

**CITY COUNCIL MEETING
CITY OF WATERTOWN
March 07, 2011
7:00 P.M.**

MAYOR JEFFREY E. GRAHAM PRESIDING

**PRESENT: COUNCIL MEMBER JOSEPH M. BUTLER JR.
COUNCIL MEMBER TERESA R. MACALUSO
COUNCIL MEMBER JEFFREY M. SMITH
MAYOR GRAHAM**

ABSENT: COUNCIL MEMBER ROXANNE M. BURNS

**ALSO PRESENT: MARY M. CORRIVEAU, CITY MANAGER
ROBERT J. SLYE, CITY ATTORNEY**

City Staff Present: Ken Mix, Jim Mills, Elliott Nelson, Chief Herman, Chief Goss, Kurt Hauk

The City Manager presented the following reports to Council:

- 1 - Authorizing Professional Services Agreement with Stearns and Wheler GHD
- 2 - Authorizing Staff to Amend Design of J.B. Wise Parking Lot Reconstruction and Negotiate Real Property Exchange
- 3 - Approving Change Order No. 1 to Professional Services Agreement for Interoperable Communications, Blue Wing Services, Inc.
- 4 - Authorizing Acceptance of Sidewalk Reconstruction Project, PIN 7805.29
- 5 - Authorizing Execution of a Cooperation Agreement with Jefferson County Pertaining to the HOME Program
- 6 - Authorizing Submission of an Application for Small Cities Community Development Block Grant Funding
- 7- Local Law No. 1 of 2011 – Amending City Code of the City Of Watertown, §205, Noise
- 8- Small Cities Community Development Block Grant Funding Application
- 9- Laid Over Under the Rules – Ordinance Amending City Municipal Code §293-58, Schedule X, Stop Intersections
- 10- Laid Over Under the Rules – Ordinance Amending City Municipal Code §293, Vehicles and Traffic, Sterling Street
- 11- Quarterly Financial Report
- 12- Samaritan Medical Center – Senior Living Village – Purchase Offer
- 13- Water Service to Cahill Building
- 14- Signage Reference Sites

COMPLETE REPORTS ON FILE IN THE OFFICE OF THE CITY CLERK

Meeting opened with a moment of silence and remembrance of Douglas Schelleng who was killed in an automobile accident on March 4th.

Pledge of Allegiance was given.

The reading of the minutes of the regular meeting of February 22, 2011, was dispensed and accepted as written by motion of Council Member Smith, seconded by Council Member Butler and carried with all voting in favor thereof.

COMMUNICATIONS

From Samaritan Medical Center concerning the proposed assisted living center.

ABOVE PLACED ON FILE

Claim against the City was received from Harriet Madden for personal injuries she sustained when she fell at the ice arena.

ABOVE REFERRED TO THE BOARD OF AUDIT

Mayor Graham interrupted the regular course of business to allow for the 2009-2010 City of Watertown Audit Review by Laurie Podvin.

Ms. Podvin addressed the chair presenting an overview of the recently completed budget. She praised City staff for the good job that they do and reviewed the Management's Discussion and Analysis. She commented that there was a healthy fund balance in the general fund and reviewed the figures for the statement of net assets as well as the statement of activities and the City's balance sheet.

Council Member Butler asked about the figures on page 57 for the budgetary comparison schedule of the general fund and why the figures were not balanced.

Mrs. Corriveau explained that when the City budgets for the self insurance fund, they budget a number and they also put in an amount of what is estimated. The schedule on page 57 includes not only the general fund, but also the water, sewer and library funds. This is because the City has to budget in the operating funds for new hires and anticipated vacancies.

Ms. Podvin also explained that \$1,521,000 had been budgeted. However, the actual result was that no fund balance was used to balance the budget.

Ms. Podvin explained the testing that was done on the water-sewer rates and the fact that the correct billing rate wasn't implemented into the software property. As a result, approximately \$7,000 was refunded to customers. She explained that the sample size was 25 customers and the problem found was corrected quickly. She reiterated the fact that Mrs. Corriveau and staff do a great job.

Council Member Butler questioned the sample size and asked if it should be larger.

Ms. Podvin advised that the sample size was fine.

Mrs. Corriveau explained that as long as the samples pick up all the tiers, it is fine.

Mayor Graham and Council Members thanked Ms. Podvin for attending and answering questions concerning the audit.

PRIVILEGE OF THE FLOOR

Dr. Frank Rhode, Woodruff Professional Group, addressed the chair explaining that if they had a choice of options for the changes in the proposed road, they would select Option #1.

PUBLIC HEARING

AT 7:30 P.M. MAYOR GRAHAM ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING CONCERNING LOCAL LAW NO. 1 OF 2011, AMENDING CITY CODE OF THE CITY OF WATERTOWN, §205, NOISE.

MAYOR GRAHAM DECLARED THE HEARING OPEN.

James Jarosz, 21931 Sunset Ridge, Town of Watertown, addressed the chair in support of the local law. He reviewed the NY State V&T laws relative to mufflers and exhaust systems. He advised that there is a state legislator that has introduced a bill to have mufflers and exhaust systems checked during yearly state inspections. He also advised that it was illegal to change muffler systems on vehicles. He commented that he has heard a lot of motorcycles and vehicles that have altered these systems.

MAYOR GRAHAM DECLARED THE HEARING CLOSED AT 7:34 P.M.

AT 7:30 P.M. MAYOR GRAHAM ASKED THE CITY CLERK TO READ THE NOTICE OF PUBLIC HEARING CONCERNING SMALL CITIES COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING APPLICATION.

MAYOR GRAHAM DECLARED THE HEARING OPEN.

Mr. Mix advised that the proposal for this year's application will continue the activities started with the 2008 and 2009 grants. The application will be a single purpose proposal to promote rehabilitation of existing substandard apartments throughout the City and creation of new apartments on the upper floors of commercial buildings in the downtown area. He explained that the 2008 grant was used for 20 units. The first project for the 2009 grant is beginning and is for the upper floor of Rent-A-Zone and will be for 7 units. The next anticipated project will be for Cahill's and will be four units.

Council Member Butler asked Mr. Mix what the new grant would be for.

Mr. Mix explained that it would be for a rental rehab program. While City-wide applicants are eligible, the preference will be for the downtown area. This program was started in 2008 and most of these have been two units, with one being 16 units.

Council Member Butler asked who makes the determination on what the grant will be for.

Mr Mix responded that Council does and that is why the resolution is before them this evening.

Council Member Butler remarked that Ms. Cavise had phoned him with questions concerning the program and he didn't have the answers. After doing research, he found out that these projects tend to target the lower income housing in the downtown area. He questioned why the grants couldn't be used for recreational facilities such as upgrading a park or addressing infrastructure problems with the City pools. He questioned why the funds couldn't be used for demolishing houses that had been targeted for demolition or for construction of an outdoor ice rink. He stated that these are the types of things he would like to see the money used for.

Mr. Mix explained why these funds wouldn't fit for those projects. One reason these funds are designated as they are is to keep housing programs going on. If a project was done to benefit all the citizens of Watertown, the project would not meet the criteria as it wouldn't meet low to moderate income. All the housing programs are 100% low to moderate.

Council Member Butler questioned the fact that in 1996 loans from the grant were used for 2 local businesses and they weren't low income.

Mr. Mix explained that the jobs that were created were for low-moderate income individuals.

Council Member Butler referred to the fact that 70% of the programs are for low-moderate incomes projects. He asked about using the other 30% for the other projects.

Mr. Mix advised that he wouldn't recommend a 70-30 split in an application. He stated that he didn't think it would work with the state.

Council Member Butler asked about a comprehensive application.

Mr. Mix explained that a comprehensive project was done with Emerson Place and State Place. However, under the comprehensive projects, it is a whole different situation. He explained that the rental rehab project is a single project and there is no way to split it up.

Council Member Butler remarked that he would like to see an opportunity to use these funds for diversified projects. However, Mr. Mix has brought up good points and has explained the criteria for the projects.

Mr. Mix advised that staff can look at projects for future grants.

Council Member Smith commented that many of the children that come to the park pool would be at the low-moderate income level and would fit the criteria.

Mr. Mix responded that the pool project would be tough as anyone could use the pools. He stated that he would have to speak with the state about this as he thought it would be an area wide income survey. He advised that Jefferson County had applied for the Children's Clinic because the clinic's clientele met the income requirements.

Council Member Smith suggested that perhaps a pool survey be done over the summer.

MAYOR GRAHAM DECLARED THE HEARING CLOSED AT 7:50 P.M.

RESOLUTIONS

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS the New York State Department of Environmental Conservation (NYSDEC) has notified the City of Watertown that they issued a notice of intent to modify the City's State Pollution Discharge Elimination System (SPDES) Permit, and

WHEREAS the proposed modifications to the permit were reviewed by Chief Wastewater Treatment Plant Operator Michael Sligar and City Engineer Kurt W. Hauk, and

WHEREAS the City must within eight (8) months develop and draft an engineer report, basis of design and preliminary plans for a disinfection systems at the plant's outfall into the Black River, and

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the professional services agreement with Stearns and Wheler GHD to prepare this report within the required timeframe, a copy of which is attached and made part of this resolution, and

BE IT FURTHER RESOLVED that City Manager, Mary M. Corriveau, is hereby authorized and directed to take any necessary steps to formalize acceptance of this Agreement by the City.

SECONDED BY COUNCIL MEMBER TERESA R. MACALUSO AND CARRIED WITH ALL VOTING YEA

Attorney Slye left the meeting before discussion and vote on the following resolution.

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

WHEREAS on October 4, 2010, the City Council approved the contract with submitted by Bat-Con, Inc., 4277 Slate Hill Road, Marcellus, New York, in the total amount of \$2,316,240 for the reconstruction of the J. B. Wise parking lot, and

WHEREAS this project includes an entrance road from Public Square, north into the parking lot, and

WHEREAS in November 2010, Woodruff Professional Group, LLC asked that the City Council reconsider this entrance road and its design, and

WHEREAS on December 13, 2010, after a tour of the site, the City Council asked Staff to look at a redesign of the entrance into the lot to address the conflict areas highlighted by Woodruff Professional Group, LLC and accommodate increased handicapped parking, and

WHEREAS the City Engineering Department has presented redesign plans for the City Council's consideration,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby instructs Staff to move forward with amending the design of the entrance road to conform with Option 1, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that Staff is instructed to move forward with negotiating a real property exchange with the owners of Woodruff Professional Group, LLC to accommodate this redesign.

SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR AND DEFEATED WITH COUNCIL MEMBERS BUTLER AND SMITH VOTING YEA AND COUNCIL MEMBER MACALUSO AND MAYOR GRAHAM VOTING NAY

Prior to the vote on the foregoing resolution, Council Member Butler remarked that Council owes it to folks to make a decision. He stated that he has supported the road, but only lukewarmly. He remarked that the more he thinks about it, perhaps the street should be scraped and plans should be abandoned to have a street. He commented that the development of a road would inhibit the development of the land. He said that Council had talked about a friendly walking downtown area and this street would endanger people. There is a lot of congestion downtown and this would only add to it. He apologized for not stating this case earlier and said that he agreed with Council Member Smith who didn't support it to begin with.

Council Member Macaluso commented that it would be a nice idea to have a road there but questioned where the extra money was coming from if Council agreed on option #1.

Mrs. Corriveau stated that it would come from the taxpayers as it is not part of the grant.

Council Member Macaluso stated that she had a problem with that.

Council Member Smith commented that \$30,000 would only be part of the costs. At some point in the future, the City would have to come up with the money for the portion of the project that we don't have the rights to. He stated that he was not in favor of that or of eminent domain for this project. He commented that the parking lot and underground utilities, as well as redesign of the entrances and exits make sense. The pedestrian traffic study showed that this road would disrupt pedestrian flow.

Council Member Macaluso stated that she does not think we should absorb the change costs and suggested that the people in the medical building should absorb the costs.

Mayor Graham commented that the scope of the project was discussed on numerous occasions and the collective conclusion was that the project would enhance the entrance to J.B. Wise. Now, we have a resolution before Council to amend it. Mayor Graham stated that it was difficult for him to get a staff recommendation to leave it as is and then to step over Mr. Hauk's recommendation and spend \$30,000 or more. He commented that Council Member Smith is right that the price is going to go up because of the land behind Smith's Restaurant Supply.

Council Member Butler questioned if Mayor Graham was going to support Mr. Hauk's recommendation when it comes to the parking on Sterling Street.

Attorney Slye returned to the meeting.

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS on August 16, 2010 the City Council of the City of Watertown approved a bid submitted by Blue Wing Services, Inc. of St. Paul Minnesota, in the amount of \$85,940 for an interoperable communications study, and

WHEREAS Fire Chief Dale C. Herman has submitted the Change Order No. 1 to that contract for consideration by the City Council, and

WHEREAS Change Order No. 1 results in an additional charge of up to \$14,000, bringing the contract amount to \$99,940,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown approves Change Order No. 1 to the contract with Blue Wing Services Inc., for an interoperable communications study, in an amount up to \$14,000, a copy of which is attached and made a part of this resolution, and

BE IT FURTHER RESOLVED that City Manager Mary M. Corriveau is hereby authorized and directed to execute the Change Order documents on behalf of the City of Watertown.

SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR. AND CARRIED WITH ALL VOTING YEA

Prior to the vote on the foregoing resolution, Council Member Smith asked about the outcome of the study that was done.

Chief Herman outlined the fact that this project is being undertaken to develop a plan to provide the City and the County with an interoperable communications network. The firm has been in constant contact as the process moves along. The amendment outlines the Blue Wing's services to formulate, create and evaluate an RFP to procure radio system equipment for both the City and County through existing PSIC and Stone Garden grants. He advised that the RFP will be for both VHF and UHF. The UHF 800 trunk system allows for good communication in buildings and the VHF is better outside.

Chief Herman advised that Oswego has an 800 trunk system. However, the City doesn't have enough grant money to go to a trunk system. The City might have enough to go to a VHF system.

Mrs. Corriveau commented that the funds for this come from a grant plus matching funds from the City and County.

Chief Herman explained that pending frequency acquisition, VHF provides a wider footprint and does allow good coverage in buildings. UHF has a smaller footprint.

Council Member Smith remarked that it seems that the results of the study indicate basically two options.

Chief Herman explained that the RFP will come back to the committee. The committee will then make a recommendation to Council. He also advised that even if both the City and County pick different systems, they would still have to be able to communicate with each other.

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS the New York State Department of Transportation proposes the Reconstruction of Sidewalk within the City of Watertown, PIN 7805.29 (ADA Accessibility Improvements), and

WHEREAS the State will include as part of the construction, reconstruction, or improvements of the above mentioned project the construction of sidewalks, pursuant to Section 349-c Cities of the New York State Highway Law, and

WHEREAS the State will provide for the construction of the above mentioned work, as shown on the contract documents relating to the project,

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Watertown hereby approves the construction of sidewalks and the above mentioned work performed on the project and shown on the attached contract documents relating to the project and that the City of

Watertown will maintain or cause to be maintained the relocated, reconstructed and/or constructed sidewalks performed as above stated and as shown on the contract documents, including the control of snow and ice, and

BE IT FURTHER RESOLVED that the City Manager is hereby directed to transmit four (4) certified copies of the foregoing resolution to: New York State Department of Transportation, 317 Washington Street, Watertown, NY 13601, Attn: Brian Baxter, and

BE IT FURTHER RESOLVED that City Manager, Mary M. Corriveau, is hereby authorized and directed to take any necessary steps to formalize acceptance of the project by the City.

SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR. AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCIL MEMBER JEFFREY M. SMITH

WHEREAS the National Affordable Housing Act of 1990 created new initiatives to produce and preserve affordable housing including the HOME Investment Partnerships Program (HOME), and

WHEREAS the HOME Investment Partnership Program will provide monies to states and local governments to fund affordable housing strategies, and

WHEREAS Section 216 (2) of the National Affordable Housing Act provides that a consortium of geographically contiguous units of general local government may apply for funding under the HOME Program, and

WHEREAS the City of Watertown has determined that it is desirable and in the public interest to cooperate with the County of Jefferson in order to participate in the North Country HOME Consortium comprised of Jefferson, Lewis and St. Lawrence counties in order to receive funding under the HOME Program,

NOW THEREFORE BE IT RESOLVED that the City Council authorizes Mayor Jeffrey E. Graham to execute on behalf of the City of Watertown a Cooperation Agreement with the County of Jefferson to undertake or assist in undertaking housing assistance activities for the HOME Investment Partnership Program.

SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR. AND CARRIED WITH ALL VOTING YEA

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

WHEREAS Federal grant funding is available through the New York State Office of Community Renewal to support local community development activities that are undertaken by eligible municipalities, and

WHEREAS the City of Watertown is eligible to apply for funding in the 2011 competition under the Small Cities Community Development Block Grant Program, and

WHEREAS it has been determined that such funding should be used for a single purpose proposal to promote rehabilitation of existing substandard apartments throughout the City and creation of new apartments on the upper floors of commercial buildings in the downtown area, and

WHEREAS public hearings were conducted by the City Council on February 7 and March 7, 2011,

NOW THEREFORE BE IT RESOLVED that the Mayor, Jeffrey E. Graham, is authorized to sign and submit an application for Community Development Block Grant funding for consideration in the 2011 Small Cities competition through the New York State Office of Community Renewal, and

BE IT FURTHER RESOLVED that the Mayor is authorized to sign all agreements, certifications and other documents required to complete the application and to accept the grant and administer the program that is proposed for Small Cities funding.

SECONDED BY COUNCIL MEMBER JEFFREY M. SMITH AND CARRIED WITH ALL VOTING YEA

Prior to the vote on the foregoing resolution, Council Member Butler commented that he appreciated Mr. Mix's comments and would like to talk about diversifying the use of these funds in the future.

THE ORDINANCE "AMENDING CITY MUNICIPAL CODE §293-58, SCHEDULE X, STOP INTERSECTIONS" WAS PRESENTED TO COUNCIL (Introduced to Council on February 22, 2011; appears in its entirety 37 on page of the 2011 Minutes Book.)

AT THE CALL OF THE CHAIR, VOTE WAS TAKEN ON THE FOREGOING ORDINANCE AND CARRIED WITH ALL VOTING YEA

The following ordinance was originally on the February 22, 2011 agenda. At that time, it was introduced by Council Member Macaluso, but received no second.

INTRODUCED BY COUNCIL MEMBER TERESA R. MACALUSO

BE IT ORDAINED that the City Council of the City of Watertown hereby amends the City Municipal Code § 293, Vehicles and Traffic to delete the following:

§ 293-61. Schedule XIII. Parking Prohibited at All Times

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Sterling Street	North	From Washington Street to Goodale Street

and,

BE IT FURTHER ORDAINED that Chapter 293 of the City Code of the City of Watertown is amended to add the following:

§ 293-61. Schedule XIII. Parking Prohibited at All Times

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Sterling Street	North	From Washington Street to a point 239 feet east thereof
Sterling Street		North From a point 304 feet east of Washington Street to a point 120 feet east of Goodale Street

and,

BE IT FURTHER ORDAINED that Chapter 293 of the City Code of the City of Watertown is amended to add the following:

§ 293-63. Schedule XV. No Standing

<u>Name of Street</u>	<u>Side</u>	<u>Location</u>
Sterling Street	North	From Washington Street to a point 239 feet east thereof
Sterling Street		North From a point 304 feet east of Washington Street to

Goodale Street

and,

BE IT FURTHER ORDAINED that Chapter 293 of the City Code of the City of Watertown is amended to delete the following:

§ 293-67. Schedule XIX. Restricted Time Limit Parking

<u>Name of Street</u>	<u>Side</u>	<u>Hours/Days</u>	<u>Location</u>
Sterling Street	North	1 hr.; 9:00 a.m. to 8:00 p.m.	From Goodale Street to Franklin Street

and,

BE IT FURTHER ORDAINED that Chapter 293 of the City Code of the City of Watertown is amended to add the following:

§ 293-67. Schedule XIX. Restricted Time Limit Parking

<u>Name of Street</u>	<u>Side</u>	<u>Hours/Days</u>	<u>Location</u>
Sterling Street	North	1 hr.; 9:00 a.m. to 8:00 p.m.	From a point 120 feet east of Goodale Street to Franklin Street

and,

BE IT FURTHER ORDAINED that Chapter 293 of the City Code of the City of Watertown is amended to add the following:

§ 293-71. Schedule XXIII. Loading Zones

<u>Name of Street</u>	<u>Side</u>	<u>Hours/Days</u>	<u>Location</u>
Sterling Street	North	All times and all days	Police Vehicle loading zone only; From a point 263 feet east of Washington Street to a point 41 feet east thereof

Sterling Street	North	7:00 a.m. to 6:00	Municipal Building
		p.m./Mon. through	delivery/service loading
		Friday	zone only; From a point 239
			feet east of Washington
			Street to a point 23 feet east
			thereof

and,

BE IT FURTHER ORDAINED that this amendment shall take effect as soon as it is published once in the official newspaper of the City of Watertown, or printed as the City Manager directs.

SECONDED BY COUNCIL MEMBER JOSEPH M. BUTLER, JR.

LAID OVER UNDER THE RULES

LOCAL LAW

LOCAL LAW NO. 1 OF 2011 WAS PRESENTED TO COUNCIL (Introduced to Council on February 7, 2011; public hearing held this evening; appears in its entirety on page 41 of the 2011 Minutes Book).

Commenting on the foregoing local law, Council Member Smith remarked that if this were to pass, Council doesn't know if it would be enforced by the courts. He asked if the City would borrow the County's unit.

Mrs. Corriveau advised that this law doesn't call for decibel meters, just "reasonableness". The decibel meter is used to enforce NYS V&T laws, which are already on the books.

Chief Goss advised that § 375 of the V&T law cites 70 decibels as the level. An officer would have to prove that loud stereos and heavy bases exceed that decibel level. However, there are exemptions such as police and fire vehicles and ambulances.

Council Member Butler explained that this local law is to make an amendment to the existing noise ordinance based on reasonableness and to encourage the Police Department to get decibel meters to allow enforcement under V&T.

Council Member Smith remarked that if this was passed, it wouldn't address loud stereos.

Mrs. Corriveau explained that the local law tries to address them through reasonableness.

Council Member Butler advised that there is a similar law in Syracuse where drivers are ticketed and they go to court and pay a fine.

Attorney Slye referred to his opinion letters of August and September 2010. He advised that Council is empowered to adopt a local law as long as it is not inconsistent with New York State statutes. The state preempted the field on how noise is to be enforced. This local law attempts to do something not permitted by the state.

Attorney Slye used an example of driving in from the Town of Pamela. The sound from the vehicle is fine under state levels and then the vehicle comes into the City. Now, it has to be reasonable to a police officer standing next to the vehicle. He commented that he is aware that Syracuse has this law, which was adopted in 1977. At that time, it was presumed to be constitutional. He stated that he can't tell Council how to vote. However both the state constitution and the state home rule law prohibits Council from passing a law that is unconstitutional.

Council Member Macaluso asked if Attorney Slye meant it wasn't legal for Council to vote for this law.

Attorney Slye responded that he just wants to say that Council is without power to adopt the law.

Council Member Butler stated that he meant no disrespect to Attorney Slye. However, he disagrees with him and feels that it is just an extension of existing law. He stated that Council is just listening to an opinion. The facts are that this law is enforceable. He also commented that they do it everyday in Syracuse. He also commented that he knows of no case where they said it was unconstitutional. He stated that this is a cold, hard fact and is enforceable as no court case says it can't be done. He stated that he is trying to respond to folks who have quality of life issues.

Council Member Smith commented that he recognizes all the work that Council Member Butler has put into this as well as the citizens' concerns. However, his concern is passing this and then having it all thrown out. He suggested taking out the reference to the V&T section, get a meter and then go under V&T law. Then the local law would deal strictly with noise outside of the state law.

Council Member Butler responded that he doesn't see the down side of passing this as is. It will be up to the Chief and his force to enforce it. He stated that it is a priority in the City of Syracuse. Council Member Butler also advised that in Syracuse, once they have stopped a vehicle for noise, they quite often find other things such as drugs, guns and people wanted on warrants.

Council Member Smith remarked that the downside is if it was challenged in court, all the efforts that were put into it would be out the window.

Attorney Slye explained that just because one municipality has it, it doesn't mean that it is constitutional. He also advised that constitutionality is the responsibility of the legislative body, not the police officers. He commented on the statement concerning the contraband found in vehicle stops in Syracuse that Council Member Butler had referred to and the fact that the unconstitutionality of the law could cause problems with an arrest as a result of finding the contraband in the vehicle. He stated that just because it is on the books doesn't make it constitutional. He stated that this is his legal opinion based on 25 years of legal experience. He also commented that his opinion, which is what he is paid to give, is that the legislation being proposed in connection with the three issues; exhausts, radios in cars and squealing tires, is on its face, unconstitutional.

Council Member Butler responded that for the last 34 years, the City of Syracuse has enforced it successfully and it has worked for them.

Attorney Slye responded "Good for Syracuse."

Mayor Graham commented to grab other things at a vehicle stop is a slippery slope and this law shouldn't be used as carte blanche to pull over a certain segment of the population. He stated that Council does have the responsibility of considering constitutionality.

Chief Goss advised that the City hasn't written any vehicles over 70 decibels and we don't have a decibel meter. He advised that squealing tires can be written as disorderly conduct or reckless driving.

Council Member Macaluso commented that the literature indicated that the noise had to be sustained for 30 seconds.

Chief Goss advised that this is correct. He also explained that the department would need meters that are simple to use and that can be certified. He referred to the information supplied by Oswego Police Department for a meter which would require the meter to be affixed to a tripod for the 30-second reading. He advised that this particular meter is \$2,300 or \$2,400 and wasn't used very often.

Mayor Graham commented that the public hearing didn't produce a lot of comments. Directing a question to Chief Goss, Mayor Graham asked if the police department would put in budget requests for meter equipment if they felt they had a significant problem with noise and also commented that he hadn't seen any of these requests.

Chief Goss stated that this is correct. He explained that the Jeff. County Sheriff's Department has one meter that was purchased to use for noise from the cigarette boats on the river. It has never been used. He also commented that he agrees that mufflers should be part of the NYS inspection.

Attorney Slye stated that he didn't want anyone to think that the state law is a good law, but it is a law. He also advised that §386 of the V&T law is for loud mufflers. §375 is for equipment violations. He stated that disorderly conduct has withstood constitutionality scrutiny.

Mayor Graham asked if disorderly conduct can be used for noisy neighbors.

Chief Goss advised that the department does issue a lot of warnings and have issued disorderly conduct tickets over the years. He stated that they do their best to use the laws that are on the books.

Mayor Graham commented that most people who receive a ticket will change their behavior. He mentioned that several things can be disruptive such as dumpsters being emptied or dump trucks going by. He remarked that he received a phone call from a resident of Casey Street complaining about the noise from the stereo instillation shop next door.

Council Member Smith asked if Chief Goss knew of any simpler devices that could be used.

Chief Goss responded that he would research it.

Mayor Graham commented that in 1985-86, Council had concerns about the noise in Thompson Park and a law was passed which involved decibel levels.

Chief Goss advised that no tickets have ever been issued based on this law and the City doesn't have a decibel meter.

Council Member Smith asked Attorney Slye about the Council adopting tougher standards than the state law as they did with the building codes.

Attorney Slye advised that the state statute permitted the City to adopt something different for the building codes. It doesn't apply to the noise issue.

Council Member Smith commented that he understood what Attorney Slye was saying and asked Council Member Butler if he would like to take out certain sections of the local law.

Council Member Butler stated that Council has been talking about this since August.

Council Member Macaluso remarked that she would hate to move forward with something that isn't 100% constitutional. She stated that she didn't want it to be thrown out because of some little sentence.

Council Member Butler asked the rest of the Council what more they needed or wanted. He reiterated the fact that it has been on the books in Syracuse for 34 years. He also advised that there is a town in Indiana that has a noise enforcement officer that writes tickets every day. He stated that this law will impact people on busy streets in the City but it won't impact him.

Mayor Graham reiterated the fact that the public hearing didn't demonstrate a high level of support in the community.

MOTION WAS MADE BY COUNCIL MEMBER SMITH TO TABLE THE FOREGOING LOCAL LAW. MOTION WAS SECONDED BY COUNCIL MEMBER MACALUSO AND WAS CARRIED WITH ALL VOTING YEA EXCEPT COUNCIL MEMBER BUTLER VOTING NAY

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COUNCIL DISCUSSED THE FOLLOWING TOPICS:

SMC/Sr. Living Village

Council reviewed the map showing the parcel that they would like to purchase from the City for this development. SMC is offering \$9500 per acre. SMC wishes to purchase Parcel A, but not Parcel B. Since these parcels are together, Mrs. Corriveau recommended that the subdivision expense should be paid by SMC. The City needs to have a survey done and section 2 of the charter will have to be amended.

Mayor Graham mentioned that the land proposed to be sold by the school district should also be annexed into the City. This land auction can not occur until following the referendum vote.

Mrs. Corriveau asked that staff be given time to look at this proposal.

Water Service to Cahill Building

Mrs. Corriveau advised that we still have some money from the streetscape project. If more is needed, we could look to CDBG funds.

Council Member Butler asked if the synthetic pavement would be affected.

Mr. Mix explained that it wouldn't touch the synthetic pavement under Mr. Pilon's concept.

Street Signs

Mayor Graham asked about the City changing the street signs because of a federal mandate.

Mrs. Corriveau responded that this is happening as well as the traffic signs being changed because of retro reflectivity.

Parking on Sherman Street

Council Member Butler stated that he is still receiving complaints about the parking on Sherman Street and the congestion at the school.

Chief Goss addressed the chair explained that when the Juvenile Aid Officer, the parking attendant and the zone cars were in the area, people behaved very well. The school has 2 faculty members in the morning – one opens the car door and the other opens the school door. Thus, there is no need for a parent to get out of the car. Some parents arrive early, but are not parked – they are standing as they are in the vehicle and it is running. DPW crews cleaned out the snow banks to widen the streets. Chief Goss commented that this is really a school issue due to the fact that they don't have enough parking. He stated that he can't assign someone to each school at 2 pm every day.

Mrs. Corriveau stated that the chief's report will be on the work session agenda.

Council Member Macaluso commented that this will always be a problem. Years ago, students walked to school. Now, parents drive them to school and pick them up.

Council Member Butler stated that he agreed with everything that was said. However, maybe tickets would be deterrence.

Chief Goss responded that when officers get there, people are smart enough to park where they should.

Mrs. Corriveau commented that the issue gets to be more of a challenge in the winter time due to the snow banks. She also commented that the principal is trying to address the issue.

Chief Goss advised that the school sent letters home concerning this issue.

Council Member Butler stated that he realized it is an uphill battle. However, he would support issuing tickets when necessary.

Dimmick Street

Council Member Butler thanked DPW crews for the cleanup on Dimmick Street over the weekend. He stated that they did a good job in a quick manner.

Franklin Building

Council Member Macaluso commented that she had attended the Franklin Building open house and the building was restored very nicely.

Fire in Town of Pamela

Council Member Smith gave the report concerning the departments that responded to the fire to Council Members. He asked Chief Herman if 18 departments responded to a detached garage fire was something that always happens.

Chief Herman explained that each incident commander has to weigh the information and then request what department they need. The incident commander for this fire would have had to request the City of Watertown to respond.

Council Member Smith asked if there is ever any outreach done after the fact to discuss the situation.

Chief Herman commented that in this instance, it could have been lack of understanding.

Council Member Smith asked if we ever go back and assess what was done from the City's standpoint.

Chief Herman advised that the North Pole Fire Department doesn't have a 2nd alarm installment. He also commented that the City has responded to three mutual aid requests since January 1st.

Local Law No. 1

Mayor Graham commented that one of the things Council may want to ask the City Manager to do is to research the costs for the police department to enforce it.

Council Member Smith remarked that he would like to see those costs as well.

Chief Goss will look into the costs of equipment.

Spelunkers

Mayor Graham remarked that Doug Anderson had come before Council and had asked about exploring the caves under the City. Since that time, Joe Giunta, Niagara Frontier Grotto, National Speleological Society has offered to attend one of the Council meetings and give a presentation on cave exploration.

Council agreed that they would like to see the presentation.

City Clerk Position

Mayor Graham advised that Council Members will need to begin discussions for the City Clerk's replacement process. It was agreed that this will be discussed at next week's work session and that Mrs. Dutton will assist Council.

Eminent Domain on Gaffney Drive

Mrs. Corriveau advised Council that Attorney Burrows has completed the paperwork to move forward with this matter. The owners have not responded and therefore, he will move forward with the proceedings this week.

Signage Reference Sites

This reference memo was made available to Council at the request of Council Member Macaluso.

Prisoner Transport

Mrs. Corriveau advised that she, Mayor Graham and Chief Goss met with County representatives concerning the prisoner transport. She stated that Sheriff Burns has met with Judge Harberson and has a transport team prepared to carry out the mission. The group agreed to convene in a year. City representatives notified the County that there would be no back charges for prisoner transports.

Local Government Conference

Mrs. Corriveau advised Council if they were interested in attending this conference, they would need to let her office know.

ADJOURNMENT

AT THE CALL OF THE CHAIR MEETING WAS DULY ADJOURNED AT 9:30 P.M. BY MOTION OF COUNCIL MEMBER BUTLER, SECONDED BY COUNCIL MEMBER MACALUSO AND CARRIED WITH ALL VOTING IN FAVOR THEREOF.

Donna M. Dutton

City Clerk