

COMMON COUNCIL

October 19, 2004

Mayor Robert Raphael presided at a regular meeting of the Common Council held at 7 PM on October 19, 2004, at One Court Plaza.

Present:

Mayor Robert Raphael
Ald. A. Anthony Abraham
Ald. James Cushman
Ald. Suzanne Williams
Ald. Jeffrey Thornton
Ald. Joseph Maiurano

Also:

Clerk / Director of Finance William Roberts
Fire Chief John Tighe
Human Resources Director Deborah DeForest
Police Chief Joseph Angelino
Public Works Supt. Carl Ivarson
Deputy Clerk Donna Philippone

Absent:

Ald. Joseph Biviano
Supervisor James McNeil
Supervisor Linda Natoli

-- Ald. Maiurano moved to dispense with the reading and approve the minutes of the special meeting of August 24, 2004, the work session of September 14 and the regular meeting of September 21, 2004. Seconded by Ald. Cushman and duly adopted, ayes all.

OPEN FORUM:

-- **Kate Conant**, 11 Conkey Avenue, Director of the SPCA, asked that the Common Council consider adopting an ordinance relative to free-running cats. She explained that the feline problem is escalating and noted the highest incidences of rabies appear in cats. Ms. Conant indicated that the proposed 2005 SPCA contract includes an option for cats and noted that the only municipality to this point that has contracted for the cat option is Bainbridge. Ms. Conant reiterated that a community approach is needed to deal with this growing problem. The matter was referred to the Public Safety Committee.

BIDS: There were no Bids to receive.

CORRESPONDENCE:

Parade Requests -- Ald. Maiurano moved receive and file the following requests that, due to the late receipt, were reviewed by the Finance Committee: Annual Homecoming Parade on October 8, 2004 at 6 PM; the 5K for United Way Walk/Run Event on October 9, 2004 at 10 AM. Seconded by Ald. Williams and duly adopted, ayes all.

Liquor License Renewal – Ald. Maiurano moved to receive and file a notification Nina's Restaurant and Pizzeria of intent to renew its Liquor License at 32 South Broad Street. Seconded by Ald. Williams and duly adopted, ayes all.

DEPARTMENT, BOARD AND COMMISSION REPORTS:

- ◆ Fire Department/Codes monthly report for July and August, 2004
- ◆ Historian monthly report for August, 2004
- ◆ Police Department monthly report for September, 2004
- ◆ Records Management monthly report for August, 2004
- ◆ Youth Bureau monthly report for September, 2004
- ◆ Civil Service Commission minutes of June 17, 2004
- ◆ Planning Commission minutes of September 20, 2004

-- Ald. Cushman moved to receive and file the department, board and commission reports. Seconded by Ald. Maiurano and duly adopted, ayes all.

WARD AND COMMITTEE REPORTS:

Fall Leaf Pickup – Questions relative to Fall Leaf Pickup were raised and the DPW Superintendent stated the dates would be determined at the next Public Works Committee meeting.

- ◆ Finance Committee meeting of October 6, 2004
- ◆ Personnel Committee meeting of September 7, 2004
- ◆ Public Safety Committee meeting of September 16, 2004
- ◆ Public Works Committee meeting of September 23, 2004

-- Ald. Maiurano moved to receive and file the reports. Seconded by Ald. Cushman and duly adopted, ayes all.

OLD BUSINESS:

Intermunicipal Meeting – Ald. Cushman reported he received correspondence from the LDC about a meeting on October 25, 2005 regarding the Inter-Municipal agreement. Mayor Raphael indicated that the City Attorney would be reviewing the agreement.

November Calendar – The Council concurred to change its meeting schedule in November as follows: Work Session to November 16 and Regular meeting to November 23.

NEW BUSINESS:

SPCA Contract 2005 – Ald. Williams moved to approve the SPCA Contract for 2005 with no changes from the 2004 Contract and authorize the Mayor to sign the contract under the direction of the City Attorney, as recommended by the Public Safety and Finance Committees. Seconded by Thornton and duly adopted, 5-0, on a roll call vote.

Proposed Ordinance No. 2 of 2004 – Ald. Maiurano moved to receive a proposed ordinance to amend the Zoning Ordinance and set a public hearing for November 23, 2004. Seconded by Williams and duly adopted, ayes all.

ORDINANCE NO. (2)
OF 2004

AN ORDINANCE TO AMEND THE ZONING ORDINANCE
OF THE CITY OF NORWICH

BE IT ORDAINED by the Common Council of the City of Norwich, New York, as follows:

Section 1. Chapter 96, Article II, Definitions, of the Zoning Ordinance of the City of Norwich, New York, is hereby amended as follows:

Section 1 – Definitions

[Accessory Structure – A structure detached from a principal building on the same lot and subordinate to the principal building.

Accessory Use – Is a subordinate use customarily incidental to and located on the same lot with the main use.]

Accessory Use, Separate Building or Structure

1. A use, separate building or structure, normally incidental, subordinate devoted to and located on the same lot as the principal use, building or structure but does not include a building or structure used for human habitation.

2. A use, separate building or structure, which is an adjunct or accompaniment to the main building.

3. A use, separate building or structure, which:

a. Is subordinate to and serves the principal building or principal use;

b. Is subordinate in area, extent, and purpose to the principal building and principal use served;

c. Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served;

d. Is located on the same site as the principal building or principal use served.

4. A minor building that is located on the same lot as the principal building and that is used incidentally to a principal building or that houses an accessory structure.

Owner – Shall mean any person who, alone, jointly or severally with others:

Shall have legal title to any dwelling or dwelling unit, or land with or without accompanying actual possession thereof, or shall have charge, care or control of any dwelling or dwelling unit, or land as owner or agent of the owner, or as executor, executrix, administrator, trustee, guardian of the estate of the owner, or had life use of the property, or are holders of equitable interest, such as trust beneficiaries, contract purchasers, option holders, lessees under leases having an unexpired term of at least ten (10) years, and the like.

Whenever a statement of ownership is required by the City of Norwich Zoning Ordinance, full disclosure of all legal and equitable interest in the property is required.

Any such person thus representing the actual owner shall be bound to comply with the provisions of the City of Norwich Zoning Ordinance and rules and regulations adopted, pursuant thereto, to the same extent as if he/she were the owner.

Section 2. Chapter 96, Article IV, Administration, of the Zoning Ordinance of the City of Norwich, New York, is hereby amended as follows:

Section 3 Board of Appeals

B. Powers and duties:

The Board of Appeals shall have all the powers and duties prescribed by law and by this ordinance, which are more particularly specified as follows:

1. Interpretation: An applicant may appeal a decision by the zoning officer, to decide any provision of this ordinance, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
2. Special Permits: The Board of Appeals shall have the power, after providing public notice and hearing as provided in paragraph D of this section, to grant or deny special permits where required by this ordinance for the particular use in the particular district. (See use table.)

- a. The Board of Appeals may not grant such permit unless it finds:
 - (1) that the use for which such permit is sought will not be injurious to the neighborhood or otherwise detrimental to the public welfare and will be in harmony with the general purpose of this ordinance. In determining its findings, the Board shall take into account the character of the neighborhood and use of adjoining buildings and those in the vicinity, the number of persons residing or working in such buildings or upon such land, and traffic conditions in the vicinity.
 - (2) that all structures, equipment and materials shall be reasonably accessible for fire and police protection.

- b. Any special permit which is not exercised within one (1) year from the date of issuance is hereby declared revoked without further hearing by the Board of Appeals.

c. In granting any special permit, the Board shall require that all off street parking necessary to meet the parking requirements set forth in the City of Norwich Zoning Ordinance Parking Requirements Table is met. The parking area shall have a paved surface of either blacktop, concrete, or equivalent as specified by the City Engineer and the area shall also be required to meet the screening specifications as enumerated in Article IV, Section 3, Off Street Parking and Loading, of the City of Norwich Zoning Ordinance.

[c] d. In granting any special permit, the Board shall prescribe any condition, which it deems to be necessary or desirable for the public interest.

3. Use Variance:

- a. The board of appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such ordinance or local law, shall have the power to grant use variances, as defined herein.

- b . No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - 1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 2) the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 3) the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - 4) the alleged hardship has not been self-created.
 - c. The board of appeals, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
4. Area Variance.
- a. The board of appeals shall have the power, upon an appeal from a decision or a determination of the administrative official charged with the enforcement of such ordinance or local law to grant area variances as defined herein.
 - b. In making its determination, the board of appeals shall take into consideration the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - 1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - 2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - 3) whether the requested area variance is substantial;
 - 4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - 5) whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.
 - c. The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
5. Imposition of conditions. The board of appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning ordinance or local law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood community.

Section 5 Violations and Penalties

[A violation of this ordinance is an offense.] The property owner shall have 60 days to correct such violation or face prosecution by the City of Norwich. Any person who is found guilty of violating any provision of the City of Norwich Zoning Ordinance shall be punishable by a fine not to exceed \$1,500 and/or imprisonment not to exceed 15 days. Each violation of the City of Norwich Zoning Ordinance shall be a separate offense and each day of said violation shall be considered a separate offense.

The imposition of the above punishment shall not restrict the City of Norwich in enforcing compliance with the City of Norwich Zoning Ordinance or other appropriate proceeding.

Section 3. This ordinance shall take effect immediately.

New Material is Underlined. Deleted Material is [Bracketed]

RESOLUTION # 63 - 2004. AMENDING VEHICLE AND TRAFFIC ORDINANCE RELATIVE TO STOP STREETS AT CERTAIN INTERSECTIONS OF MITCHELL, REXFORD AND SILVER STREETS

Ald. Thornton introduced the following and moved its adoption:

WHEREAS, pursuant to Section 90-4 of the Vehicle and Traffic Ordinance of the City of Norwich, the Common Council has been granted the authority to make, promulgate and enforce reasonable rules and regulations governing and designating parking, parking spaces, safety and loading zones, one-way streets and streets for through traffic; and

WHEREAS, the Traffic Commission has made certain recommendations concerning the removal of certain traffic lights and designating four-way stops at intersections of Silver and Mitchell Streets and Silver and Rexford Streets in the City of Norwich; now therefore be it

RESOLVED, that Section 90-50, Streets Designated, of the Vehicle and Traffic Ordinance of the City of Norwich, be and hereby is amended as follows:

[SILVER STREET is hereby designated as a THROUGH STREET and Sheldon Street, Gold Street, Berry Street and Waite Street, which intersect from the east, are hereby designated as STOP STREETS. Lackawanna Avenue, Mechanic Street, Berry Street, and Waite Street, which intersect from the west are hereby designated as STOP STREETS]

MITCHELL STREET is hereby designated a STOP STREET at the intersection of Silver Street
REXFORD STREET is hereby designated as a STOP STREET at the intersection of Silver Street
SILVER STREET is hereby designated as a STOP STREET at the intersection of Mitchell Street
SILVER STREET is hereby designated as a STOP STREET at the intersection of Rexford Street

Underlined material is new. [Bracketed] material is deleted.

and, further be it

RESOLVED, that this resolution shall take effect on June 1, 2005.

Seconded by Ald. Maiurano and duly adopted, 5-0, on a roll call vote.

-- Prior to the vote, Ald. Thornton noted that although there were other suggestions made, it was the recommendation of the Traffic Commission that it was in the best interest of public safety. The Police Chief was asked to give feedback once the ordinance is in effect.

RESOLUTION # 64 - 2004. AUTHORIZING TRANSFER FOR EMERGENCY MANAGEMENT OFFICE

Ald. Maiurano introduced the following and moved its adoption:

WHEREAS, the Common Council, on September 21, 2004, accepted a Bio-terrorism Grant with the Chenango County Health Department in the amount of \$2,000; and

WHEREAS, equipment is needed in the Emergency Management Office to improve capabilities for monitoring various conditions in the event of emergencies; and

WHEREAS, the Finance Committee has made certain recommendations; now, therefore be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following transfer in the 2004 General Fund Budget:

<u>From:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
A1990.4	Contingency	\$ 1,991.94
<u>To:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
A3640.2100	Emergency Preparedness - Equipment	\$ 1,991.94

Seconded by Ald. Thornton and duly adopted, 5-0, on a roll call vote.

RESOLUTION # 65- 2004.

AUTHORIZING TRANSFER FOR EQUIPMENT RELATIVE TO THE SANITARY SEWER SYSTEM INFILTRATION AND INFLOW STUDY

Ald. Maiurano introduced the following and moved its adoption:

WHEREAS, the Common Council on May 18, 2004 authorized to enter into an agreement with Delaware Engineering for professional services relative to a Sanitary Sewer System Infiltration and Inflow study at a cost not to exceed \$53,000; and

WHEREAS, funds are required to cover the cost of Closed Circuit Television (CCTV) equipment in addition to the engineering work; and

WHEREAS, the Finance Committee has made certain recommendations; now, therefore be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following transfer in the 2004 Sewer Fund Budget:

<u>From:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
HR34-878	Capital Reserves - Sewer Mains	\$ 53,000.00
HR42-878	Capital Reserves - Sewer Equipment	\$ 52,000.00
	TOTAL	\$ 105,000.00
<u>To:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
G1989.0	Special Items - Special Projects & Other	\$ 105,000.00

Seconded by Ald. Cushman and duly adopted, 5-0, on a roll call vote.

RESOLUTION # 66 - 2004.

AUTHORIZING TRANSFER FOR ROOF REPLACEMENT AND REPAIRS

Ald. Maiurano introduced the following and moved its adoption:

WHEREAS, the Common Council, on September 21, 2004, accepted the proposal of AB Construction and Roofing of Whitney Point, NY for the roof replacement and repairs to the City of Norwich Court Building and Engineering Building at a total cost of \$18,250; and

WHEREAS, funds are required to supplement the budgeted expense for such work; and

WHEREAS, the Finance Committee has made certain recommendations; now, therefore be it

RESOLVED, that the Director of Finance be and hereby is authorized to make the following transfer in the 2004 General Fund Budget:

<u>From:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
A5410.4060	Sidewalks – Materials & Supplies	\$ 1,000
<u>To:</u>		
<u>Account Number</u>	<u>Name</u>	<u>Amount</u>
A1620.2200	Municipal Buildings – Capital Outlay	\$ 1,000

Seconded by Ald. Cushman and duly adopted, 5-0, on a roll call vote.

RESOLUTION # 67 - 2004.

RESCINDING RESOLUTIONS NO. 6 OF 2004 AND NO. 22 OF 2004 RELATIVE TO TRANSFERS FOR THE POLICE DEPARTMENT

Ald. Maiurano introduced the following and moved its adoption:

WHEREAS, the Common Council approved Resolution No. 6 of 2004 on February 17, 2004 and Resolution No. 22 of 2004 on April 20, 2004, authorizing transfers for the Police Department Personal Services; and

WHEREAS, the provisions of Section 6-C of the General Municipal Law preclude such transfers from Capital Reserves for personal services expenditures; and

WHEREAS, the Finance Committee has made certain recommendations; now, therefore be it

RESOLVED, that Resolutions No. 6 of 2004 and No. 22 of 2004, be and hereby are rescinded; and, further be it

RESOLVED, that the Director of Finance is hereby authorized to make the appropriate corresponding entries and transfers of funds to reverse all effects of said resolutions.

Seconded by Ald. Cushman and duly adopted, 5-0, on a roll call vote.

RESOLUTION # 68 - 2004. APPOINTMENT OF MOTOR EQUIPMENT OPERATOR I
POSITIONS IN THE PUBLIC WORKS DEPARTMENT

Ald. Maiurano introduced the following and moved its adoption:

WHEREAS, the Personnel Committee has made certain recommendations relative to vacant positions in Public Works Department; now, therefore be it

RESOLVED, that

1. Michael Burke of Greene, NY, be and hereby is appointed to the permanent position of MEO I, effective October 28, 2004; and
2. Earl Monroe of Norwich, NY, be and hereby is appointed to the permanent position of MEO I, effective November 1, 2004; and
3. such appointments are contingent upon the satisfactory completion of the required physical examination; and, further be it

RESOLVED, that this resolution shall be subject to such action as may be necessary by the Norwich Civil Service Commission.

Seconded by Ald. Williams and duly adopted, 5-0, on a roll call vote.

-- Prior to the vote, Ald. Thornton said he feels that before any position is filled, we should know where we stand with the budget. Supt. Iverson clarified the duties of the positions and noted the positions have not been vacant for very long.

Payment of Bills -- Ald. Maiurano moved to pay the bills after proper audit and certification as follows:

	<u>Prepaid</u>	<u>10/19/04</u>	<u>Grand Total</u>
General Fund	70,337.16	78,965.98	149,303.14
Sewer Fund	5,954.41	5,615.04	11,569.45
Water Fund	9,746.59	24,290.35	34,036.94
Trust	86,687.01	0.00	86,687.01
B.I.D.	0.00	0.00	0.00
Debt Service	0.00	0.00	0.00
Reserves	0.00	0.00	0.00
Unemployment	0.00	0.00	0.00
C.D.	27,875.00	0.00	27,875.00
EDZ/LDC	0.00	0.00	0.00
Capital Projects	259,485.71	0.00	259,485.71

TOTALS

Seconded by Ald. Williams and duly adopted, ayes all.

Special Budget Work Session – It was the consensus of the Council to hold another special budget work session on Wednesday, October 27, 2004 at 7 PM in the Council Chambers.

Executive Session – Ald. Maiurano moved to go into executive session at 7:35 PM to discuss the purchase of property where the price may be affected. Seconded by Ald. Thornton and duly adopted, ayes all.

Ald. Maiurano moved to go out of executive session at 7:48 PM. Seconded by Ald. Williams and duly adopted, ayes all.

Adjournment –Ald. Williams moved to adjourn at 7:49 PM. Seconded by Ald. Cushman and duly adopted, ayes all.