

**MINUTES OF THE MEETING OF THE COUNCIL OF THE CITY OF  
WATERVLIET  
THURSDAY, MARCH 15, 2007 AT 7:00 P.M.**

The meeting was called to order by Mayor Robert D. Carlson at 7:00 P.M.

Roll call showed that Mayor Robert D. Carlson, Councilman Charles J. Diamond and Councilman Michael P. Manning were present.

Also present from City Administration were: Mark Gleason; General Manager, Yorden C. Huban; Corporation Counsel, Bruce A. Hidley; City Clerk and Clerk to the Council, Mark R. Gilchrist; Assessor/Bldg. Inspector, James Bulmer; Water Department Supervisor, Police Chief Ron Boisvert and Fire Chief Brian Carroll.

A motion was made and seconded to dispense with the minutes from the previous meeting.

The following agenda was presented to the Council by, Bruce A. Hidley; City Clerk and Clerk to the Council.

**RESOLUTION NO. 8099** – The Council hereby authorizes the bid for the Upper Dam Cleanup Project to James H. Maloy, 421 Albany-Shaker Road, Loudonville, New York 12211-0016 in the amount of \$20,500.00. Before voting Councilman Manning requested clarification of the Upper Dam Cleanup Project. General Manager Gleason stated that this project includes the removal of debris, tree trunks, logs and other debris. The purpose of this project is to allow the witches tower to function properly to carry water out to the Hudson River. Councilman Manning requested additional information as what activity is taking place in the Witches Tower area. General Manager Gleason stated that he is meeting with the Department of Environmental Conservation to discuss other possible projects. At the last Council meeting pictures were provided to the Council of the clearing out of trees by City crews stabilizing the upper dam area. Mayor Carlson asked General Manager Gleason when the last time the Witches Tower had been cleaned out. General Manager Gleason stated that it had been six years. Councilman Diamond asked if the road would left during the work project this time. General Manager Gleason stated that in accordance with the specification of the project the road would be left in place. Jim Bulmer; Water Department Supervisor provided the Council with a detailed explanation of the current existing condition of the Upper Dam area. General Manager Gleason will be meeting with the NYS Department of Environmental Conservation on March 27, 2007. Mr. Gleason will provide the Council with a draft report study. Mr. Gleason also noted that the Upper Dam will be placed on a routine schedule for cleaning from this point on. Upon motion of Councilman Manning, seconded by Councilman Diamond, this Resolution was approved and adopted.

**RESOLUTION NO. 8100** – That the Council of the City of Watervliet hereby authorizes Mayor Robert D. Carlson to submit an application for financial assistance under the NYS Small Cities Community Development Block Grant Program. Upon motion of Councilman Diamond, seconded by Councilman Manning, this Resolution was approved and adopted.

**RESOLUTION NO. 8101** – The General Manager of the City of Watervliet hereby recommends to the Council that the bids submitted on Tuesday, March 6, 2007 for the pickup of garbage/recyclables be rejected. Before voting General Manager Gleason explained that the City needs to do a cost analysis study on the pickup of our own garbage. The contract currently in place with Waste Management expires on April 30, 2007. At this point Mr. Gleason needs additional time to educate the Council on all of the financial and tactical needs for garbage pickup. This is why the recommendation was made to reject all of the bids submitted. General Manager Gleason will meet with Waste Management who was the low bidder on executing a contract extension for one year. General Manager Gleason stated that during this process he will be reviewing ways to consolidate this service also. Upon motion of Councilman Manning, seconded by Councilman Diamond, this Resolution was approved and adopted.

There being no further business to come before the Council, the group adjourned to the floor to discuss City business.

**ITEM #1-** Mark E. Gleason; General Manager updated the Council on the 19<sup>th</sup> Street Reconstruction Project. Mr. Gleason explained that on March 6, 2007 he met with the NYS Department of Transportation and Clough Harbour Associates regarding an intersection issue. Mr. Gleason stated that there is an intersection on 19<sup>th</sup> Street and 2<sup>nd</sup> Avenue which is jointly owned by the State and the City. The original project proposal included a provision to construct an island in front of the Congress Street Bridge in order to give pedestrians an easier time of crossing the road. In the meeting the NYS Department of Transportation stated that they will not allow the island to be built. They noted that there is a 12' span from the park to the island without a signal. DOT noted that they specific data related to how many accident an island such as this has caused due to no signal crossing. DOT would like to place a visual countdown signal telling you how much time you have to cross. Along with the visual countdown the City has requested that an audio signal be used also. This will make the crossing much safer for seniors and all others to cross. Mr. Gleason noted that DOT will actually conduct classes to teach you how to cross at the audio & visual crossing. Clough Harbour Associates will begin redoing the plans to remove the island then will meet again upon completion. Councilman Manning asked if the other intersections in that area could get this type of intersection signal. General Manager Gleason stated that he didn't think that could be

done in other intersections unless there was an extensive reconstruction done. General Manager Gleason will ask DOT about this request.

**ITEM #2-** Mark E. Gleason; General Manager informed the Council that the Building Department/Code Enforcement received a grant from the NYS Office of Real Property Tax. Mr. Gleason explained that the grant will be used to purchase new state software. The new software will give the City the capability of many things including putting assessments on line. This new software program will be much more user friendly.

**ITEM #3-** Mark E. Gleason; General Manager informed the Council that he met with Sean Ward; Village Supervisor for the Village of Green Island. The meeting focused on ways that our municipalities can work together sharing services. Mr. Gleason explained that a joint training session has been scheduled in April. There will be monthly training sessions where the Village of Green Island, City of Cohoes and Watervliet will participate. Each municipality will rotate the classes, share teacher which will make the cost cheaper for each municipality.

**ITEM #4-** Mark E. Gleason; General Manager explained to the Council that back in November the Council discussed the entertainment issue. General Manager Gleason requested that the Council set up a meeting to readdress this issue. There is a need to decide what direction the Council wishes to take on the entertainment issue.

**ITEM #5-** Mark E. Gleason; General Manager informed the Council that there has been an encroachment issue of the water shed in Guilderland, NY. The Planning Board from the Town of Guilderland has a plan submitted to subdivide property within the watershed buffer zone. Mr. Gleason noted that he has sent a letter to the Town of Guilderland expressing the City's disapproval of this subdivision. Mr. Gleason stated that he will attend the next Planning Board meeting in Guilderland. The subdivision would include building 4 lots into houses. Mr. Gleason further explained that the watershed is protected by rules and regulations which does not allow a septic system or well within 100'. As more information becomes available Mr. Gleason will inform the Council.

**ITEM #6-** Councilman Manning requested an update on the status regarding curfews in the City. General Manager Gleason stated that he has met with Sean Ward from the Village of Green Island. The Village of Green Island has already written a curfew for consideration. The Village of Green Island did experience some opposition to their curfew proposal. Green Island has proposed a curfew of 10:00 PM on weekdays and 11:00 on weekends for young adults. General Manager Gleason explained that he has spoke with Police Chief Ron Boisvert about whether a curfew would assist in keeping young adults of the streets. General Manager noted that a problem he sees would be the possibility of this curfew program becoming a Police Department babysitting issue. Where the Police Department would pick up the young adults and the parents would take their time coming to get them. Mr. Gleason further explained that the City of Troy, City of Schenectady and the Village of Waterford has curfews in place. The only municipality which enforces the curfew is the Village of Waterford. Mr. Ward noted that the Village of Green Island will be implementing their curfew sometime this year. Mayor Carlson requested General Manager Gleason to provide the Council with a copy of the curfew procedure.

Mayor Carlson made a motion to adjourn into Executive Session due to personnel issues which need to discussed.

Councilman Manning asked if someone could summarize regarding what action took place at the last Executive Session Meeting.

Yorden C. Huban; Corporation Counsel explained that you can identify the subject matter to discuss in public. You can't discuss the individual person or the issue revolved around the finances of the specific individual.

There was no second to the motion to adjourn into Executive Session.

**ITEM #7-** Councilman Manning requested to have someone paraphrase in a non-personnel issue a summary of the Executive Session to be placed in the minutes. Councilman Manning stated that the Executive Session dealt with a fund balance transfer which can be discussed. Councilman Manning explained that the fund balance transfer made theoretically at the time was against Local Law No. 5-2006. Local Law No. 5-2006 was written and passed prior to the budget being passed in December.

Yorden C. Huban stated that the above noted item by Councilman Manning was the issue at hand.

Councilman Manning asked if there was an unauthorized/illegal transfer of funds.

Mr. Huban noted that he does not want to use the wording unauthorized or paraphrase illegal, he is unable to make that determination nor does he have the authority to make that determination. Mr. Huban explained that there wasn't a final determination to the items discussed in Executive Session. Mr. Huban has a Freedom of Information Law (F.O.I.L.) request for the non-binding opinion related to the Executive Session topic.

The Law Department made a determination that the information is exempt from disclosure in accordance with the Public Officers Law due to the personnel issue.

Councilman Manning requested from Mr. Huban as the City Attorney his opinion as to what should be done to correct this situation.

Mr. Huban stated that in generic terms upon review of the Charter and on the facts and circumstances, the fund transfer should be returned.

Councilman Manning asked if the fund balance transfer had been returned. General Manager Gleason explained that the transfer had not been returned yet.

Councilman Diamond asked about the sequence of events of how this transfer was made in violation of the law.

Mr. Huban stated that two essential schools of thought opinion or arguments to the contrary on the authority to do it or not to do it. If you talk about specific sequence of events of how this transpired, you have to get the specifics of whom, what topic and the amount of money. This is the reason why the Council breaks into Executive Session. Mr. Huban continued by saying that someone made a determination to transfer the funds, then someone else thought the transfer was inappropriate and without authority to do so. The Executive Session was convened to answer issues and render an opinion. General Manager Gleason stated that the answer is no as to whether the funds had been reverted back.

Councilman Manning asked Mr. Huban if there were other specifics other than Local Law No. 5-2006 which assisted him in rendering his non-binding decision. Mr. Huban explained that there were other sections of the Charter which addressed why his opinion was rendered the way it was. Mr. Huban discussed several reasons why Local Law No. 5-2006 needs to be revised.

Councilman Manning asked that when the Council needs or requests a ruling in the Charter will this be the new procedure that they have to seek independent Counsel. Mr. Huban stated that in order to consider the thought of independent Counsel the Council needs to approve the money to pay for the legal expenses. Mr. Huban will need to know how much money the Counsel wants to spend to seek independent Counsel. Mr. Huban explained that the Council needs to make an independent objective decision.

Mayor Carlson stated that in the Executive Session the Corporation Counsel formally announced that his opinion would be a non-binding decision and that the outside Counsel would be a non-binding decision. If the Counsel wants a binding decision from the Corporation Counsel to direct his office to do so as the Corporation Counsel. General Manager Gleason explained that in Executive Session it was agreed that Mr. Huban's decision would be non-binding. Additionally, it was agreed that an independent outside Counsel would be used and that his decision would also be non-binding.

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Mayor Carlson requested Yorden Huban; Corporation Counsel to look into the entire transfer process relate to Local Law No. 5-2006. Councilman Diamond stated that he would like to meet with Mr. Huban prior to revision consideration.

Mr. Huban explained that the ultimate decision comes from each respective Council member whether two opinions are in agreement or disagreement.

Councilman Manning once noted that this doesn't resolve the current issue regarding the transfer of funds.

Councilman Diamond requested clarification from General Manager Gleason that there would be no longer any transfer of funds in accordance with Local Law No. 5-2006 without Council approval. General Manager Gleason stated that a transfer of funds would not occur without Council approval.

Councilman Diamond explained that Local Law No. 5-2006 was passed by the City Council and should be strictly adhered to by the City Administration.

There being no further business to come before the Council a motion was made and seconded to adjourn, the meeting was adjourned at 8:00 PM.

Respectfully Submitted,

Bruce A. Hidley  
City Clerk and Clerk to the Council