

**MINUTES OF THE MEETING OF THE COUNCIL OF THE CITY OF WATERVLIET
THURSDAY, MAY 23, 2013 AT 7:00 P.M.**

The meeting was called to order by Mayor Michael P. Manning at 7:00 P.M.

Roll call showed that Mayor Michael P. Manning, Councilwoman Ellen R. Fogarty and Councilman Nicholas W. Foglia were present.

Also present from City Administration were: Mark Gleason, General Manager, Yorden Huban, Corporation Counsel, Bruce A. Hidley, City Clerk and Clerk to the Council, Mark R. Gilchrist, Assessor/Bldg. Inspector and Police Chief Ron Boisvert.

A motion was made and seconded to dispense with the reading of the minutes and accept the City Council Minutes as written for May 9, 2013.

REPORT OF OFFICERS AND COMMITTEES

ITEM #1 – Mark Gleason, General Manager informed the Council that the Department of Public Works has added a new truck to its fleet. The new truck is a 2014 International 4300 which is replacing a 1989 International that is beyond its useful life. The Arsenal City Truck Service has estimated that it will cost approximately \$35,000 to \$40,000 to repair the 1989 International. The new International 4300 has an automatic transmission, which is easier to drive. The International also comes with a 10' salter and a 10' plow. The International will be used for snow removal, water breaks and hauling stone/gravel to the City Highway Garage for stock pile. The International was purchased using Consolidated Highway Improvement Program (CHIPS) funds. There were no City of Watervliet funds used for the purchase of the truck.

ITEM #2 – Mark Gleason, General Manager informed the Council that due to the lack of vendors participating in the Watervliet Farmers Market the City of Watervliet has made a decision to discontinue hosting the Farmers Market. The Watervliet Farmers Market had 14 vendors last year. This year the City has only one business vendor interested in coming back and two not for profit groups. Over the years the City has tried several ways of reinvigorating the farmers Market. The City moved the farmers Market to the DOME with hopes of resident's participation. The City has sponsored celebrity chefs to come in and cook in the hope of getting more shoppers there. The City moved the Farmers Market back to Hudson Shores Park, the City had a wide variety of vendors but nothing has worked. Therefore, due to the lack of participation the Farmers Market for the 2013 season has been cancelled.

ITEM #3 – Mark Gleason, General Manager explained to the City Council that the Recreation Department has placed Welcome to the City of Watervliet banners and flowers on the light poles along 19th Street for the summer season. The flowers are the result of the City’s home grown flower project. All of the flowers in the City this year were grown over the winter in the DOME using powerful lights obtained thru the Police Department’s asset forfeiture program. Banners and flowers will be placed on the light poles on 3rd Avenue in Port Schuyler next week.

ITEM #4 – Mark Gleason, General Manager explained to the Council that the annual Memorial Day Parade will be on Monday, May 26, 2013 at 10:00 A.M. The parade will begin at the Watervliet High School then proceed east down 19th Street then south on 2nd Avenue to Veterans Memorial Park. The Grand Marshall for this year will be Mr. Bob Gusberti. During World War II Mr. Gusberti served on several ships including a patrol boat and the destroyer the USS Lamson DD367. While sailing in the Philippines a Japanese plane bombed the ship near where Mr. Gusberti was on duty. He received third degree burns and jumped into the sea along with other Navy survivors. Mr. Gusberti received a Purple Heart for his combat wounds. Mr. Gusberti also earned a Combat Action Ribbon, a Presidential Unit Citation and a Philippines Victory Medal. Mr. Gusberti also received a New York State Service Cross and Star. The City of Watervliet is very proud to have Mr. Gusberti as our Grand Marshall. A round of applause was given to Mr. Gusberti by all in attendance.

OLD BUSINESS

NONE

NEW BUSINESS

ORDINANCE NO. 1899 – An Ordinance of the City of Watervliet, New York, repealing Article II (Abatement of Public Nuisance) of Chapter 202 (Nuisances) of the Code of the City of Watervliet and replacing it with a new Article II (Abatement of Public Nuisances) Before voting Councilman Foglia asked about if there were any revisions to the acts that constitute a Public Nuisance. Yorden Huban, Corporation Counsel explained that our current Article II of Chapter 202 has a violation of the Penal Law which is controlled substances. That remaining the same we have Article 221 of the Penal Law involving marijuana. Councilman Foglia asked what was the thought of adding more violations to the Chapter. The majority of what is included in the new Code is similar to what is currently in our Code that exists right now. There are certain changes and additions that were made in there with respect to other violations of the Penal law. It is similar to the violations we have in there now. There are certain changes that were made changing of wording to be more specific with respect to specific violations. Mayor Manning stated that he thinks it is important to note that if it is not named in this as a nuisance we can’t do anything against it under this law. By Pulling in the other offenses in the Penal Code something that happens in the Penal Code someone gets arrested in an apartment for violating that apartment becomes a public nuisance.

The City can take action on the apartment as well as the individual. In order to fight this as a Public Nuisance we have to have this in this particular Ordinance. Police Chief Boisvert explained that this gives the Police Department more of a grasp on the quality of life issue they are trying to address. Yorden Huban stated that one of the other main proposed changes is currently the way the system exists is that if right now the landowner/homeowner is cited for a violation either the City Code or the Penal Law of the State of New York or any of the law that is included in the specified laws that are considered a Public Nuisance. The homeowner goes to court whether it's criminal or whether it's a court dealing with the violation of Codes. They resolve their case at those levels. However if it is a specified Public Nuisance of what they were charged with right now we have a point system that if they accumulate a certain amount of points in a certain period of time then we bring to court again for a violation of the Public Nuisance Abatement Law. That's really how it is right now. The main difference is if there is something that really happens at a residence, say really serious and that is considered a Public Nuisance. Right now that property is just assessed whatever points are designated for that specific offense. There is really no ability to take immediate action with respect to that residence because that law says you can't do anything until you reach a certain number of points. In my opinion the main change in this Ordinance is to eliminate the point system. This will give the ability of the City of Watervliet and the authorized Officers to take immediate action with respect to that property, if it is designated Public Nuisance. An example would be a property has an arrest due to drug trafficking going on there. Right now someone is arrested they go to court, the property owner under the Public Nuisance Abatement Law is designated points. But you really can't do anything about it due to their first points being assessed. You have to wait for the points to accumulate in order to do something. This give the City of Watervliet the ability to commence judicial proceedings to go to court based upon the one act that happened within the home. That's classified or designated as a Public Nuisance. That's one major change that there is. It also gives the City the ability not to go to court but to have an administrative hearing before the Commissioner of Public Safety to deal with that issue also. The law spells out specifically what the Commissioner of Public Safety can do at this hearing. Which is closure of the premises or the establishment, relocation of certain licenses or permits that have been issued? The City can't impose any fines or civil penalties for the court. You can have the avenue or mechanism to go to court and request the imposition of civil penalties against the owner and for the closure of the premises. Also administratively we have the option to go before the Commissioner of Public Safety and for the owner to have a hearing to address the issues at hand. The other difference I see is it is going to instead of having one department notify the other department meaning a person who is responsible for keeping track of these points. The proposal is that the authority to issue a notice to the owners that this is a Public Nuisance is given the Chief of Police, Building Inspector and the Code Enforcement Officers.

They will have knowledge based upon their duties and responsibilities of their specific departments to know and to determine in their opinion what are the problem properties in the City of Watervliet as opposed to trying to figure out the transfer of information of when an arrest happens and when something happens in notifying the individual that keeps track of the points right now. There could be a potential of something being lost in the transmission of what occurs. If the Chief of Police knows there was a major arrest at a property he has the authority to notify pursuant to our procedures the owner. The City hereby notifies you that this incident happened at your property and give the description of what occurred. The notification is then sent to the Mayor. The Mayor has the ability to notify the Corporation Counsel that you may commence a judicial proceeding to take action against that respective property. It also gives the Chief of Police, Building Inspector and Code Enforcement Officer the ability to speak with the owner of the property. This will allow them to speak with each other and try to work out and abate the condition as to what is happening on the property. There is a little bit more flexibility to see if something can get worked out before going to court or before going to the Administrative Hearing or even during the time of the judicial proceeding. I think this is one of the main differences of what is going on. Councilman Foglia stated that he is having a hard time understanding the difference between when a violation of PNL would cause an Administrative Hearing and when it would cause a judicial hearing at the City Court and how that would be determined if the Mayor and General Manager are acting or if the Judge is acting to abate the problem. Yorden Huban, Corporation Counsel responded by saying that there is no real mechanism to decide which method you go to. The difference of having an Administrative Hearing is we as the City of Watervliet, the Commissioner of Public Safety once he has the Hearing he cannot impose any civil penalties. The judicial proceeding you can do both, you can impose a civil penalty and closure of the premises. Councilman Foglia asked if the eviction was listed under the judicial remedies and conviction is not an option under the Administrative Proceeding. Mr. Huban stated you are right. The eviction gives the Corporation Counsel the ability to commence an eviction proceeding. Councilman Foglia stated that the current PNL there is already a mechanism for a resolution by the General Manager or the Court. It seems as if there is already an avenue to do that. Is there a problem with how that is currently set up? It says that the General Manager needs to set forth the provisions to be able to follow an Administrative Hearing. Is that because it hasn't been set up. Mr. Huban said that if you look at the current law it says that you have the opportunity for a hearing in Watervliet City Court. What that basically means is that you go to court and you try to rectify this and enter into a resolution of this matter with the homeowner. Specifically it says what are the powers of the City Court with respect to public nuisances. The Court can order the closing of the building. It can suspend any license or permit. It can impose a fine. These are the things that can be done after the hearing. Councilman Foglia said it also says that in the legislative bindings Section 2.1. The purpose of the Council is to authorize and empower the General Manager to impose sanctions and penalties for such public nuisances in such powers.

The General Manager maybe exercising in conjunction with or apart from the powers contained in the law without prejudice. The Council further finds sanctions and penalties may be imposed be the General Manager pursuant to this Article. Yorden Huban, Corporation Counsel responded by saying that there is no mechanism for a hearing with respect to that. That's why it has never been done thru an order from the General Manager to close down a building. Mayor Manning stated that this was there before but we didn't define how to do it. This will define how to do it. Yorden Huban explained to impose a fine by the General Manager I don't believe that can be done that's why it has never been implemented. Councilman Foglia asked what is the difference in the fee or fine between the current and the proposed Ordinance. The difference is it is not less than \$250.00 and more than a thousand in the current and proposed is no less than \$500 per day. Will this decrease our ways to increase revenues with this? Yorden Huban noted that if you look at this as strictly as a mathematical stand point right now it is anywhere no more than \$1000 this says \$500 per day. I look at this as yes monetary is obviously more than the old one. My view point is this is not designed to generate revenue for the City of Watervliet. The issue is there is a problem and what are we going to do about it. To just fine somebody I don't believe this addresses the problem. If you have the ability to impose a civil penalty thru the court plus also the closure of the premises. I think this is an appropriate method or sanction in order to impose a penalty upon a landowner for what is actually going on in the property. The end result is to stop what is going on. Councilman Foglia asked the Chief of Police for his comments on the proposed legislation. Do you think this is a better mechanism for acting quickly and resolving these problems? Police Chief Ron Boisvert stated that he thinks the proposed policy provides the City with a lot more efficiency. The old policy was not efficient at all. It was hardly used because it was so inefficient. The idea now allows the City to establish a violator immediately and streamlines the process to make it more efficient. The thought of building points on a residence I think is cumbersome. A resident asked say it is an absentee landlord the resolution is they have to take people down. What if the new people coming in if the same thing happens to them how many times do these people get evicted before you can take the property under control? Yorden Huban noted that one of the avenues is getting separated specifically when there is a problem. So if there is a problem and it is addressed let just say the nuisance is abated meaning the people occupying are evicted and someone comes in and the same problem exists. There is a provision administratively when you have the hearing to revoke any permits or licenses that have been issued such as the Residential Occupancy Permit or as when we term it Certificate of Occupancy. I think there is a way and mechanism right now to suspend for a period not to exceed 6 months or revoke for a period on 1 year any City issued Certificates, Permits or Licenses. But not limited to Occupational Licenses. I think that addressed your question with respect to at least a certain period of time the City will be able to rent or obtain a license. Mayor Manning clarified that severe form of penalty imposed that can't rent the apartment to the next person. The same mechanism will work now as when they rent without a Certificate of Occupancy right now. Yorden Huban stated that if that situation were to arise there is a section that it is unlawful for any person to employ, use or maintain or allow the appointed use on the abated premises under his/her ownership control as a specified public nuisance. It is being classified as a Public Nuisance and if that person gets in violation of that then we would go to court again.

That person is subject to civil penalties of up to \$500 per day. I think that definitely is new in this proposed law. Mark Gilchrist, Building Inspector/Assessor explained that the City had one apartment shut down for a year a few years ago. It is not going to happen very often. Mayor Manning noted that the most popular nuisance is not that a crime has been committed, its' the repeat need for attention from the Police or Fire. If that isn't defined somehow as a public nuisance our biggest public nuisance. We have a good methodology set up but we need the tools to address the bigger ticket items. The Police have to go somewhere a lot they will accumulate the points faster. Under this new scope now that we can identify and do something somehow we need identify that type of nuisance which is hard to define. Chief Boisvert stated that there are lots of things we get called to people's residences for that doesn't raise them to a criminal level. But they are a nuisance to somebody's quality of life because the City is responding to a call sometimes several times. The way the policy was written previously was very cumbersome very ineffective the way the clock ticked in order to build those points. You would have to start over after a certain period of time. It just bogged itself down. Mayor Manning also stated that the City is/was trying to give the homeowners a chance to remedy the problem themselves. You have to also prevent against the disgruntled neighbor syndrome where hey I don't like that guy next door so I'm just going to keep calling. Chief Boisvert noted that the policy give the homeowner an opportunity to become a little more responsible to his property and who is living in the property. He gets a fine the first time and gets put on notice that may not be something the homeowner wants to go thru a second time. The way we used to do it could take a long time. Now we have the opportunity to get their attention immediately. Mayor Manning asked if there was a way to tie the disturbing the peace type of nuisance and put it into something we can address. Police Chief Boisvert stated that the problem with that is those types of calls we are talking about aren't addressed by the Penal Law. There needs to be a mechanism of policy that defines that type of scenario. Yorden Huban, Corporation Counsel stated that the situation he could think of is when you have a tenant whose having a problem example being father/son, mother/daughter. Then the Police Officers are called there one person is harassing the other person. But no arrest is made. A violation is defined as it doesn't have to require criminal prosecution. It's only a preponderance of the evidence that there is prohibitive conduct that is happening. Such as a 911 call or an incidence report and surveillance. I think where Mayor Manning is getting to a situation where there is a repeated call. Police Chief Boisvert noted that some of these calls are legitimate calls and they imposing on the quality of life in the neighborhood. That's our determination and times this is a no win for the Police and the person who called. There is an issue now where a family has a child with needs and the person across the street doesn't like the way the child and parent interact with each other so they call the Police Department all the time. There is a legitimate reason way that parent has to deal with that child. The other person doesn't understand that. We go to that place a lot of times it is a nuisance to us. It is almost a nuisance to us that the other person doesn't understand. But I also understand it affects their quality of life. Those are some of the grey areas that I think will be able to win on no matter what we do.

Mayor Manning stated that this is probably one of our biggest public nuisances. Police Chief Boisvert believes that Corporation Counsel Huban is trying to touch base I just don't know if that is specific enough. A violation doesn't necessarily have to be a criminal violation. Mayor Manning said let's apply it to this new Ordinance. Yorden Huban, Corporation Counsel stated we all understand what is being proposed right now is if there is a specific violation of a specific section of the law whether or not it results in criminal prosecution for arrest. If you can pin point thru evidence whether or not it is a 911 call or something other any observation of a Police Officer or any observation from a Code Enforcement Officer it's in there. Mayor Manning noted that is part of the power in the new policy. Yorden Huban wants to try and identify them. The repeated calls are loud music at 1:00 AM in the morning. Police Chief Boisvert stated that this is a violation of the Public Nuisance Law. Yorden Huban noted that this particular issue is not defined in the old law. Mayor Manning noted we can't use this tool if it is not in there. Police Chief Boisvert did say the City can make an arrest for a Noise Ordinance violation. Yorden Huban questioned should loud noise be a designated public nuisance where if the Police are called to a residence for loud noise one time that should give the ability for the City of Watervliet to commence judicial proceeding to close down that building and or commence an administrative hearing to close down the building for a specific violation of the Noise Ordinance. Mayor Manning noted that it may be more than one time and that's enough of a Public Nuisance. But if it is not in there at all you can't use that as a Public Nuisance. Yorden stated that is the only example. If there is a fight in a bar, I can understand if there is a fight in a residence, I can understand if someone is being disorderly. Mayor Manning said it is not fights we get calls for its one person bugging another person. We have a noise Ordinance and some of them might be covered. Yes it is a violation of the Noise Ordinance and we can give them a ticket and they could do it again. Police Chief Boisvert stated that this happens on a regular basis, noise complaint, and loud noise. Within a short time later after first responding to the call the Police are called back again. Two strikes next time we came back you are done. If the Police Department comes back a third time you are arrested for a Public Nuisance violation. If there is an arrest out of that residence for Noise Ordinance which is a violation of the Nuisance Abatement Code which this does fall into the Nuisance Abatement Code. Mark Gilchrist, Building Inspector stated that the Noise Ordinance is not in the new PNL. Mayor Manning wants to make sure that we make sure the tolls are there to address our #1 issue which are not fights and drug busts and things along those lines. But again the reason we have this isn't because you can arrest the person being loud, it's so that you can go back to the property owner and make them stop renting to this type of person or make them kick these people out. The City needs both ends of the spectrum. Chief Boisvert's position right now is I have to see the Ordinance with the loud music and noise. That to me is preponderance evidence to say we are going to bring in the landowner/homeowner this is what is going to happen to your place. I don't know I think this needs to be specifically written out. Mayor Manning asked what if we have a Public Nuisance one of the nuisances is defined as disturbing the peace. Then you all kinds of leeway and it can come in different ways. You can't name every single thing that people can do to poke each other it's never ending.

Councilman Foglia stated that it could be just responding to a location where there was a violation of any State or Local Law. Yorden Huban explained that coming to the Mayor's point is that what is being proposed right now is what is defined as specified Public Nuisances. Mayor Manning wanted to specify something, you might not use that one on a first offense but you might. We don't have the power to do it on the first offense then you have to wait for two, three or four. Yorden Huban stated that for example if someone left their garbage out they get cited for a violation of the City Code. Is leaving your garbage out right now you can accumulate points. That is not in here because it is not a Public Nuisance. The way that I propose for your consideration to change it, there are certain sections of the City Code if there exist was occurring a violation of certain sections which rise to the level of dangerous to health and safety. If you have a garbage situation where they dumped a tremendous amount of garbage either on their property or in the alley. That could be potential to be dangerous and hazardous to public safety. There has to be a level of discretion and there has to be evidence to support it also. But just for a single garbage to be assessed points I think that needs to be changed. Councilman Foglia noted that Code Enforcement still could issue a ticket or summons for leaving garbage out or for something that could be more minor. Yorden Huban explained that it really designed for something that is either a onetime matter or a serious of matters. Chief Boisvert stated that the focus was we needed is to expand the elements of the Public Nuisance. Chief Boisvert feels the language in the Ordinance is pretty broad. Yorden Huban stated that the purpose of the definition of violation really means that you really don't need to have a criminal prosecution and conviction. Mayor Manning feels that we are covered and it stands up to a Public Nuisance then you can't use this method against it. Make sure we have our top Public Nuisance which is this interpersonal quality of life wrecker. Yorden Huban said that the way that I can impress that at this point is to add an additional 17 which adds the City of Watervliet Noise Ordinance Chapter 197 Noise. That's the only thing I think addresses the situation of responding to loud noise. Yorden Huban said you just add Chapter 197 and leave at as a matter of discretion where if something happened this one time there is no timeframe. If something happens within another month that is all documented. Mayor Manning stated the way we do it is just try and work out the holes in this. Councilman Fogarty asked if we could say numerous violations for noise so it not just one. Councilman Foglia thinks that what Yorden Huban is saying is that the penalty doesn't really fit what the violation is. In that case it is a minor violation. Mark Gilchrist stated that in reality the Chief of Police is not going to pull the trigger because he has gone into an apartment once for a noise complaint. If they are there repeatedly then he has the ability to say that this is too much. Mayor Manning wants to pull in that section and give it a try. If we don't catch everything we find out how to define what it is. Mayor Manning is suggesting that the City Council approve this with the stipulation that we add noise. Chief Boisvert doesn't feel that noise addresses the issue. Mayor Manning noted that we are not limited we can make a definition of something then call it what it is. Is it a matter of putting it into words or we just can't make up a violation. Yorden Huban stated that you definitely need a reference to be specific. Mayor Manning noted that we can be specific but it doesn't necessarily mean that you have to pull in a Chapter of the Code. Chief Boisvert stated that with the coding what you said is a good idea. The thing that I don't see is that fact of our own specific language in to this.

Mayor Manning asked what would stop us from putting our own specific language in. Police Chief Boisvert stated nothing. I wouldn't recommend that we move forward on this until we know what the language is on this specific topic. The example given by Chief Boisvert is one person doesn't like another person in the neighborhood and they constantly call on each other. Or there is an issue that gets under one person skin that is not something the City should be going to ten times but it happens. These are the kind of calls the Police Department gets every single day. I want to know how we are going to define this scenario. So that it meets the Ordinance standards to comply with what we need. Yorden Huban stated that he has done a lot of research on this subject and pulled as many Public Nuisance Abatement Laws that he could. A lot of municipalities appoint a point system and some don't. Mayor Manning questioned what is the down side of making something up, not right here, make something up that will work for our Code. If it is not done anywhere else it is not a violation of the law as an Ordinance. It is just coming up with some words that give us the power to start this proceeding and do something about it. Yorden Huban feels there is the possibility to abuse that situation. Yorden Huban stated that #1 it would be abused from the individual who may or may not know there is an enforcement mechanism out there who knows he can call and say certain things about his/her neighbor without specifically identifying any specific violation of any law that gives the City the mechanism to do something about it because we have somebody who is contacting the City of Watervliet constantly about a certain issue. Mayor Manning noted again this is to notify the owner. We can go three times to ask someone to turn the noise down and the owner doesn't even know this is happening. The City needs some way to go back to the owner and say you have to stop what this tenant is doing. It can be abused but right now it is being abused the other way. Chief Boisvert feels that what needs to happen is that we need to better define what the timeframe is. At least for the scenario which was just discussed? I don't think Yorden is comfortable with us using there right now to cover that scenario. I don't think we have enough information to get there to cover it otherwise. I think we need to include some language that better identifies prohibitive conduct so that Yorden Huban is comfortable with being able to do something and I can feel good about using this policy to enforce this issue. Yorden Hubans position is that this situation and I can understand what you are saying Chief. It does not qualify as a Public Nuisance. Chief Boisvert commented that there is a potential quality of life on a daily basis. Yorden Huban noted that is you can identify something is going on and articulate a basis of violation of the City Code or the Penal Law or the Alcohol Tobacco Beverage Control Law. Somebody is calling to say something is happening. Mayor Manning explained that all those other things we can enforce we already went thru that. Chief Boisvert has no issue with any of this being discussed now. Chief Boisvert is not sure what he will be able to do. Mayor Manning asked how we are going to use this if not for the one being described. Mayor Manning explained that if they commit a crime we arrest them. Chief Boisvert noted that if we don't make an arrest you are only going to a residence due to issues. Somehow some way we need to be able to apply this to the property owner. Yorden Huban asked for an example. Chief Boisvert stated that there is a special needs family the daughter needs to be medicated with a specific type of medication. The mother won't allow her to take the medication due to the side effects.

The child is manic depressive, bipolar and she has issues. Sometimes those issues transpire into the street in front of the residence or it can be heard inside the residence by a neighbor. The neighbors call and say there is a fight in progress. That happens ten times a month, you try to explain the situation to the person who was called. The caller doesn't care about the situation or any compassion for the situation of what going on but the Police Department still gets the calls. Somehow my Officers have to appease somebody in this situation. I can't do it if you are comfortable with the language that would come with that scenario. Yorden feels that the language does cover this scenario but there has to be something that specifically identifies what happened. If there is harassment or assault going on then YES. In my respectful humble opinion that is not a Public Nuisance. Just because someone is calling and saying something is going on. Mayor Manning noted that it is not the act of the calling, these people are screaming at each other. Yorden Huban stated that after all his research that is not what this is designed to do. If there is a fire in someone's backyards and the smoke is blowing into my window, plus it violates other codes. We can go and put the fire out but the next night they have the fire going again and again and again. You can drag someone out in cuffs. Chief Boisvert stated that doesn't address the person who is having the fire not the homeowner who owns the property. Yorden Huban explained that YES, it is a violation if it fits within of a violation of City Code. Mayor Manning noted that not every violation can be covered as a Public Nuisance. The definition of nuisance is something that bothers someone. It is not always a crime, it is not always a violation. Chief Boisvert noted that it doesn't matter if it doesn't bother the rest of the neighborhood it only takes one call that says it is too loud for me, it then become a nuisance. The Police Department has to do something about it. Councilman Foglia stated that if you were called under the old law we say if there are numerous calls to the Police Department within a certain timeframe that it is a Public Nuisance. Why can't we just incorporate that into the points being issued? The City can say the Police Department is showing up. Mayor Manning said that method they had to file a report, report had to drift its way up to the General Manager's Office, points had to be counted. Yorden noted the difference is you are not identifying specifically what is happening. We are showing up because someone said something has happened. What is the specific identifiable provision of the law, flagrant violations or violations of State, Local Law Ordinances? Nobody gets arrested it becomes a harassment. Notwithstanding the fact that nobody was arrested you can identify the circumstances that it could be a violation of something on the record. Chief Boisvert asked what if it is a mother/daughter and mom got the scratches on her face trying to restrain the daughter. Mayor Manning stated we keep coming back to that scenario because we can't do anything about it. Even though there is a compassionate we should feel a compassion for it maybe this mother with this child with these needs shouldn't be living in a populated street with apartments. Chief Boisvert commented that sure that this is bothersome to the called. Chief Boisvert noted that all the applicable child caring agencies such as CPS are involved.

Chief Boisvert just doesn't know how to fix it and whether this even addresses the above scenario. If Yorden Huban is not comfortable with the way it is, then how can we be comfortable. Yorden Huban explained that he is sure we can come up with words to explain it. The bottom line for Mr. Huban is I think that it needs to be specifically to violation of something. Chief Boisvert asked any many people feel that a great deal of these Nuisance Abatement Laws are designed to address quality of life issues. Mr. Huban responded by saying YES, a majority of them are Penal Law offenses. Mayor Manning noted that a majority of our calls are not Penal Law issues. Yorden Huban stated it gives more authority. Chief Boisvert stated that your comment was that I can arrest someone for harassment. Yorden clarified I didn't say that for that specific situation. Mayor Manning noted at this point we are approximately 90% there. Chief Boisvert feels that noise should be moved into the Ordinance. Mayor Manning stated let's take a stab of what this is we are defining and when we step back and look at it we'll agree on it. Yorden Huban asked for the purposes of the Ordinance in front of the City Council what would be added in for consideration, the #17, any premise wherein there is or where has occurred a violation of Chapter 197, Noise of the Code of the City of Watervliet. Mayor Manning asked if everyone wants that in. Mayor Manning wants #18 added into the Ordinance also. Yorden Huban stated it is nothing he is going to do right now or afterwards if in his opinion he thinks is necessary. He would be happy to continue to research the issue. Mr. Huban has gone thru this in his own self. Mayor Manning questioned what would happen if we turned this loose with Noise apart of it, any down side. Mayor Manning stated that we all agree the current process isn't working, this changes the process. What do we have to lose by letting us try it? Noise is in. Councilman Foglia noted that the new legislation takes out the City Code on signs, streets and sidewalks, swimming pools, live music, entertainment, offenses against public order. Is this similar to the discussion we are having. Is there a good reason we are taking this out. Chief Boisvert stated that if someone calls about a noise complaint they have the right to do so if they think it is a problem. The Police Department can use its discretion on the decision of what to do. Mayor Manning noted that the Council needs to amend the motion to include approving adding Section 197. Upon motion of Councilman Foglia, seconded by Councilwoman Fogarty, this Ordinance was approved and adopted.

RESOLUTION NO. 8934 – The Council of the City of Watervliet hereby authorizes the recommendation of General Manager Mark Gleason that Contract No. 73, Upper Dam Downstream Face Slope Stabilization be awarded to Marando Construction, 265 Woodscape Drive, Albany, New York 12293 in the amount of \$86,800.00 in that said company has submitted the lowest responsible bid in conformance with the specifications. Before voting Mark Gleason, General Manager explained that NYSDEC wants the City to shore up the toe of our dam. The City will flatten it out, shore up the bottom and the complete what NYSDEC expects from the City with respect to the Dam. Upon motion of Councilwoman Fogarty, seconded by Councilman Foglia, this Resolution was approved and adopted.

APPROPRIATIONS AND ACCOUNTING

NONE

PUBLIC COMMENT PERIOD

NONE

A motion was made and seconded to adjourn the meeting, the meeting was adjourned at 8:15 P.M.

Respectfully Submitted,

Bruce A. Hidley
City Clerk and Clerk to the Council