

**MINUTES OF THE MEETING OF THE COUNCIL OF THE CITY OF WATERVLIET
THURSDAY, November 2, 2017 AT 7:00 P.M.**

The meeting was called to order by Mayor Manning at 7:16 P.M.

Roll call showed that Mayor Manning, and Councilman Patricelli were present.

Also present from City Administration were: General Manager Jeremy Smith, City Clerk & Clerk to the Council Scott O'Reilly, Director of Finance Michael McNeff, Corporation Counsel Yorden Huban, Police Chief Spain and Fire Chief Rob Conlen.

REPORT OF OFFICERS AND COMMITTEES

Public Works Report

ITEM #1 General Manager Jeremy Smith announced that the City's Anaerobic Digester was now up and running as part of the "Watervliet Organic Waste Program (WOW)". This machine takes organic waste and turns it into methane gas. Mr. Smith explained that the City will be attempting to include more City residents in the WOW program which will reduce the amount of garbage the Sanitation Department has to collect thus, reducing the City's tipping fees. The digester was fully funded through grant money.

ITEM #2 General Manager Smith reported that Phase 1 of the Water Infrastructure Improvement Project has been "substantially completed." Other than some final touchups, the water work and street paving has been finished. Mr. Smith announced that Phase 2 would begin in April of 2018, starting with Third Avenue in Port Schuyler.

Addressing some complaints that were voiced with regards to the Water project, General Manager Smith thanked all those residents who brought issues to his attention so that they could be rectified. He also asked that people not hesitate to contact the Mayors, General Managers, or City Clerk's office with any concerns they may have during projects in the future.

OLD BUSINESS

ORDINANCE NO. 1797 – An Ordinance of the City of Watervliet amending Chapter 266. Water of the Code of the City of Watervliet regarding establishing and imposing Water Rates for the period of November 1, 2017 to October 31, 2018.

General Manager Jeremy Smith explained that this Ordinance would adopt the Water Budget for 2018 and set the Water Rates for time frame included in the Ordinance. He also explained that there is no increase in the Water Rates from the previous year.

Councilman Patricelli then asked if these rates could possibly be changed prior to the second billing cycle of the year in May of 2018. Mayor Manning explained that in order to change the Water Rates, another Public Hearing would have to be held and this Ordinance would have to be amended. Corporation Counsel Yorden Huban noted that the City Council would have

to repeal a portion of this Ordinance before they could attempt to change it and also confirmed that another Public Hearing would have to be held as well.

Councilman Patricelli then explained that many of his questions and concerns about the 2018 Water Budget had been answered by General Manager Smith, particularly the length of the existing contract with the Town of Guilderland. General Manager pointed out that the current contract has twelve years remaining on it.

Councilman Patricelli also brought up an issue that happened at the Arsenal over the past weekend. General Manager Smith explained that the City had received multiple complaints about discoloration of the City water. Normally, the City flushes the water lines twice a year, in the spring and fall. This year the fall flushing did not take place as a result of losing a member of our Water Department and having the Water Infrastructure Improvement Plan on going, Mr. Smith also stated that historically, before the Arsenal flushes their water lines, the City will flush its main trunk line. This also did not happen because of some miscommunication between the Arsenal and the City. When the Arsenal flushed their water system, sediment from their pipes was released into the City pipes which caused the discoloration. General Manager Smith took full responsibility for the miscommunication with the Arsenal and noted that the incident did result in a meeting between the City and the Arsenal. Moving forward, the Arsenal must provide ample notice ahead of time when taking actions that could affect City Residents.

Following a motion to move on the Ordinance by Councilman Patricelli, seconded by Mayor Manning, the Ordinance passed with a 2-0 vote.

NEW BUSINESS

RESOLUTION NO. 9428 - The Council of the City of Watervliet hereby authorizes and directs Scott O'Reilly, City Clerk and Clerk to the Council, to advertise once in the official newspaper of the City that a Public Hearing will be held on Thursday, December 7, 2017 at 7:00pm at the J. Leo O'Brien Senior Citizen Center, 1501 Broadway, Watervliet, New York, for the purpose of hearing those persons who wish to be heard regarding the Estimate of Revenue and Expenditures for the fiscal year 2018.

General Manager Jeremy Smith explained that the General Fund budget will be presented at the City Council Meeting on November 30 with the Public Hearing taking place the following week on December 7.

Councilman Patricelli made a motion to move on the Resolution, which Mayor Manning seconded and the Resolution passed unanimously.

RESOLUTION NO. 9429 - The Council of the City of Watervliet hereby approves and authorizes Mayor Michael P. Manning to execute an annual renewal letter to the existing agreement between the City of Watervliet and the New York State Unified Court System for

court cleaning and minor repairs (Contract Number C3000271) for the renewal period commencing on April 1, 2017 and terminating on March 31, 2018.

General Manager Smith explained that this is an annual agreement the City has with the State Court System.

Following a motion by Councilman Patricelli and seconded by Mayor Manning, the Resolution passed with a 2-0 vote.

RESOLUTION NO. 9430 – The Council of the City of Watervliet hereby authorizes and directs Scott P. O'Reilly, City Clerk and Clerk to the Council, to advertise in the official newspaper of the City, that the City of Watervliet is seeking proposals from firms qualified in conducting Lead Paint Assessments in homes and businesses in compliance with the requirements of the US Environmental Protection Agency as part of the NYS HOME Program and affiliated housing rehabilitation programs.

General Manager Smith explained that this was part of the process for the HOME Grant Program that was awarded to the City. Lead paint assessment is a key component to be looked at when rehabbing these specific homes.

After a motion by Councilman Patricelli and seconded by Mayor Manning, the Resolution passed with a 2-0 vote.

RESOLUTION NO. 9431 - The Council of the City of Watervliet hereby approves the payment of 360 hours of accrued vacation to Edward Watson, and Mayor Michael P. Manning be and he hereby is authorized and empowered to execute an agreement therefore, and the City Clerk to attach, attest, the Seal of the City thereto, a copy of which shall be attached hereto.

General Manager Jeremy Smith explained that this is a settlement agreement between the City and retired employee Edward Watson, to pay a portion of his accrued vacation time that was not paid out to him when he retired. Based on Mr. Watson's pay rate at the time of his retirement, the 360 hours would equal "roughly \$14,000.00."

Corporation Counsel Yorden Huban explained that Mr. Watson had filed a grievance with the City upon his retirement, due to not being paid any additional vacation hours above the 440 hours he was supposed to be allotted.

Following a motion made by Councilman Patricelli and seconded by Mayor Manning the Resolution passed unanimously.

RESOLUTION NO. 9432 – The Council of the City of Watervliet hereby approves, authorizes and consents to a settlement regarding a notice of claim that was filed against the City of Watervliet and authorizes the payment of Thirteen Thousand Five Hundred Forty-Three Dollars and Fifty Cents (\$13,543.50) to HCC Public Risk Claim Services Inc., for loss and expense payments un the City's deductible for this settlement.

Corporation Counsel Yorden Huban explained this was a notice of claim filed by a City resident after an incident took place requiring a police presence at her home in 2015. Mr. Huban

also stated that as part of this agreement, the City would not attempt to recoup any monies loaned to the individual, as part of a Community Development Block Grant Program, in the event that were to sell her property.

Upon a motion by Councilman Patricelli, seconded by Mayor Manning, the Resolution passed with a 2-0 vote.

RESOLUTION NO. 9433 - The Council of the City of Watervliet hereby authorizes and directs Scott P. O'Reilly, City Clerk and Clerk to the Council, to advertise once in the official newspaper of the City that the City of Watervliet will issue Requests For Proposals (RFPs) for engineering services for the Watervliet Water System Needs Assessment Planning Project and that proposals must be received in the City Clerk's Office of the City of Watervliet, City Hall, Watervliet, New York 12189 no later than 2:00 PM on November 22, 2017. Requests for Proposals (RFPs) will be on file and publicly exhibited at the Office of the City Clerk, City Hall, Watervliet, New York 12189. The Council of the City of Watervliet reserves the right to waive any informalities in or to reject any or all proposals submitted.

General Manager Smith explained this RFP is for an engineering study at the City's service reservoir and Filter Plant, located in Latham, NY. This study will be used by the City during the next round of grant applications for additional funding to improve the City's water system.

Following a motion by Councilman Patricelli, which was seconded by Mayor Manning, the Resolution passed unanimously.

Councilman Patricelli then attempted to propose a new Resolution from the floor that would set a date and time for a more detailed meeting focusing on the 2018 budget prior to the budget presentation on November 30. Mayor Manning suggested waiting until after the budget presentation and before the public hearing on December 7, so that the Council could use the proposed budget during this "special meeting." Mayor Manning also stated he was unable to commit to a date at this time. Being unable to set a date for the meeting, Councilman Patricelli withdrew his motion for the Resolution. General Manager Smith stated that if such a meeting were to take place, the City would have to give notice seventy-two hours in advance so that residents could attend.

APPROPRIATIONS AND ACCOUNTING

RESOLUTION NO. 9434 - The Council of the City of Watervliet hereby authorizes the transfer of funds from certain under spent accounts to other over spent accounts in the annual estimate which have become necessary due to unforeseen circumstances.

Director of Finance Mike McNeff stated that these budget transfers are budget neutral and were recommended by the State Comptroller's office during a recent audit.

Following a motion by Councilman Patricelli, seconded by Mayor Manning, the Resolution passed with a 2-0 vote.

Prior to opening the Public Comment portion of the meeting, Councilman Patricelli addressed the issue of the length of term for the vacant City Council seat. Councilman Patricelli stated that he has not been able to get an official "concrete" answer from the City's Corporation Counsel. Councilman Patricelli then submitted, to the City Clerk, an opinion from the Office of the Attorney General for the State of New York, from September 30, 1996, pertaining to a vacancy in the Office of Mayor for the City of Watervliet due to resignation. Councilman Patricelli then asked Corporation Counsel Yorden Huban if he was in possession of the opinion. Mr. Huban stated that he did have a copy and asked Mr. Patricelli if he had received the emails containing the 1996 opinion as well as one from 1972 that Mr. Huban had sent to him. Councilman Patricelli stated that he did not receive the emails. Mr. Patricelli then asked Mr. Huban if he could elaborate on the opinion from the Attorney General's office, because it appears to state the length of the term to be one year.

Corporation Counsel Huban then noted that Councilman Patricelli had been in contact with the Albany County Board of Elections, whose website has the length of the term posted as one year to fill the unexpired term, and an attorney who also believed the term was to only be for one year. Mr. Huban then claimed that he had previously asked Councilman Patricelli who he had spoken to and what specific section of the law they were using to give their opinion on this issue. Corporation Counsel Huban went on to explain that he had been in contact with Matt Klein, who is the Democratic Commissioner for the Albany County Board of Elections, to get clarification on the section of the law Mr. Klein was supporting his opinion with. Up to this point, Mr. Klein has not provided this information to Mr. Huban. Corporation Counsel Huban also stated that he had contacted NYCOM and was informed as a "General Rule it is one year to fill the unexpired term," but NYCOM did not provide a specific section of the law they were basing this rule on. Mr. Huban then stated that he had spoken to an individual from the New York State Board of Elections who provided the opinion from 1996 that Councilman Patricelli had just submitted but explained that the "factual scenario was a little different" because the City Council has not appointed anyone to the vacant position, as they did in 1996. Corporation Counsel Huban then noted that he has also written a formal letter to the State Attorney General

requesting an opinion on this specific scenario and enclosed a copy of the opinions from 1972 and 1996, as well as a copy of the relevant section from the City's charter.

Councilman Patricelli pointed out that there is nothing "concrete" stating the term for the vacant City Council seat is four years and as a result, voters would be making their decision without knowing how long the term of office is.

Mayor Manning then explained the city was in a "gray area" having never had to deal with this specific scenario before. He also read the last line from the 1996 State Attorney General opinion that states "This perforce is an informal and unofficial expression of the views of this office." Mayor Manning also pointed out that the City Charter does not clearly specify whether the length of term should be one year or four years.

PUBLIC COMMENT PERIOD

Jim Hayes – 603 16th Street – Mr. Hayes stated that he believed off street parking zoning needed to be changed in the City. Citing the zoning laws for off street parking, Mr. Hayes stated that single family homes are not permitted a parking space in front of their homes, two family homes are permitted one parking space and multiple dwellings are permitted one and a half spaces. He then noted as an example, people living on Wiswall Avenue have a hard time finding parking spaces near their homes because many residents who live on the 19th Street hill park on Wiswall.

Paul Hughes – 108 15th Street – Mr. Hughes thanked the City for putting on the Halloween celebration at the Dome and reported it "went off without a hitch."

Mr. Hughes then inquired about the methane gas that is being produced by the City's new Organic Digester. He also asked, at what point does Copper Sulfate being added to the City's drinking water become harmful to people. Mr. Hughes then asked if the City could get a price for renting equipment that could be used to clean up the water chestnuts that are currently in the City reservoir.

General Manager Smith explained that the amount of methane gas produced by the digester is not significant enough to require any action by the City. He also stated that students from RPI were going to be working with the Digester to come up with ideas, in the event that the City increased its organic waste and created more methane gas. Mr. Smith then explained that the DEC regulates how much Copper Sulfate can be added to a City's drinking supply and that the amount we use is not harmful in anyway. General Manager Smith then stated that there will be a study completed at the City reservoir in the spring of 2018 which will include ideas on how to remove the water chestnuts from the reservoir.

Frank McGrouty – 436 8th Avenue – Mr. McGrouty stated that then length of the term for the vacant City Council seat does not matter to him. If he were to win the election, he would run again, whether it is after one year or four.

Kris Kresloff – 1624 7th Avenue – Ms. Kresloff asked Councilman Patricelli “what was the big difference between one year and four years” with regards to the City Council term.

Councilman Patricelli stated that the City government “should not be making it up as we go,” and stated that the City needs to “get it right.”

Todd Smith – 902 19th Street – Mr. Smith, referring to the Celebrations Budget in the Recreation department, pointed out that he helped organize the “Family Fun Day” at the Dome and that the entire day was paid for by sponsorships. He also noted that numerous people who did not donate to that event approached him about potentially donating time or money for future events. Mr. Smith stated that there are people willing to help in this City but warned against “going to the well too often.”

Mr. Smith then stated that the issue with the term of office for the vacant City Council seat is new territory and maybe the City needs to put something in place, in case the situation should arise again.

Mayor Manning pointed out that there is a past practice, with the last two people to fill in vacant City Council seats ran the same year for a four year term but that it is not stated in the charter that that is what should be done. He also pointed out that what triggered this debate was the Albany County Board of Elections stating on their website that the term would be for one year.

Councilman Patricelli then pointed out that when Mayor Leo O’Brien was appointed to the Office of Mayor he ran for a one year term and then again for a four year term.

Andrea Hughes – 108 15th Street – Ms. Hughes pointed out that the handicapped access door was not functioning properly at the Seniors Center and then asked when the new toilets would be installed in the Senior Center bathrooms.

With there being no further comments, Mayor Manning closed the Public Comment period.

General Manager Jeremy Smith announced that the next City Council meeting would be on November 30 and wished everyone a Happy Thanksgiving.

Councilman Patricelli announced that on Veterans’ Day there would be a brief celebration at Pershing Green Park at Three O’clock.

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With there being no further business a motion was made and seconded to adjourn the meeting.
The meeting was adjourned at 8:26 PM

***Next Meeting: November 30, 2017 7:00pm**

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott P. O'Reilly". The signature is written in a cursive style with a horizontal line through the middle of the letters.

Scott P. O'Reilly

City Clerk & Clerk to the Council