

MINUTES OF THE CANANDAIGUA CITY  
COUNCIL MEETING  
THURSDAY, JULY 6, 2017 6:30 P.M.  
City Council Chambers  
City Website: canandaiguanewyork.gov

**Executive Session:**

Mayor Polimeni, Councilmember-at-Large Terwilliger, Councilmember Ward 4 Wade, Councilmember Ward 3 White, Councilmember-at-Large Whitcomb, Councilmember-at-Large Martin

Mayor Polimeni called the Council Meeting to order at 6:30 PM

Councilmember Ward 4 Wade moved for an executive session at 6:30 PM to discuss the employment history of a particular individual. Councilmember-at-Large Whitcomb seconded the motion.

*Vote Result: Carried unanimously by voice vote (6-0)*

Councilmember Ward 4 Wade moved to close the executive session at 6:56 PM. Councilmember-at-Large Whitcomb seconded the motion.

*Vote Result: Carried unanimously by voice vote (6-0)*

**Council Meeting:** Mayor Polimeni called the Regular Council meeting to order at 7:00 PM.

**Pledge of Allegiance:**

**Roll Call:**

**Members Present:**

Councilmember Ward 1 Nick Cutri  
Councilmember Ward 2 Anita Twitchell  
Councilmember Ward 3 Karen White  
Councilmember Ward 4 Cindy Wade  
Councilmember-at-Large Matt Martin (Left at 7:20 PM)  
Councilmember-at-Large Robert O'Brien  
Councilmember-at-Large James Terwilliger  
Councilmember-at-Large David Whitcomb  
Mayor Ellen Polimeni

**Also Present:**

City Manager John Goodwin  
City Clerk-Treasurer Nancy C. Abdallah (Arrived 7:25)  
Deputy Clerk-Treasurer Doreen Palmer

**Review of Community Core Values:** Councilmember-at-Large Martin read Community Core Values: As residents, city staff and appointed & elected officials of the City of Canandaigua, our decisions and actions will be guided by these core values: Responsive, Participatory Governance; Caring & Respect; Integrity; Heritage; Stewardship; and Continuous Improvement.

**Resolution #2017-073:**

Moved: Councilmember-at-Large Terwilliger

Seconded: Councilmember-at-Large Martin

**A RESOLUTION APPOINTING JOHN D. GOODWIN AS CITY MANAGER**

**WHEREAS**, the City Council of the City of Canandaigua desires to employ the services of John D. Goodwin as City Manager of the City of Canandaigua as provided for in the City Charter; and

**WHEREAS**, John D. Goodwin desires appointment as the City Manager of the City of Canandaigua; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that John D. Goodwin is hereby appointed City Manager of the City of Canandaigua, New York, effective July 1, 2017, pursuant to the Charter of the City of Canandaigua, and the laws of the State of New York;

**BE IT FURTHER RESOLVED** that Mayor Ellen Polimeni is hereby authorized and directed to execute a written employment benefits agreement between the City of Canandaigua and John D. Goodwin under the terms and conditions approved by City Council.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large Martin, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

Mayor Polimeni swore in John Goodwin as the City Manager for the City of Canandaigua.

**Approval of Minutes:**

Councilmember-at-Large Terwilliger moved for the approval of the Council Minutes of June 1, 2017. Councilmember-at-Large Whitcomb seconded the motion.

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

Councilmember-at-Large Terwilliger moved for the approval of the Special Council Minutes of June 8, 2017. Councilmember-at-Large Whitcomb seconded the motion.

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

**Recognition of Guests:**

- a. John Isaac – Vice President of Canandaigua Lacrosse Booster Club, talked about an upcoming event “Shoot Out for Soldiers”. This is a 24-hour lacrosse game used as a fundraiser with all proceeds going to veterans and veteran’s services. This event will be held in 12 cities this year and Canandaigua was selected as an expansion City. The charities that Canandaigua selected are Blue Star Mothers and Veterans Outreach Center. This event will be held on July 22<sup>nd</sup> and 23<sup>rd</sup> at the Canandaigua Academy. There will be many other events planned for the weekend and all are invited to attend.
  
- b. Joel Freedman, 329 North Main St., apologized for a statement to the newspaper concerning Mayor Polimeni stating that she should stop supporting those who are exploiting or harming

the lake. He does not believe Mayor Polimeni would support anyone who would intentionally harm the lake and most individuals do not intend to harm the lake. He also spoke in opposition to the docks at Canandaigua Finger Lakes Resort. He hopes city Council will do something to stop congestion on the lake and regulate jet skis that pollute the lake.

## **Committee Reports:**

### ***Planning Development Committee Meeting:*** June 6, 2017 (Appendix A)

- Fort Hill Theatre Project – Fort Hill Performing Arts Center Canandaigua
- Letter of Commitment – Home Energy and Improvement Program - PathStone
- Grant Application – Tom’s Mobil
- Downtown Revitalization Initiative (DRI)

### ***Environmental/Parks Committee Meeting:*** June 13, 2017 (Appendix B)

- Special Event – Community Meals
- Special Event – Family Promise of Ontario County Bed Race
- Climate Smart Communities
- Dog Park Grant
- Special Event – Canandaigua Historic Downtown Drive
- Watershed Council – Grant Applications

### ***Ordinance/Charter Committee Meeting:*** June 20, 2017 (Appendix C)

- Canandaigua Finger Lakes Resort – Request for Dock
- Amending Chapter 496 – “Chronic Nuisance Properties”
- Executive Session – Legal Update

### ***Finance/Budget Committee Meeting:*** June 27, 2017 (Appendix D)

- Phone System Replacement
- Surplus Property
- Sewer Lining
- Canandaigua Finger Lakes Resort – Request for Dock

## **Resolutions:**

### **Resolution #2017-058:**

Moved: Councilmember-at-Large O’Brien

Seconded: Councilmember Ward 4 Wade

## **A RESOLUTION DECLARING VARIOUS USED AND UNWANTED CITY VEHICLES SURPLUS**

**WHEREAS**, there exists used and unwanted vehicles, so noted on the attached list, that are no longer essential to the operations of the City of Canandaigua; and

**WHEREAS**, it is necessary to declare as surplus the vehicle on the attached list such that they may be sold at public auction, via sealed bid, or as trade ins; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Canandaigua hereby declares as surplus the vehicles contained on the attached list and they are to be sold to the highest bidder at a public auction, through sealed bids or to be traded in on future equipment purchases pursuant to City and State purchasing guidelines.

*The motion CARRIED UNANIMOUSLY on the following vote:*

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-059:**

Moved: Council Member Ward 1 Cutri

Seconded: Council Member Ward 2 Twitchell

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF AN ENVIRONMENTAL PROTECTION FUND GRANT PROGRAM APPLICATION**

**WHEREAS**, the New York State Office of Parks, Recreation & Historic Preservation administers the Environmental Protection Fund Grant Program for Parks, Preservation and Heritage (EPF); and

**WHEREAS**, the EPF provides grant funding for the acquisition, planning, development and improvement of parks, historic properties and heritage areas; and

**WHEREAS**, the City has been working with the Canandaigua Canine Campus for the last several years to develop a dog park within the City and has acquired property at 97 Buffalo Street for such purpose; and

**WHEREAS**, the City of Canandaigua is eligible to apply for EPF funding and wishes to use funds to develop a dog park at 97 Buffalo Street; and

**WHEREAS**, there is a 50% local match requirement associated with use of EPF funds which will be secured through in-kind contributions from the City, donated professional services and fund raising by the Canandaigua Canine Campus;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that the City Manager is authorized to submit an application to the New York State Office of Parks, Recreation & Historic Preservation for funds from Environmental Protection Fund Grant Program for Parks, Preservation and Heritage to develop a dog park within the City.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-060:**

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

**A RESOLUTION AUTHORIZING A SPECIAL EVENT:  
COMMUNITY MEAL**

**WHEREAS**, the City Council of the City of Canandaigua has received the following application for a special event in the City of Canandaigua:

- ***Finger Lakes Dental Care PC – Community Meal***

Date: July 17, 2017

Location: Canandaigua Fire Station 1

Coordinator: Jason Tanoory – FL Dental Care PC

Time: 2:00 PM – 6:00 PM

Purpose: Feed & Educate those in need

Expected Number of Participants: 1,000

**WHEREAS**, this request was reviewed and approved at the June 13, 2017 Environmental/Parks Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that permission is granted to hold the above mentioned special event at the time and location listed under the following conditions:

- 1) that no fee or admission shall be charged to the general public for admission to the special event; and
- 2) that alcoholic beverages are not permitted to be sold or consumed on public property; and
- 3) that if the event coordinators intend to place any signs in the Main Street median, such signs shall only be allowed by permit of New York State Department of Transportation; and
- 4) that the event coordinator will ensure that all tents that are required to be inspected will be inspected prior to the start of the special event; and
- 5) that a detailed summary of all costs under the City's special event policy will be provided to the event coordinators for reimbursement.

**BE IT FURTHER RESOLVED** that the organizer of the Special Event shall adhere to any regulations that the City Manager, or the City Police Department, shall establish to insure the health and safety of Canandaigua residents and visitors throughout these events.

**AYES:** *Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

**NOES:** *None*

**Resolution #2017-061**

Moved: Councilmember-at-Large Whitcomb  
Seconded: Councilmember-at-Large O'Brien

**A RESOLUTION AUTHORIZING A SPECIAL EVENT:  
CANANDAIGUA HISTORIC DOWNTOWN DRIVE – CLASSIC CAR CRUISE**

**WHEREAS**, the City Council of the City of Canandaigua has received the following application for a special event in the City of Canandaigua:

- ***Canandaigua Historic Downtown Drive – Classic Car Cruise***

Date: August 5, 2017

Location: Main Street Sidewalks, Chamber Parking and 1 Lafayette Lot, Coach St. Parking Lot, Coach Street

Coordinator: BID (Downtown CDGA Business Management Association)

Time: 12:00 PM – 7 PM

Purpose: Promote Downtown, draw customers to shop, dine & explore. BID fundraiser and a new community event for locals and tourists.

Expected Number of Participants: 5,000 throughout the day. Appx 500 antique cars will cruise from 3-5.

**WHEREAS**, this request was reviewed and approved at the June 13, 2017 Environmental/Parks Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that permission is granted to hold the abovementioned special event at the time and location listed under the following conditions:

- 1) that no fee or admission shall be charged to the general public for admission to the special event; and
- 2) that alcoholic beverages are not permitted to be sold or consumed on public property; and
- 3) that if the event coordinators intend to place any signs in the Main Street median, such signs shall only be allowed by permit of New York State Department of Transportation; and
- 4) that the event coordinator will ensure that all tents that are required to be inspected will be inspected prior to the start of the special event; and
- 5) that a detailed summary of all costs under the City's special event policy will be provided to the event coordinators for reimbursement.

**BE IT FURTHER RESOLVED** that the organizer of the Special Event shall adhere to any regulations that the City Manager, or the City Police Department, shall establish to insure the health and safety of Canandaigua residents and visitors throughout these events.

**AYES:** *Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

**NOES:** *None*

**Resolution #2017-062:**

Moved: Council Member Ward 2 Twitchell

Seconded: Councilmember Ward 3 White

**A RESOLUTION AUTHORIZING A SPECIAL EVENT:  
FAMILY PROMISE OF ONTARIO COUNTY – BED RACE**

**WHEREAS**, the City Council of the City of Canandaigua has received the following application for a special event in the City of Canandaigua:

- ***Family Promise – Bed Race***

Date: July 29, 2017

Location: City Pier Road

Coordinator: Colleen Spiegelhoff

Time: 8:00 AM – 11:00 AM

Purpose: Fundraiser for Family Promise of Ontario County

Expected Number of Participants: 500

**WHEREAS**, this request was reviewed and approved at the June 13, 2017 Environmental/Parks Committee meeting;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that permission is granted to hold the abovementioned special event at the time and location listed under the following conditions:

- 1) that no fee or admission shall be charged to the general public for admission to the special event; and
- 2) that alcoholic beverages are not permitted to be sold or consumed on public property; and
- 3) that if the event coordinators intend to place any signs in the Main Street median, such signs shall only be allowed by permit of New York State Department of Transportation; and
- 4) that the event coordinator will ensure that all tents that are required to be inspected will be inspected prior to the start of the special event; and
- 5) that a detailed summary of all costs under the City's special event policy will be provided to the event coordinators for reimbursement.

**BE IT FURTHER RESOLVED** that the organizer of the Special Event shall adhere to any regulations that the City Manager, or the City Police Department, shall establish to insure the health and safety of Canandaigua residents and visitors throughout these events.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-063:**

Moved: Councilmember-at-Large Terwilliger

Seconded: Councilmember-at-Large O'Brien

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF A  
2017 NEW YORK MAIN STREET GRANT APPLICATION**

**WHEREAS**, the New York State Office of Community Renewal (NYSOCR) is offering New York Main Street Grants of up to \$500,000; and

**WHEREAS**, the New York Main Street Program offers funding for Downtown Stabilization projects to assist with environmental remediation and associated costs, which pose an obstacle to the redevelopment of blighted properties; and

**WHEREAS**, the property at 267 South Main Street in the City of Canandaigua, commonly known as Tom's Mobil, is a blighted property requiring environmental remediation if it is to be redeveloped; and

**WHEREAS**, the City of Canandaigua is eligible to apply for New York Main Street funding; and

**WHEREAS**, the City of Canandaigua wishes to use Downtown Stabilization funds to remediate the property at 267 South Main Street; and

**WHEREAS**, there is a 25% local match requirement associated with use of Downtown Stabilization funds; and the City Manager recommends that this local match be funded through the CDBG fund or other appropriate funds;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that the City Manager is authorized to submit a 2017 New York Main Street Grant application of up to \$500,000 and that the local match be funded through the CDBG fund or other appropriate funds.

*Vote Result: Carried unanimously by voice vote (8-0)*

**Resolution #2017-064:**

Moved: Council Member Ward 1 Cutri

Seconded: Councilmember Ward 3 White

**A RESOLUTION ADOPTING THE  
NEW YORK CLIMATE SMART COMMUNITIES PLEDGE**

**WHEREAS**, climate change poses a real and increasing threat to our local and global environments; and

**WHEREAS**, the effects of climate change will endanger our infrastructure, economy, and livelihoods; harm our farms, orchards, and ecological communities, including native fish and wildlife populations; spread invasive species and exotic diseases; reduce drinking water supplies and recreational opportunities; and pose health threats to our citizens; and

**WHEREAS**, our response to climate change provides us with an unprecedented opportunity to save money, and build livable, energy-independent and secure communities, vibrant innovation economies, healthy and safe schools, and resilient infrastructures; and

**WHEREAS**, the scale of greenhouse gas (GHG) emissions reductions required for climate stabilization will require sustained and substantial efforts even if emissions were dramatically reduced today, communities would still be required to adapt to the effects of climate change for decades to come;

**NOW, IT IS HEREBY RESOLVED** that the City of Canandaigua, New York in order to reduce greenhouse gas emissions and adapt to a changing climate adopts the New York Climate Smart Communities Pledge, which comprises of the following ten elements:

1. Pledge to be a Climate Smart Community,
2. Set goals, inventory emissions, plan for climate action



3. Decrease community energy use
4. Increase community use of renewable Energy.
5. Realize benefits of recycling and other climate-smart waste management practices.
6. Reduce greenhouse gas emissions through the use of climate-smart land-use tools.
7. Enhance community resilience and prepare for the effects of climate change.
8. Support development of a green innovation economy.
9. Inform and inspire the public.
10. Commit to an evolving process of climate action.

*Vote Result: Carried unanimously by voice vote (8-0)*

**Resolution #2017-065:**

Moved: Councilmember Ward 4 Wade

Seconded: Councilmember Ward 3 White

**A RESOLUTION OF SUPPORT FOR THE FORT HILL APARTMENTS AND PERFORMING ARTS CENTER**

**WHEREAS**, the Fort Hill Performing Arts Center Canandaigua (FHPACC) is a non-profit group working to renovate and revitalize the former Canandaigua Academy auditorium to provide a space for community organizations in the performing arts to have a production facility usable at reasonable costs; and

**WHEREAS**, the project is part of a complete renovation of the Fort Hill campus including updating of major building systems and updating the affordable senior (55+) apartments; and

**WHEREAS**, the owners of the Fort Hill campus, Conifer, and representatives from FHPACC presented the project to the Planning/Development Committee at its June 6, 2017 meeting and requested City Council support of the project prior to the submission of an application to the Ontario County IDA for assistance with the project;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council that the City of Canandaigua fully supports the proposed project to renovate and revitalize the former Canandaigua Academy auditorium and the entire Fort Hill campus which provides affordable senior apartments for the community; and

**BE IT FURTHER RESOLVED** that the City Council is supportive of the Ontario County IDA accepting and reviewing an application for potential assistance; however, takes no position on such assistance until more detail is presented.

***Discussion:***

*Joe Nacca, Chapel St., not in favor of property tax breaks to companies and PILOT agreements. Everyone should pay their share of property taxes like all hard-working taxpayers do. City Council should urge the IDA not to award a PILOT to Conifer.*

*Mike Yarger, City property owner, supports the project but not in support of a PILOT. City should oppose this application to the IDA.*

**AYES:** Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.

**NOES:** None

**Resolution #2017-066:**

Moved: Councilmember Ward 3 White  
Seconded: Councilmember Ward 4 Wade

**A RESOLUTION AWARDING A CONTRACT TO UPDATE THE CITY'S PHONE SYSTEM**

**WHEREAS**, the 2017 Capital Budget included funding to replace and upgrade the City's phone system to a voice over IP system with the goal of updating to realize savings on a recurring monthly cost; and

**WHEREAS**, an RFP was prepared and distributed resulting in the receipt of six (6) proposals, with the lowest cost proposal submitted by Empire Access for a one-time cost (installation and purchase of phones) totaling \$23,676.82 and an on-going (phone service) monthly cost of \$1,299.25; and

**WHEREAS**, once implemented the City will save approximately \$1,312.87 on a monthly basis which is \$15,754.44 annually; and

**WHEREAS**, the proposal was reviewed and approved by the Finance/Budget Committee at its June 27, 2017 meeting; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to execute a contract with Empire Access to replace and upgrade the City's phone system and provide phone service.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-067:**

Moved: Councilmember-at-Large O'Brien  
Seconded: Councilmember Ward 3 White

**A RESOLUTION AMENDING A CURED IN-PLACE SEWER PIPE LINING CONTRACT AND APPROPRIATING FUNDS TO THE SEWER FUND CAPITAL BUDGET**

**WHEREAS**, the City publicly advertised for bids and directly contacted five qualified contractors for the installation of cured-in-place sewer pipe lining; and

**WHEREAS**, bids for the required work were received on February 24, 2017, with the lowest responsive bid submitted by Insituform Technologies in the amount of \$182,740; and

**WHEREAS**, funding in the amount of \$100,000 for this sewer replacement and/or lining was included in the adopted City of Canandaigua 2017 budget and unused funding for the same purpose from the 2016 budget was re-appropriated from the Sewer Collection Reserve to the Sewer Fund Capital Fund for this contract; and

**WHEREAS**, the final quantities of installed sewer lining were in excess of those shown in the contract bid documents leading to a legitimate additional charge of \$6,150 from the contractor; and

**WHEREAS**, the Finance/Budget Committee reviewed and approved a contract amendment and re-appropriation at its June 27, 2017 meeting;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council hereby appropriates \$6,150 of Sewer Collection Reserve to the Sewer Fund Capital Fund; and

**BE IT FURTHER RESOLVED**, that the City Council hereby authorizes the City Manager to execute a contract amendment with Insituform Technologies, 253F Worcester Road, Charlton, MA 01507, in the amount of \$6,150 to address the increase in quantity necessitated by the installation of cured-in-place sewer pipe lining.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-068:**

Moved: Councilmember-at-Large Terwilliger

Seconded: Councilmember-at-Large Whitcomb

**A RESOLUTION AWARDING AN ENGINEERING SERVICES CONTRACT AMENDMENT**

**WHEREAS**, the existing Hurley Building, which houses the Department of Public Works, has been found to be in need of substantial upgrades to address its building systems and space utilization; and

**WHEREAS**, the development of final engineering and architectural designs for this plan has included the services of M/E Engineering PC as a mechanical and electrical engineering sub-consultant to the lead architectural firm of hbt Architects, and

**WHEREAS**, final construction cost estimates showed the project to be over budget, necessitating redesign of portions of the project and said proposed redesign was reviewed and approved by the Finance/Budget Committee at its May 18, 2017 meeting; and

**WHEREAS**, funding for these additional engineering services is available from the authorized bonding for this renovation project; and

**WHEREAS**, M/E Engineering has submitted an acceptable proposal to provide the additional mechanical and electrical engineering services for an additional fee of \$60,300; and

**WHEREAS**, the City Manager and the Director of Public Works recommend a contract amendment be awarded to M/E Engineering for engineering services to provide the additional mechanical and electrical engineering services needed to redesign the renovation of the Hurley Building:

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to execute a contract amendment with M/E Engineering PC, 150 North Chestnut Street, Rochester, NY 14604 to provide the mechanical and electrical engineering services described in this resolution for a fee not-to-exceed \$60,300.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-069:**

Moved: Councilmember Ward 4 Wade

Seconded: Council Member Ward 2 Twitchell

**A RESOLUTION AWARDING AN ARCHITECTURAL SERVICES CONTRACT AMENDMENT**

**WHEREAS**, the existing Hurley Building, which houses the Department of Public Works, has been found to be in need of substantial upgrades to address its building systems and space utilization; and

**WHEREAS**, the development of final engineering and architectural designs for this plan has been led by hbt Architects since the beginning of the project in 2015, and

**WHEREAS**, final construction cost estimates showed the project to be over budget, necessitating redesign of portions of the project and said proposed redesign was reviewed and approved by the Finance/Budget Committee at its May 18, 2017 meeting; and

**WHEREAS**, funding for these additional architectural services is available from the authorized bonding for this renovation project; and

**WHEREAS**, hbt Architects has submitted an acceptable proposal to provide the additional architectural services for an additional fee of \$41,115; and

**WHEREAS**, the City Manager and the Director of Public Works recommend a contract amendment be awarded to hbt Architects for architectural services to provide the additional architectural services needed to redesign the renovation of the Hurley Building;

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to execute a contract with hbt architects, 2 Elton Street, Rochester, NY 14607 to provide the architectural services described in this resolution for a fee not-to-exceed \$41,115.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-070:**

Moved: Councilmember Ward 3 White

Seconded: Councilmember Ward 4 Wade

**A RESOLUTION AWARDING A STRUCTURAL ENGINEERING SERVICES CONTRACT AMENDMENT**

**WHEREAS**, the existing Hurley Building, which houses the Department of Public Works, has been found to be in need of substantial upgrades to address its building systems and space utilization; and

**WHEREAS**, the development of final engineering and architectural designs for this plan has included the services of Jensen/BRV Engineering PLLC as a structural engineering sub-consultant to the lead architectural firm of hbt Architects, and

**WHEREAS**, final construction cost estimates showed the project to be over budget, necessitating redesign of portions of the project and said proposed redesign was reviewed and approved by the Finance/Budget Committee at its May 18, 2017 meeting; and

**WHEREAS**, funding for these additional engineering services is available from the authorized bonding for this renovation project; and

**WHEREAS**, Jensen/BRV has submitted an acceptable proposal to provide the additional structural engineering services for an additional fee of \$3,800; and

**WHEREAS**, the City Manager and the Director of Public Works recommend a contract amendment be awarded to Jensen/BRV for engineering services to provide the additional structural engineering services needed to redesign the renovation of the Hurley Building:

**NOW, THEREFORE, BE IT RESOLVED** that the City Council hereby authorizes the City Manager to execute a contract amendment with Jensen/BRV Engineering PLLC, 1653 East Main Street, Rochester, NY 14609 to provide the structural engineering services described in this resolution for a fee not-to-exceed \$3,800.

*AYES: Council Member Ward 1 Cutri, Councilmember Ward 2 Twitchell, Councilmember Ward 3 White, Councilmember Ward 4 Wade, Councilmember-at-Large O'Brien, Councilmember-at-Large Whitcomb, Councilmember-at-Large Terwilliger and Mayor Polimeni.*

*NOES: None*

**Resolution #2017-071:**

Moved: Councilmember-at-Large Whitcomb

Seconded: Councilmember-at-Large O'Brien

**A RESOLUTION SETTING THE TIME AND PLACE OF A PUBLIC HEARING ON AMENDMENTS TO CHAPTER 496 OF THE MUNICIPAL CODE.**

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that a public hearing regarding the proposed amendments to Chapter 496 of the municipal code entitled "Chronic Nuisance Properties" to create a process for temporary and permanent injunctions be held during the Ordinance Committee meeting held at 7:00 p.m. on July 18, 2017 at the Hurley Building, 205 Saltonstall Street, Canandaigua, New York; and

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

*Vote Result: Carried unanimously by voice vote (8-0)*

**Resolution #2017-072:**

Moved: Councilmember-at-Large Whitcomb

Seconded: Council Member Ward 2 Twitchell

**A RESOLUTION AUTHORIZING THE SUBMITTAL OF**

**NYS CONSOLIDATED FUNDING APPLICATIONS  
FOR THE PROMOTION AND PROTECTION OF  
CANANDAIGUA LAKE**

**WHEREAS**, the City of Canandaigua, in partnership with the Canandaigua Lake Watershed Council, intends to submit a NYS Consolidated Funding Application to NYS Department of State for the Promotion and Protection of Canandaigua Lake Phase III Project and also provides consent as a Local Waterfront Revitalization community to Ontario County to submit a grant application to complete the Finger Lakes Community College Water Quality, Floodplain Resiliency and Habitat Enhancement Project; and

**WHEREAS**, the grant applications will implement a variety of projects to promote and protect the lake including the Parish Flats/Naples Creek Restoration Project, develop an updated strategic plan with a consulting firm for City parkland, associated road system and parking facilities at the north end of the lake, augment the Watershed Plan to meet new Nine Element DEC requirements, along with additional water quality projects throughout the watershed; and

**WHEREAS**, the County grant application will provide substantial water quality protection, flood resiliency and habitat improvements that will greatly benefit the north end of the lake and Kershaw Swim Beach in particular; and

**WHEREAS**, the application requires that the applicant's authorized representative make certain certifications on behalf of the applicant;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Canandaigua that the Watershed Program Manager is hereby authorized to commit the City of Canandaigua and Canandaigua Lake Watershed Council to comply with the requirements of Article 15-A of the New York State executive Law: Participation By Minority Group Members and Women With Respect To State Contracts by providing opportunities for MBE/WBE participation; and

**BE IT FURTHER RESOLVED** that the Watershed Program Manager is hereby authorized to submit a NYS Consolidated Funding Application for the Promotion and Protection of Canandaigua Lake Phase III Project on behalf of the City of Canandaigua and Canandaigua Lake Watershed Council and Ontario County is granted consent to apply for the Finger Lakes Community College Water Quality, Floodplain Resiliency and Habitat Enhancement Project.

*Vote Result: Carried unanimously by voice vote (8-0)*

**Ordinances:**

**Ordinance #2017-001:**

Read and placed on the table: Councilmember-at-Large Whitcomb

**AN ORDINANCE AMENDING CHAPTER 496 OF THE MUNICIPAL CODE ENTITLED  
"CHRONIC NUISANCE PROPERTIES" TO CREATE A PROCESS FOR TEMPORARY  
AND PERMANENT INJUNCTIONS**

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

SECTION 1. Chapter 496 is hereby amended as follows [new language is *in bold italics*, deleted language is stricken]

**§496-1 PURPOSE.**

(a) Chronic nuisance properties present grave health, safety and welfare concerns, where the persons responsible for such properties have failed to take corrective action to abate the nuisance condition. Chronic nuisance properties have a tremendous negative impact upon the quality of life, safety and health of the neighborhoods where they are located. This chapter is enacted to remedy nuisance activities that are particularly disruptive to quality of life and repeatedly occur or exist at properties by providing a process for abatement. This remedy is not an exclusive remedy available under any state or local laws and may be used in conjunction with such other laws.

(b) Chronic nuisance properties are a financial burden to the city by the repeated calls for service to the properties because of the nuisance activities that repeatedly occur or exist on such property. This chapter is a means to ameliorate those conditions and hold accountable those persons responsible for such property.

**§496-2 DEFINITIONS.**

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

(a) "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City Department Head or designee(s) determines is necessary in the interest of the general health, safety and welfare of the community;

(b) "Control" means the ability to regulate, restrain, dominate, counteract or govern property, or conduct that occurs on a property;

(c) ***"Conviction" is as defined in §1.20(13) of the New York Criminal Procedure Law;***

(d) "Chronic nuisance property" means property on which any combination of three or more nuisance activities, as defined herein, occur or exist during any ~~sixty (60) day~~ ***consecutive 12 month*** period;

(e) "Nuisance activity" means and includes:

(1) Any criminal convictions, or violations of State law, County law, or local ordinance occurring on a property.

(2) For purposes of this chapter, "nuisance activity" shall not include conduct where the person responsible is the victim of a crime and had no control over the criminal act;

(f) "Person responsible for property" or "person responsible" means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this chapter, an occupant in control of the property or structure which is subject to this chapter, a developer, builder, or business operator or owner who is developing, building, or operating a business on the property or in a structure which is subject to this chapter and/or any person who has control over the property and allows a violation of this chapter to continue;

(g) "Person" means natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them;

(h) "Premises and property" may be used by this chapter interchangeably and means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as residential or commercial property;

(i) ***"Violation" -***

(1) ***Illegal conduct with regard to a particular property or person and that conduct violates what is sought to be protected under the law.***

(2) ***conduct which is cited by proper enforcing officials regarding a particular property, building, dwelling place, or person, which is illegal or contrary to law.***

(3) ***an arrest or commencement of criminal action as defined in §1.20(10) of the New York Criminal Procedure Law***

**§496-3 DECLARED PUBLIC NUISANCE.**

(a) ***The following are declared to be public nuisances:***

1. Any building, erection or place, including one- or two-family dwellings, which has been cited by the appropriate agency as being in violation of any one of the codes contained in Chapter 714 of this Code, and said violation is continuing and unabated within a reasonable duration set by said agency and of such a nature as to endanger the health, safety and welfare of the citizens within the period of one year preceding commencement of an action under this chapter shall be presumptive evidence that the building, erection or place, including one- or two-family dwellings, is a public nuisance.
2. Any building, erection or place, pursuant to Chapter 748 of this Code, which is an unfit dwelling or dwelling unit as defined in Chapter 748 of this code.
3. Any building, erection or place, including one- or two-family dwellings, wherein there is occurring a violation of Chapter 714 or Chapter 748 of this Code.
4. Any building, erection or place, including one- or two-family dwellings, used for the purpose of a business, activity or enterprise which is not licensed as required by law
5. Any building, erection or place, including one- or two-family dwellings, wherein, within the period of one year prior to the commencement of an action under this chapter, there have occurred three or more violations of any of the provisions of Article 220, Article 221, or Article 225 of the New York State Penal Law.
6. Any building, erection or place, including one- or two-family dwellings, used for any of the unlawful activities described in §123 of the Alcoholic Beverage Control Law.
7. Any building, erection or place, including one- or two-family dwellings, wherein there is occurring a violation of Chapter 494 of this code.
8. Any building, erection or place, including one- or two-family dwellings, wherein there exists or is occurring a violation of Chapter 850, the Zoning Ordinance of the City of Canandaigua.
9. Any building, erection or place, including one- or two-family dwellings, wherein there is occurring a criminal nuisance as defined in §240.45 of the Penal Law.

- (b) Any property within the City of Canandaigua which is a chronic nuisance property is in violation of this chapter and subject to its remedies; and
- (c) Any person responsible for property who permits property to be a chronic nuisance property shall be in violation of this chapter and subject to its remedies.

**§496-4 PROCEDURE. REMEDIES.**

*The Corporation Counsel shall bring and maintain a civil proceeding in the name of the City in the Supreme Court of Ontario County to temporarily restrain and/or permanently enjoin the public nuisances defined herein.*

~~(a) When the City Manager or his/her designee(s), receives documentation from a Police agency confirming the occurrence of three or more nuisance activities within a sixty (60) day period on any property, the City Manager, or his/her designee(s), may review such documentation to determine whether chronic nuisance activity exists. Upon such a finding, the City Manager, or his/her designee(s), shall warn the person responsible for such property, in writing, that the property is in danger of being declared a chronic nuisance property.~~

~~(b) The warning shall contain:~~

~~(1) The street address or a legal description sufficient for identification of the property;~~

~~(2) A concise description of the nuisance activities that exist, or that have occurred on the property;~~

~~(3) A demand that the person responsible for such property respond to the City Manager or his/her designee(s) within twenty (20) days of date of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;~~

~~(4) Offer the person responsible an opportunity to abate the nuisance activities giving rise to the violation; and~~



~~(5) A statement describing that if legal action is sought, the property could be subject to closure and civil penalties and/or costs assessed up to one hundred dollars (\$100.00) per day if the property is declared a chronic nuisance property.~~

~~(c) The City Manager or his/her designee(s) shall serve or cause to be served such warning upon the person responsible in accordance with the procedures set forth herein.~~

~~(d) If the person responsible fails to respond to the warning within the time prescribed, the City Manager, or his/her designee(s) shall issue a notice declaring the property to be a chronic nuisance property and post such notice at the property and issue the person responsible a civil infraction, punishable by a maximum penalty of one thousand dollars (\$1,000). If the person responsible fails to respond to the issued infraction and/or continues to violate the provisions of this chapter, the matter shall be referred to the Office of the Corporation Counsel for further action.~~

~~(e) If the person responsible responds as required by the notice and agrees to abate the nuisance activity, the City Manager, or his/her designee(s), and the person responsible, may work out an agreed upon course of action which would abate the nuisance activity. If an agreed course of action does not result in the abatement of the nuisance activities or if no agreement concerning abatement is reached, the matter shall be forwarded to the Office of the Corporation Counsel for enforcement action. Provided, that in the event the City Manager or his/her designee(s) or the Corporation Counsel determines that the person responsible has taken reasonable steps to abate the nuisance activity, the Corporation Counsel shall not commence an enforcement action under this chapter, notwithstanding the continuance of the nuisance activity.~~

~~(f) It is a defense to an action for chronic nuisance property that the person responsible, at all material times, could not, in the exercise of reasonable care or diligence, determine that the property had become a chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the determination that the property is chronic nuisance property.~~

#### **§496-5 COMMENCEMENT OF ACTION - ENFORCEMENT.**

(a) Once the matter is referred to the Corporation Counsel, the Corporation Counsel shall immediately review and make a determination whether to initiate legal action authorized under this chapter or State statute, or may seek alternative forms of abatement of the nuisance activity. The Corporation Counsel may initiate legal action on the chronic nuisance *property pursuant to this Chapter* and seek civil penalties and costs in City Court for the abatement of the nuisance.

(b) In determining whether a property shall be deemed a chronic nuisance property and subject to the court's jurisdiction, the City shall have the initial burden of proof to show by a ~~preponderance of the~~ **clear and convincing** evidence that the property is a chronic nuisance property. The City may submit official police reports and other affidavits outlining the information that led to arrest(s), violations, and other chronic nuisance activity occurring or existing at the property.

~~(c) Once the court determines the property to be a chronic nuisance under this chapter the court may impose a civil penalty against any or all of the persons responsible for the property, and may order any other relief deemed appropriate. A civil penalty may be assessed for up to one hundred dollars (\$100.00) per day for each day the nuisance activity continues to occur following the date of the original warning by the City Manager, or his/her designee(s). In assessing the civil penalty, the court may consider the following factors, citing to those found applicable:~~

- ~~(1) The actions taken by the person responsible to mitigate or correct the nuisance activity;~~
- ~~(2) The repeated or continuous nature of the nuisance activity;~~
- ~~(3) The statements of the neighbors or those affected by the nuisance activity; and~~
- ~~(4) Any other factor deemed relevant by the court.~~

~~(d) The court which determined the property to be a chronic nuisance property shall also assess costs against the person responsible in the amount it costs the City to abate, or attempt to abate, the nuisance activity.~~

~~(e) If the court determines the property to be a chronic nuisance property, the court shall order the property closed and secured against all unauthorized access, use and occupancy for a period up to one year, and may impose a civil penalty and costs.~~

~~(f) Once a determination has been made by the court that the chronic nuisance property shall be subject to closure the court may authorize the City to physically secure the premises and initiate such closure. Costs for such closure shall be submitted to the Court for review. Any civil penalty and/or costs awarded to the City may be filed with the City Treasurer who shall cause the same to be filed as a lien on the property. The City shall file a formal lis pendens notice when an action for abatement is filed.~~

~~(g) The court shall retain jurisdiction during any period of closure or abatement of the property.~~

~~(h) Canandaigua City Court is to have jurisdiction of all civil infractions issued pursuant to this chapter.~~

**§496-6 ACTION FOR PERMANENT INJUNCTION.**

***A. Generally. Upon the direction of the City Council, the Corporation Counsel may bring and maintain a civil proceeding in the name of the City in the Supreme Court of Ontario County to permanently enjoin a public nuisance within the scope of this Chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. The owner, lessor and lessee of a building, erection or place wherein the public nuisance is being conducted, maintained or permitted shall be made defendants in the action. The existence of an adequate remedy at law shall not prevent the granting of temporary or permanent relief pursuant to this Article.***

***B. The summons; the caption; naming the building, erection or place as defendant. The Corporation Counsel may name as defendants the building, erection or place wherein the public nuisance is being conducted, maintained or permitted by describing it by block, lot number or street address and at least one of the owners of some part of or interest in the property.***

***C. In rem jurisdiction over building, erection or place. In rem jurisdiction shall be complete over the building, erection or place wherein the public nuisance is being conducted, maintained or permitted by affixing the summons to the door of the building, erection or place and by mailing the summons by certified or registered mail, return receipt requested, to one of the owners of some part of or interest in the property. Proof of service shall be filed within two days thereafter with the Clerk of the Court of Ontario County. Service shall be complete upon such filing.***

***D. Service of summons on other defendants. Defendants, other than the building, erection or place wherein the public nuisance is being conducted, maintained or permitted, shall be served with the summons as provided in the Civil Practice Law and Rules.***

***E. Notice of pendency. With respect to any action commenced or to be commenced by him or her pursuant to this Chapter, the Corporation Counsel may file a notice of pendency pursuant to the provisions of Article 65 of the Civil Practice Law and Rules.***

***F. Presumption of ownership. The person in whose name the real estate affected by the action is recorded in the office of the City Assessor or the County Clerk, as the case may be, shall be presumed to be the owner thereof.***

***G. Presumption of employment or agency. Whenever there is evidence that a person was the manager, operator, supervisor or in any other way, in charge of the premises, at the time a public nuisance was being conducted, maintained or permitted, such evidence shall be presumptive that he or she was an agent or employee of the owner or lessee of the building, erection or place.***

***H. Penalty. If, upon the trial of an action under this chapter or upon a motion for summary judgment in an action under this chapter, a finding is made that the defendant has intentionally conducted, maintained or permitted a public nuisance defined in this chapter, a penalty, to be included in the judgment, may be awarded in an amount not to exceed \$1,500 for each day it is***

*found that the defendant intentionally conducted, maintained or permitted the public nuisance. Upon recovery, such penalty shall be paid into the general fund of the City.*

**§496-7 PRELIMINARY INJUNCTIONS**

- A. Generally.** *Pending an action for a permanent injunction as provided for in §496-6, the court may grant a preliminary injunction enjoining a public nuisance within the scope of this Chapter and the person or persons conducting, maintaining or permitting the public nuisance from further conducting, maintaining or permitting the public nuisance. An order granting a preliminary injunction shall direct a trial of the issues within three business days after joinder of issue or, if issue has already been joined, within three business days after the entry of the order. Where a preliminary injunction has been granted, the court shall render a decision with respect to a permanent injunction within three business days after the conclusion of the trial. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this Chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that a public nuisance within the scope of this Chapter is being conducted, maintained or permitted.*
- B. Enforcement of preliminary injunction.** *A preliminary injunction shall be enforced by the City Police Department.*
- C. Preliminary injunctions, inventory, closing of premises, posting of orders and notices, offenses.** *If the court grants a preliminary injunction, the provisions of §496-10 of this Chapter shall be applicable.*

**§496-8 MOTION PAPERS FOR PRELIMINARY INJUNCTION.**

*The Corporation Counsel shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action for a preliminary injunction abating a public nuisance within the scope of this Chapter.*

**§496-9 TEMPORARY CLOSING ORDERS**

- A.** *Generally. If, on a motion for a preliminary injunction pursuant to §496-8 of this Chapter, the Corporation Counsel shall show by clear and convincing evidence that a public nuisance within the scope of this Charter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building, erection or place wherein the public nuisance is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time, but in no event later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.*
- B.** *Service of temporary closing order. Unless the court orders otherwise, a temporary closing order, together with the papers upon which it was based and a notice of hearing for the preliminary injunction, shall be personally served in the same manner as a summons as provided in the Civil Practice Law and Rules.*

**§496-10 TEMPORARY RESTRAINING ORDERS.**

- A.** *Generally. If, on a motion for a preliminary injunction pursuant to §496-7 of this Chapter, the Corporation Counsel shall show by clear and convincing evidence that a public nuisance within the scope of this Chapter is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary restraining order, such temporary restraining order may be granted without notice restraining the defendants and all persons from removing or in any manner interfering with the furniture, fixtures and movable property used in conducting, maintaining or permitting the public nuisance and from further conducting, maintaining or permitting the public nuisance, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time, but in no event later than three business days from the granting of such order; a decision on the motion for a preliminary injunction shall be rendered by the court within three business days after the conclusion of the hearing.*
- B.** *Service of temporary restraining order. Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served in the same manner as a summons as provided in the Civil Practice Law and Rules.*

**§496-11 GRANT OF BOTH CLOSING AND RESTRAINING ORDERS.**

- A.** *Generally. If, on a motion for a preliminary injunction, the Corporation Counsel submits evidence warranting both a temporary closing order and a temporary restraining order, the court shall grant both orders.*
- B.** *Enforcement of temporary closing orders and temporary restraining orders. Temporary closing orders shall be enforced by the City Police Department.*
- C.** *Inventory upon service of temporary closing orders and temporary restraining orders. The officers serving a temporary closing order or a temporary restraining order shall forthwith make and return to the court an inventory of personal property situated in and used in conducting, maintaining or permitting a public nuisance within the scope of this Chapter and shall enter upon the building, erection or place for such purpose. Such inventory shall be taken in any manner which is deemed likely to evidence a true and accurate representation of the personal property subject to such inventory, including, not limited to photographing such person property.*
- D.** *Closing of premises to temporary closing order. The officers serving a temporary closing order shall, upon service of the order, command all persons present in the building, erection or place to vacate the premises forthwith. Upon the building, erection or place being vacated, the premises shall be securely locked and all keys delivered to the officers serving the order, who thereafter shall deliver the keys to the fee owner, lessor or lessee of the building, erection or place involved. If the fee owner, lessor or lessee is not at the building, erection or place when the order is being executed, the officers shall securely padlock the premises and retain the keys until the fee owner, lessor or lessee of the building is ascertained, in which event, the officers shall deliver the keys to such owner, lessor or lessee.*
- E.** *Posting of temporary closing order and temporary restraining order; posting of notices; offenses. Upon service of a temporary closing order or a temporary restraining order, the*

*officer shall post a copy thereof in a conspicuous place or upon one or more of the principal doors at entrances of such premises where the public nuisance is being conducted, maintained or permitted. In addition, where a temporary closing order has been granted, the officers shall affix in a conspicuous place or upon one or more of the principal doors at entrances of such premises a printed notice that the premises have been closed by court order, which notice shall contain the legend "CLOSED BY COURT ORDER" in block lettering of sufficient size to be observed by anyone intending or likely to enter the premises, the date of the order, the court from which issued and the name of the office or agency posting the notice. In addition, where a temporary restraining order has been granted, the officers shall affix, in the same manner, a notice similar to the notice provided for in relation to a temporary closing order except that the notice shall state that certain described activity is prohibited by court order and that removal of property is prohibited by court order. Mutilation or removal of such a posted order or such a posted notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than fifteen hundred dollars (\$1,500) or by imprisonment not exceeding 15 days, or by both, provided that such order or notice contains therein a notice of such penalty. The Police Department shall assist in the enforcement of this subsection.*

*F. Intentional disobedience of or resistance to temporary closing order or temporary restraining order. Intentional disobedience of or resistance to a temporary closing order or a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$1,500 or by imprisonment not exceeding 90 days, or by both.*

#### **§496-12 REMEDIES OF DEFENDANT.**

- A. A temporary closing order or a temporary restraining order shall be vacated, upon notice to the Corporation Counsel, if the defendant shows by affidavit and such other proof as may be submitted that the public nuisance within the scope of this Chapter has been abated. An order vacating a temporary closing order or a temporary restraining order shall include a provision authorizing agencies of the City to inspect the building, erection or place which is the subject of an action pursuant to this chapter periodically, without notice, during the pendency of the action for the purpose of ascertaining whether or not the public nuisance has been resumed. Intentional disobedience of or resistance to an inspection provision of an order vacating a temporary closing order or a temporary restraining order, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than fifteen hundred dollars (\$1,500) or by imprisonment not exceeding 15 days, or by both. The Police Department shall, upon the request of the agency involved, assist in the enforcement of an inspection provision of an order vacating a temporary closing order or temporary restraining order.*
- B. A temporary closing order or a temporary restraining order may be vacated by the court, upon notice to the Corporation Counsel, when the defendant gives an undertaking and the court is satisfied that the public health, safety or welfare will be protected adequately during the pendency of the action. The undertaking shall be in an amount equal to the valuation of the building, erection or place where the public nuisance is being conducted, maintained or permitted or in such other amount as may be fixed by the court. The defendant shall pay to the*

*City, in the event that a judgment of permanent injunction is obtained, its actual costs, expenses and disbursements in investigating, bringing and maintaining the action.*

**§496-13 TEMPORARY RECEIVER.**

- A. Appointment, duration and removal. In any action, wherein the complaint alleges that the nuisance is being conducted or maintained in the residential portions of any building or structure or portion thereof which are occupied in whole or in part as the home, residence or sleeping place of one or more human beings, the court may, upon motion on notice by the plaintiff, appoint a temporary receiver to manage and operate the property during the pendency of the action in lieu of a temporary closing order. A temporary receivership shall not continue after final judgment unless otherwise directed by the court. Upon the motion of any party, including the temporary receiver, or on its own initiative, the appointing court may remove a temporary receiver at any time.*
- B. Powers and duties. The temporary receiver shall have such powers and duties as the court shall direct, including but not limited to collecting and holding all rents due from all tenants, leasing or renting portions of the building or structure, making or authorizing other persons to make necessary repairs or to maintain the property, hiring security or other personnel necessary for the safe and proper operation of a dwelling, prosecuting or defending suits flowing from his or her management of the property and retaining counsel therefor, and expending funds from the collected rents in furtherance of the foregoing powers.*
- C. Oath. A temporary receiver, before entering upon his or her duties, shall be sworn or shall affirm faithfully and fairly to discharge the trust committed to such receiver. The oath or affirmation may be administered by any person authorized to take acknowledgements of deeds by the Real Property Law. The oath or affirmation may be waived upon consent of all parties.*
- D. Undertaking. A temporary receiver shall give an undertaking, in an amount to be fixed by the court making the appointment, that such receiver will faithfully discharge his or her duties.*
- E. Accounts. A temporary receiver shall keep written accounts itemizing receipts and expenditures and describing the property and naming the depository of receivership funds, which shall be open to inspection by any person having an apparent interest in the property. Upon motion of the temporary receiver or of any person having an apparent interest in the property, the court may require the keeping of particular records or direct or limit inspection or require presentation of a temporary receiver's accounts. Notice of motion for the presentation of a temporary receiver's accounts shall be served upon the sureties on the temporary receiver's undertaking as well as upon each party.*

**§496-14 PERMANENT INJUNCTION.**

- A. A judgment awarding a permanent injunction pursuant to this Chapter may direct the Sheriff to seize and remove from the building, erection or place all material, equipment and instrumentalities used in the creation and maintenance of the public nuisance and shall direct the sale by the Sheriff of such property in the manner provided for the sale of personal property under execution pursuant to the provisions of the Civil Practice Law and Rules. The net proceeds of any such sale, after deduction of the lawful expenses involved, shall be paid into the general fund of the City.*

- B. A judgment awarding a permanent injunction pursuant to this Chapter may authorize agents of the City to forthwith remove and correct construction and structural alterations as provided in Chapter 300 of this Code.*
- C. A judgment awarding a permanent injunction pursuant to this Article may direct the closing of the building, erection or place by the Sheriff to the extent necessary to abate the nuisance and shall direct the Sheriff to post a copy of the judgment and a printed notice of such closing conforming to the requirements of Subsection E of §496-11 of this Chapter. Mutilation or removal of such a posted judgment or notice while it remains in force, in addition to any other punishment prescribed by law, shall be punishable, on conviction, by a fine of not more than \$250 or by imprisonment not exceeding 15 days, or by both, provided that such judgment contains therein a notice of such penalty. The closing directed by the judgment shall be for such period as the court may direct, but in no event shall the closing be for a period of more than one year from the posting of the judgment provided for in this Chapter. If the owner shall file a bond in the value of the property ordered to be closed and submits proof to the court that the nuisance has been abated and will not be created, maintained or permitted for such period of time as the building, erection or place has been directed to be closed in the judgment, the court may vacate the provisions of the judgment that direct the closing of the building, erection or place. A closing by the Sheriff pursuant to the provisions of this subsection shall not constitute an act of possession, ownership or control by the Sheriff of the closed premises.*
- D. Intentional disobedience or resistance to any provision of a judgment awarding a permanent injunction pursuant to this chapter, in addition to any other punishment prescribed by law, shall be punishable by a fine of not more than fifteen hundred dollars (\$1,500) or by imprisonment not exceeding 15 days, or by both.*
- E. The Police Department shall assist in the enforcement of a judgment awarding a permanent injunction entered in an action brought pursuant to this Chapter.*
- F. A judgment rendered awarding a permanent injunction pursuant to this Chapter shall be and become a lien upon the building, erection or place named in the complaint in such action, such lien to date from the time of filing a notice of lis pendens in the office of the Clerk of Ontario County. Every such lien shall have priority before any mortgage or other lien that exists prior to such filing except tax and assessment liens.*
- G. A judgment awarding a permanent injunction pursuant to this Chapter shall provide, in addition to the costs and disbursements allowed by the Civil Practice Law and Rules, upon satisfactory proof by affidavit or such other evidence as may be submitted, the actual costs, expenses and disbursements of the City in investigating, bringing and maintaining the action.*

#### **§496-15 SUMMARY CLOSURE.**

Nothing in this chapter prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public welfare and safety. The City may take summary action to close the property without complying with the notification provisions of this Chapter, but shall provide such notice as is reasonable under the circumstances.

#### **§496-16 SEVERABILITY.**

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

SECTION 2. This ordinance shall take effect thirty (30) days from its adoption

**Local Laws:** None

**Manager's Report:** City Manager John Goodwin reported the following:

- Served as a judge for the 4<sup>th</sup> of July parade. He saw that a lot of time and effort went into the floats in the parade. In case you missed the parade, it will be shown on FLTV.
- Streetlight project update - Next week, July 12 -13<sup>th</sup>, there will be representatives from Smartwatt on City Streets between 11pm – 4am, conducting baseline light surveys for the photometric study.
- Many special events in July.
- Thanked City council for appointing him City Manager.

**Appointments:** None

**Miscellaneous:**

- Mayor Polimeni wanted to thank City employees, (DPW, Police and Fire) for all the work they did on the 4<sup>th</sup> of July. The next morning Kershaw was spotless after such a large event.
- The DRI application was submitted on June 14<sup>th</sup>. We were selected as a finalist and gave a presentation to the grant committee.
- Mayor Polimeni formed a task force in conjunction with the Town of Canandaigua to see how we can work together and share services. We are also working with the County for shared services.

**Adjournment**

Councilmember Ward 4 Wade moved to adjourn the regular session at 9:00 PM. Councilmember Ward 3 White seconded the motion.

*Vote Result: Carried unanimously by voice vote (8-0).*

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Nancy C. Abdallah, Clerk Treasurer  
City of Canandaigua



**APPENDIX A**  
**PLANNING/DEVELOPMENT**  
**Tuesday, June 6, 2017**  
**7:00 p.m.**  
**Hurley Building Conference Room**

**Committee:** Cindy Wade, Chair, Robert O'Brien, Anita Twitchell, Jim Terwilliger (absent)  
**Other Council Members:** Ellen Polimeni, Matt Martin, David Whitcomb, Karen Wade, Nick Cutri,  
**Staff:** John Goodwin, Ted Andrzejewski, Stephen Hedworth

**1. Fort Hill Theatre Project – Fort Hill Performing Arts Center Canandaigua**

The Fort Hill Performing Arts Center Canandaigua (FHPACC) is a non-profit group working to renovate and revitalize the former Canandaigua Academy auditorium to provide a space “for community organizations in the performing arts to have a production facility usable at reasonable costs.” Gordon Estey from the FHPACC will present the project to the Committee and request support of the project from the City Council.

Gordon Estey, President of FHPACC introduced Holger Stave (Executive Director for FHPACC) and Allen Handelman and Michael Birkby from Conifer LLC. They have a capital campaign beginning January 1<sup>st</sup>, and Conifer joined to assist in the renovation of the auditorium design (\$4 Million). Conifer owns the building and plans to “condo out” facility so non-for profit can own the theater. Auditorium will be owned by a for profit LLC whose managing partner is FHPACC. The goal is a community theater and 14 different groups have already expressed interest. It could hold art exhibitions, corporate events, movie nights and non-political events. They will use the historic tax credit, NYS Community Investment, and fundraising to cover the \$4.33 million-dollar project.

Michael Birkby stated that Conifer renovated the building in 1995, but didn't touch the auditorium. Twenty years later the building needed to be updated and they received a PILOT agreement. They are requesting a new PILOT for apartment updates and the auditorium. They cannot use the existing PILOT because it is for housing. County IDA may be interested in project, but wants support from City. They are asking for the City to support the IDA application.

Robert O'Brien asked if the Attorney General looked at Condo formation, and Michael Birkby said not yet but he didn't see a problem. Ellen Polimeni needed more details on the PILOT agreement in order to support it. Matt Martin agreed and asked for actual data. Would the apartments be affordable? Would the theater be accessible to all? The City might be willing to support the project, but it needs more details on the PILOT agreement and the project itself.

Anita Twitchell motioned to recommend that the IDA pursue the project, Robert O'Brien 2<sup>nd</sup>. This motion was withdrawn. Motion made by Anita Twitchell to support IDA accepting and reviewing application for potential with no official position on the PILOT until more details are presented. Robert O'Brien 2<sup>nd</sup>.

**3 For, 0 Against- MOTION PASSES.**

Straw Poll results were 8-0.

**APPENDIX A (Continued)**  
**PLANNING/DEVELOPMENT**  
**Tuesday, June 6, 2017**

**2. Letter of Commitment – Home Energy and Improvement Program - PathStone**

In March 2014, the City and PathStone partnered to provide assistance to low to moderate income homeowners in making repairs to their homes and energy efficiency improvements. The program has been renewed each year since then. PathStone is applying for the Clean Energy Engagement Program through NYSERDA which has provided additional funds for our program. A central part of the application is matching NYSERDA funds from other sources. As such, PathStone has requested a letter of commitment from the City for their grant application. As this commitment would be for 2018, City Council must authorize the letter. Each year the funding for the program has been \$59,000. City staff is recommending the letter of commitment, but at a funding level of \$40,000.

Anita Twitchell supports this. Robert O'Brien motioned to support PathStone project, Anita Twitchell 2nd.

**3 For, 0 Against- MOTION PASSES**

Scott Oliver should be invited to the next meeting.

**3. Grant Application – Tom's Mobil**

The property at 267 South Main Street, commonly known as Tom's Mobil, is a blighted property requiring environmental remediation if it is to be redeveloped. The property taxes for this property have not been paid since 2011; however, due to the significant costs of remediation, the City has not foreclosed on the property. As you may recall, for the last two years the City Council authorized the submittal of a New York Main Street Grant application to the New York State Office of Community Renewal (NYSOCR) through the New York State Consolidated Funding Application. The grant would provide funding to remediate the unsightly former gas station at 267 Main Street and convert it into a shovel ready site. The total project budget was \$350,000 which included \$88,000 in local match (City funding) and \$262,000 requested from the New York Main Street program. Although the project was listed on the priority list by the FLREDC, the grant application was unsuccessful again last year. City staff is recommending that City Council authorize the submission of a grant application this year.

Robert O'Brien motions to submit grant application, Anita Twitchell 2nd.

**3 For, 0 Against- MOTION PASSES**

**4. Downtown Revitalization Initiative (DRI)**

The 2018 New York State Budget included \$100 million, providing a \$10 million award to ten communities to develop downtown strategic investment plans and "implement key catalytic projects that advance the community's vision for revitalization, promote sustainable economic development and create places where the next generation of New Yorkers can raise their families, work, and enjoy the diversity of recreational activities all within their downtown." City staff is drafting a new application for submittal this year and will brief the Committee.

Anita Twitchell motioned to close Executive Session at 8:10 P.M., Robert O'Brien 2nd.

**APPENDIX B**  
**ENVIRONMENTAL/PARKS**  
**Tuesday, June 13, 2017**  
**7:00 p.m.**  
**Hurley Building Conference Room**

**Committee:** Nick Cutri, Chair; Anita Twitchell; David Whitcomb; Matt Martin  
**Other Council members:** Ellen Polimeni; Jim Terwilliger; Robert O'Brien; Cindy Wade;  
**Staff:** John Goodwin; Michele Smith; Chief Hedworth

**1. Special Event – Community Meals**

Around Thanksgiving 2015, Finger Lakes Dental, Eric's Office and the Green Front jointly sponsored a free community meal at Fire Station 1. Since that time, many more community meals have been held with generous support of volunteers. The Community Meals have provided a valuable service to the community. Nonetheless, as the event is a special event occurring at a City facility, it must be approved by City Council. Attached to the agenda is the special event application.

Janson Tanoory of Finger Lakes Dental was present on behalf of the Community Meals. He indicated that the event was added to his business' liability policy and Eric's Office has also taken out additional insurance with respect to the food preparation. Hot food is prepared at Eric's Office and transported, other foods prepared on -site. Dr. Tanoory will forward copy of additional insurance for the event and the Health Dept. certificate to City Clerk/Treasurer. Motion to recommend approval made by David Whitcomb, 2<sup>nd</sup> by Matt Martin. Vote 4-0

**RESOLUTION**

**2. Special Event – Family Promise of Ontario County Bed Race**

In conjunction with the Lakefront Art Show, Family Promise of Ontario County would like to close the City Pier from 8 AM to 12 noon on Saturday, July 29<sup>th</sup> (rain date July 30<sup>th</sup>) to hold a bed race. (Event date coincides with Lakefront Art Festival). Teams of five construct a bed on wheels and decorate it with a theme of their choice to race (using manpower only) against other teams. City staff's only concern is closing the Pier on an already busy traffic weekend. Attached to the agenda is the special event application.

Colleen Spiegelhoff from the Family Promise of Ontario County was present at the meeting. Closing of the pier would only be the 2<sup>nd</sup> time this season since Riesling Festival no longer closes the Pier. Event organizer must notify the businesses adjacent to the Pier. Motion to recommend approval made Matt Martin, 2<sup>nd</sup> by Anita Twitchell. Vote 4-0

**RESOLUTION**

**3. Climate Smart Communities**

The New York State Climate Smart Communities program is a network of communities engaged in reducing greenhouse gas emissions and improving climate resilience. In order to be eligible for New York State Climate Smart Communities grants, municipalities must adopt the New York State Climate Smart Communities Pledge which comprises ten elements (see attached). The City is already implementing projects that are applicable such as the recycling container (Toter) program, solar arrays, street light LED conversion project, and partnerships with the Watershed Council for flood and water quality projects. As such, City staff recommends adopting the New York State Climate Smart Communities Pledge. Thomas Lyon indicated that it appears that the City would need approximately 20 more points in programs to be certified as a "NYS Climate Smart Community". There are no changes that the City will need to do because we adopt the pledge. Jim Terwilliger does not support the preamble to the proposed resolution.

Motion to recommend adoption made by Anita Twitchell, 2<sup>nd</sup> by David Whitcomb. Vote 4-0

**RESOLUTION**

**APPENDIX B (Continued)**  
**ENVIRONMENTAL/PARKS**  
**Tuesday, June 13, 2017**

**4. Dog Park Grant**

The Office of Parks, Recreation & Historic Preservation administers the Environmental Protection Fund Grant Program for Parks, Preservation and Heritage. This program provides grant funding for the acquisition, planning, development and improvement of parks, historic properties and heritage areas. Last year the City unsuccessfully applied to this grant program for the dog park. City staff is recommending that City Council authorize the submission of a grant application again this year.

**Motion to recommend authorizing resolution for grant made by David Whitcomb, 2<sup>nd</sup> by Matt Martin. Vote 4-0**

**RESOLUTION**

**5. Special Event – Canandaigua Historic Downtown Drive**

The BID is proposing a new annual event similar to a car show. The event cars will cruise a specific two-mile route with regular traffic and show off their cars to residents, veterans, tourists and a special viewing stand in Downtown. The cruise will take place from 3 PM – 5 PM and end Downtown for dining, shopping and a Wine Walk with cars on display in the Coach Street Parking Lot, Lafayette Lots and a few reserved Main Street parking spots. Event also will have a food truck rodeo in Coach St.

**Motion to recommend approval made by Matt Martin, 2<sup>nd</sup> by Anita Twitchell. Vote 4-0**

**RESOLUTION**

**6. Watershed Council – Grant Applications**

Kevin Olvany, Watershed Manager, asked City Council for approval for Dept. of State Consolidated Funding grant applications for a variety of projects to promote and protect the lake. One of the proposed projects is to develop an updated strategic plan with a consulting firm for City lakefront parkland (Lakefront Park, Kershaw Park, Atwater Meadows and City Pier) to improve the public access and amenities. A local match of 25% would need to be provided, if the grant is accepted. The Capital Plan has funding available to provide the local match.

**Motion to recommend authorizing resolution for grant application made by Matt Martin, 2<sup>nd</sup> by Anita Twitchell. Vote 4-0**

**RESOLUTION**

**Motion for Executive session for the employment history of a particular person made by Matt Martin, 2<sup>nd</sup> by Anita Twitchell. Vote 4-0**

**Motion to adjourn executive session and meeting at 8:26 made by David Whitcomb, 2<sup>nd</sup> by Matt Martin. Vote 4-0**

**APPENDIX C**  
**ORDINANCE/CHARTER COMMITTEE**  
**Tuesday, June 20, 2017**  
**7:00 p.m.**  
**Hurley Building Conference Room**

**Committee:** David Whitcomb, Chair; Matt Martin; Karen White; Nick Cutri

**Other Council members:** Ellen Polimeni; Robert O'Brien; Cindy Wade; Jim Terwilliger; Anita Twitchell

**Staff:** John Goodwin; Michele Smith; Rob Richardson.

**1. Canandaigua Finger Lakes Resort – Request for Dock**

The Canandaigua Finger Lakes Resort has been working to secure the necessary financing to complete the project. The financing is also contingent on having a dock through either a lease or construction of a new dock. The developer is requesting City Council support the expansion of the existing Canandaigua Lady dock or a revocable license agreement to lease slips on the public dock located adjacent to the hotel site. Attached is a letter from the developer and a sketch of the proposed expanded Canandaigua Lady dock.

Bob Murphy and Phil Green attended the meeting to answer questions regarding the request. The financier insists that exclusive dock use be granted to condo owners before they will agree to lend money. Draft provided shows 48 slips but that number is not definite. The Developer has an agreement with Rosepark for them to move their docks. Ray Cappalano, the President of Rosepark HOA, confirmed that such an agreement is ready to be executed.

There were general questions regarding the proposal. Questions whether the current public docks could be used. As those docks are part of the park, any arrangement would not be permanent for the condo owners unless NYS grants authorization and the financier is looking for permanent access. Three options were considered but 2 would require that State approval, the proposal that has been made would not require anything. Any docks would still need to comply with the Uniform docks and mooring law and all of its reviews and requirements – requires engineered drawings and compliance with SEQR. Developer acknowledged that they may only need 38 for the condos.

Committee listened to public comments:

Concern that giving the docks to the developer doesn't seem to benefit the public and the residents in any way. Committee doing whatever it needs to get it built without concerns for the public. Mayor strongly disagreed and explained the public benefits of this project. Public access was already provided by this developer when they built and donated the public docks and parking lot.

Jim Terwilliger supports the proposal but proposes that Council only authorize 1 slip per condo not to exceed 44 and with condition that they cannot be leased out. Robert O'Brien would like the Council to take a look at the long-term design or plans for this area of the lake. What if the City wants to build more public docks, are we cutting off our own access by accepting this design?

David Whitcomb expressed concern with making a decision tonight. Needs more time to digest and hear from the public.

President of Canandaigua Lake Watershed concerned that the decision is being rushed. This isn't just a City issue but a lake issue that needs to be considered. Thinks there is an issue with violating the intent of the UDML if you use tier system to grant private access to docks from municipal land. Steve Uebbing says the only thing that is not viable is for the project to continue as is. Likes the motion that has been proposed at it still leaves the final approvals open and conditioned on further reviews and studies.

Jack Dailey asked "What about the quality of the lake and increased boat traffic?" City needs to consider the total impact on the lake, not just the completion of this project. City needs to look at Watershed Lake Management Plan and boat study.

**APPENDIX C (continued)**  
**ORDINANCE/CHARTER COMMITTEE**  
**Tuesday, June 20, 2017**

Motion to approve request for up to 44 slips to be added to Canandaigua Lady Dock, conditioned on the issuance of a certificate of occupancy for the hotel project, compliance with UDML, and Planning Commission approval of site plan and SEQRA made by Matt Martin, 2<sup>nd</sup> by Karen White. Karen and David would like additional time to make sure that they have all of the conditions listed that need to be included to ensure that the City is protected and this project is a success. Vote 1-2 (David and Karen voted against). Failed.

Issue will be placed on Finance Committee agenda for further discussion and recommended list of conditions of approval for authorizing these proposed docks.

**2. Amending Chapter 496 – “Chronic Nuisance Properties”**

The City Council at its October 6, 2016 meeting adopted Ordinance 2016-10 which created Chapter 496 of the City Code entitled “Chronic Nuisance Properties” with the purpose of addressing their impact upon the quality of life, safety and health of the City. Due to recent events, Chief Hedworth, and Councilmembers Whitcomb and Martin requested to review the ordinance and that City staff prepare proposed amendments. Attached to the agenda are proposed amendments for the Committee’s consideration.

Motion to recommend approval of amendments to ordinance made by Karen White, 2<sup>nd</sup> by Matt Martin. Vote 3-0.

Committee would also like to see a public hearing on this proposal also scheduled.

**ORDINANCE with PUBLIC HEARING Resolution for Ordinance Committee meeting in July.**

**3. Executive Session – Legal Update**

The City Attorney will provide an update to City Council on legal matters.

Motion to adjourn executive session at 9:15 made by Matt Martin, 2<sup>nd</sup> by David Whitcomb. Vote 3-0



**APPENDIX D**  
**FINANCE/BUDGET COMMITTEE**  
**Thursday, June 27, 2017**  
**7:00 p.m.**  
**Hurley Building Conference Room**

**Committee:** James Terwilliger, Chairman; Robert O'Brien (arrived at 6:45); Cindy Wade; Karen White  
**Other Council Members** – Ellen Polimeni; Matt Martin; David Whitcomb; Anita Twitchell; Nick Cutri (7:30)  
**Staff:** John Goodwin; Michele Smith; Chief Hedworth; Jim Sprague; Petr Premyslovsky; Robert Richardson (intern)

**1. Phone System Replacement**

The 2017 Capital Budget included \$50,000 to replace and upgrade the City's phone system to a voice over IP system. The goal of the project was to update the phone system to new technology to realize savings. An RFP was prepared and six proposals were received and reviewed. Empire Access submitted the lowest cost system at a one-time cost (installation and purchase of phones) of \$23,355.39 with an on-going (phone service) monthly cost of \$1,299.25. Once complete the City will save approximately \$1,312.87 monthly or \$15,754.44 annually. Further, Empire Access will provide the City with a dark fiber connection as part of the project to Fire Stations 1 and 2 and the monthly fee includes any on-going maintenance of the phone system. City staff recommends awarding the phone system replacement project to Empire Access.

John Goodwin and Petr Premyslovsky spoke to this change and anticipated savings. Anticipate that it will take 6 to 8 weeks before it can be implemented. Motion to recommend approval of contract made by Karen White, 2<sup>nd</sup> by Cindy Wade. Vote 3-0

**2. Surplus Property**

Each year the City replaces various vehicles and equipment through the Capital Budget and Plan which necessities that various vehicles and equipment that have been replaced and/or have become obsolete be declared surplus and disposed of through public auction, sealed bid or as trade-ins. The funds received from the auction and/or sale of the surplus items is deposited into to the Capital Reserve. Two items were inadvertently not included in the previously list approved by City Council.

Jim Sprague explained that one of the trucks we bought recently knowing that it was not working but so that we could use the box for a cheaper cost but we don't need the surplus chaise. (Robert O'Brien arrived at 6:45)

Motion to recommend approval of declaring surplus made by Karen White, 2<sup>nd</sup> by Cindy Wade. Vote 4-0

**3. Sewer Lining**

City Council awarded the South Main Street Sanitary Sewer Lining Contract to Insituform Technologies via Resolution #2017-018 for a total amount of \$182,740. Via the same resolution, City Council authorized an increase to the 2017 Sewer Fund Capital Budget in the amount of \$82,740 which was offset by a transfer from the Sewer Collection Reserve and used unspent funds that were budgeted for work in 2016. This amount did not include any contingency. During the course of the project, two additional lateral connections were identified that were reconnected to the newly lined sewer main and the actual length of sewer lined was 62 feet longer than the quantity included in the bid documents. As a result, an additional \$6,150 is needed to cover the additional work. Staff recommends that City Council authorize an increase to the 2017 Sewer Fund Capital Budget by \$6,150 utilizing a portion of the remaining unspent 2016 budgeted funds.

John Goodwin explained the process and benefits of this project. Motion to recommend approval to amend the contract made by Robert O'Brien, 2<sup>nd</sup> by Karen White. Vote 4-0

**APPENDIX D (continued)**  
**FINANCE/BUDGET COMMITTEE**  
**Thursday, June 27, 2017**

**5. Canandaigua Finger Lakes Resort – Request for Dock**

The Canandaigua Finger Lakes Resort has been working to secure the necessary financing to complete the project. The financing is contingent upon the returning the project to its original approval which involved condo/timeshares on the upper floors above the hotel. The developers will need to obtain this approval from the Planning Commission as well as adding a private elevator for the condos. The financing is also contingent on having a dock. The developer is requesting City Council support to the expansion of the existing Canandaigua Lady dock adjacent to the hotel site. This proposal was previously discussed at the June 20, 2017 Ordinance Committee.

Jim Terwilliger attempted to identify the true application before the City – for exclusive dock access for condominiums (the top 2 floors of the project). Clarified that there has been no expenditure of public funds for this project and indicated that in fact, the Developer built and donated the 30 current public docks that are available for the public use and the acquisition and development of over 2 acres additional park and public parking adjacent to Lakefront Park. Request of Developer is for City Council to issue a letter of intent that it would be willing to support expanding the existing private dock used for the Canandaigua Lady, which is already owned by the Developer.

John Goodwin reviewed proposed conditions prepared by staff at the request of Ordinance Committee.

Anita Twitchell thinks this is too soon to react when there has been little movement on this project.

Cindy Wade provided an analysis of the Watershed's Boat Analysis and Carrying Capacity (found in Table 12). Believes the number requested by the Developer is the smallest amount requested by similar condominiums and will be a minimal impact compared to the over 300 boats launched at the State boat launch by non-City taxpayers.

David Whitcomb is opposed to impacting the view shed in order to benefit approximately 26.4 people that might purchase condominiums and also use a boat. He has been opposed to this since it was first proposed way back in 2008 and the Developer was told to take that component out of the project. He doesn't believe that this is truly a make-or-break for this project and that something will get built or redeveloped in that area but whatever it is he doesn't support adding docks in this area.

Mayor spoke about City finances and attempt of Council to not raise taxes while providing services that the taxpayers insist on receiving. She proposes adding 20-30 slip onto the existing public docks and developing a rental/lease system (public marina), which would bring in revenue to the City without such a large impact. Interested condominium owners and any others could then lease from the City.

Karen White believes this a substantial change from the original, approved project and is opposed to it. Believes there is insufficient information to approve this request at this time.

[straw poll if council members would be interested in researching other dock ideas further. In favor – 4; against – 4]

Robert O'Brien opposed to this proposal. Thinks we need to look at the City's Waterfront Redevelopment Plan to update and make sure it is applicable. We need to wait. This project shouldn't be dependent on the City giving away a public right for the benefit of a private entity.



**APPENDIX D (continued)**  
**FINANCE/BUDGET COMMITTEE**  
**Thursday, June 27, 2017**

Bob Murphy (Developer) quickly reviewed the proposed conditions of the City and doesn't think they will be an issue for his Financier but, if this is approved, he will forward it to them for their review. He again explained that they are simply seeking to add on to their current and existing dock, as it is part of the term sheet of the current Financier. He reiterated that this project has already provided great benefits to the City and expended significant funds to increase the park land, provide public parking and provide public docks – all at their own cost.

General Public allowed to speak - All opposed to the docks being provided to a private developer. Joel Freeman; Eli Bowan; Mike Yarger; Wade Sarkis (President of the Watershed Assoc.); Renee Sutton; Ted. Carmin; Natalia Hennings; Cindy Wallace;

Supports the proposal - Ray Cappalano (President of Rosepark HOA); Charlie Battle

In conclusion, Jim Terwilliger explained that in order for any recommendation to move forward tonight would need a vote of at least 3 members, however because of Robert and Karen's opposition nothing will be proposed with the recommendation of the Finance Committee. Note that any Council member can propose a resolution without Committee approval at any time. Topic may stay on the agenda for discussion at other Committee meetings, tentatively for Environmental/parks meeting on July 11.

Adjourn into executive session to discuss the employment history of a particular individual at 8:44  
Adjourn executive session and meeting at 9:30