process is long and laborious at the State level, unless they share our concerns which might help it move quicker. He wants to get DOT on the street to see the issues so they understand the severity. Until that meeting on the 15th, he won't know anything more. Jim T. added the street was built over 70 years ago, so this is original infrastructure. Bob wants something to be done with the speed bumps now, and wants to know if we could do what they did on North Main. Jim tried, but he was shut down cold. Bob asked what impact this will have in the winter, and Jim

said his plow drivers will need to slow down and deal with the aggravation. Some operators suggest the plows might mill them for us, even though that isn't Jim's preference. These potholes have taken on a life of their own, and the bumps aren't any worse than other raised portions of streets. Any accumulation will be met with additional salt, so they will just need to pay attention. Bob asked about a concrete grinder they use for the sidewalk, and Jim said the equipment isn't appropriate for the job and would likely cause more damage. The Mayor asked who the meeting is with, and Jim said he doesn't know exactly who its with. They are bringing additional people to the meeting. John added DPW has been asking for this since Lou Lloyd was DPW director, so this is the most progress we've made. Robert asked if there is anything we can do (resolutions, letters, etc.) to move this along, and Jim said not until after the meeting on the 15th. If they walk away from the table, then we might need that. John added both State senators were included on the letter, and that may have helped get the meeting. DOT will not be able to address this before the end of the year, and Jim doesn't have the budget or equipment to do the job. Steve asked how much it would cost, and Jim estimated at least \$15,000. You'd also need to find the equipment and materials. Steve said he thinks residents would rather we spend money on that than on other things. Robert asked if we authorize the money are we free to do the work, and Jim said yes. Renée is concerned that jumping in to spend our own money would set a bad precedent. It was determined that after the meeting on the 15th we can take action if necessary.

10. Fire Study Discussion

Earlier this year, the City and Town contracted the Center for Public Safety Management (CPSM) to do an operational study of the City of Canandaigua Fire Department and a community risk assessment. The final report listed 26 recommendations, including suggestions on staffing levels and how to improve fire service delivery. At the August 7th Planning/Development Committee meeting, City Manager John Goodwin, Town of Canandaigua Manager Doug Finch, and Fire Chief Frank Magnera discussed these recommendations and categorized them as short-term, intermediate, and long-term goals for implementation. At the September 6th City Council meeting, Councilmembers expressed desire for the opportunity to provide their feedback to the report and its recommendations along with a Staff's proposed course of action for each recommendation.

This was moved to the Environmental/Parks Committee meeting on October 9th which will be solely dedicated to discussion of the fire study.

11. Capital Budget

In anticipation of potentially lengthy discussions during the November budget review process, Staff presented the proposed 2019 General Fund Capital Budget for review and discussion at the August 30th Finance/Budget Committee meeting. The 2019 General Fund Capital Budget was tabled for further discussion. If time does not permit for discussion, this item can be moved to the Finance/Budget Committee meeting on October 23rd.

This was moved to October 23rd.

Robert moved to adjourn to executive session, Steve seconded.

Meeting adjourned to executive Session at 8:45 p.m.

12. Executive Session – Litigation

Steve motioned to adjourn, Karen seconded.

Meeting adjourned at 9:00 p.m.