

**REGULAR MEETING OF THE COMMON COUNCIL  
OF THE CITY OF PLATTSBURGH, NEW YORK**

April 7, 2016

**5:30 P.M.**

**MINUTES**

**Present:** Mayor James Calnon, Councilors Mike Kelly (W2), Paul O’Connell (W4), Becky Kasper (W5)

**Absent:** Councilors **Rachelle Armstrong (W1), Dale Dowdle (W3), Joshua Kretser (W6)**

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**1. MINUTES OF THE PREVIOUS MEETING:**

**RESOLVED:** That the Minutes of the regular meeting of the Common Council held on March 23, 2016 are approved and placed on file among the public records of the City Clerk’s Office.

By Councilor Kasper; Seconded by Councilor Kelly  
Roll call: Councilors Kelly, O’Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)

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**2. PAYROLLS OF VARIOUS DEPARTMENTS:**

**RESOLVED:** That the payrolls of the various Departments of the City of Plattsburgh for the weeks ending March 30, 2016 in the amount of \$ 364,678.48 and April 6, 2016 in the amount of \$ 240,606.13 are authorized and allowed and the Mayor and the City Clerk are hereby empowered and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Kelly; Seconded by Councilor O’Connell  
Roll call: Councilors Kelly, O’Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)

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**3. REPORTS OF CITY OFFICES & COMMITTEE REPORTS:**

- Report of Fire and Ambulance Responses for the weeks of March 23 – April 6, 2016
- Report from the Building Inspector’s office April 4, 2016
- Statement from the City Clerk’s Office of all monies received during the month March 2016 in the total amount of \$10,199.46
- Report from the Parking Violations Bureau for March 2016

**RESOLVED:** That the reports as listed are hereby ordered received and placed on file among the public records of the City Clerk’s Office.

By Councilor Kasper; Seconded by Councilor O’Connell  
Roll call: Councilors Kelly, O’Connell, Kasper, Mayor Calnon

(All voted in the affirmative)

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**4. CORRESPONDENCE OR RECOMMENDATIONS FROM BOARDS: None**

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**5. AUDIT OF CLAIMS:**

**RESOLVED:** That the bills Audited by the Common Council for the weeks ending April 1, 2016 in the amount of \$ 721,270.79 and April 8, 2016 in the amount of \$ 521,640.26 are authorized and allowed and the Mayor and City Clerk are hereby authorized and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor Kelly; Seconded by Councilor Kasper  
Roll call: Councilors Kelly, O’Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)

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**6. PERSONS ADDRESSING COUNCIL:**

**James Leonard** spoke about Wilcox Dock. RV’S are parking on weekends and plug up South and East side. They stay all day long. Leave at night

**Kim Cummins** from Reality Check. Spoke about a group of students went to Macdonough Monument and picked up cigarette butts (they brought in bags showing amount of butts picked up). Asked Council to consider policies in Parks, etc.

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**7. OTHER ITEMS:**

**A. ADOPTION OF LOCAL LAW P-5 OF 2016**

**RESOLVED:** A local law adding Article VI entitled “Outdoor Cafes and Merchandise Displays on Public Streets and Sidewalks” to Chapter 233 “Streets and Sidewalks” the City Code of the City of Plattsburgh. The entire text of which has been distributed to and read by the members of the Common Council, is hereby enacted without the reading thereof and a copy of said local law is made part of the minutes of this meeting.

By Councilor O’Connell; Seconded by Councilor Kasper  
Discussion: Yes  
Roll call: Councilors Kelly, O’Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)

**ACTION TAKEN:** Adopted  
Follow up Action: None

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**B. RESOLVED:** In accordance with the request therefore the Common Council approves restoring the contract with James Burgess as the Nuisance Animal Control Officer for 2016 for the total cost of \$18,000.

By Councilor O'Connell; Seconded by Councilor Kasper  
Discussion: Yes  
Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)  
**ACTION TAKEN:** Adopted  
Follow up Action: None

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**C. RESOLVED:** In accordance with the request therefore the Common Council approves the City Chamberlain to adjust the 2016 General Fund Budget by an \$18,000.00 transfer from Snow & Ice materials to Animal Control fees for services to provide for animal control services for City residents.

By Councilor Kasper; Seconded by Councilor Kelly  
Discussion: None  
Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)  
**ACTION TAKEN:** Adopted  
Follow up Action: None

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**D. RESOLVED:** In accordance with the request therefore the Common Council approves Seth Silver of 40 Trafalgar Drive to close down part of Trafalgar Drive on June 4, 2016 from 11 am to 7 pm to have a safe area for their seventh annual block party.

By Councilor O'Connell; Seconded by Councilor Kasper  
Discussion: None  
Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)  
**ACTION TAKEN:** Adopted  
Follow up Action: None

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**E. RESOLVED:** In accordance with the request therefore the Common Council approves MLD to advertise for bids for PMLD Bid No. 2016-5-1 "Protective Relay System Testing." Bid Opening Date: May 19, 2016 at 1pm.

By Councilor Kelly; Seconded by Councilor Kasper  
Discussion: None  
Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)  
**ACTION TAKEN:** Adopted  
Follow up Action: None

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**F. RESOLVED:** In accordance with the request therefore the Common Council approves Contract # 2016-2 "Painted Pavement Markings" be awarded to Straight Line Industries Inc for the total price of \$74,950.

By Councilor Kelly; Seconded by Councilor Kasper  
Discussion: None

Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon

(All voted in the affirmative)

**ACTION TAKEN:** Adopted

Follow up Action: None

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**G. RESOLVED:** In accordance with the request therefore the Common Council approves MLD to write-off unpaid final bills from January 1, 2015 to January 31, 2015 in the total amount of \$4,173.78. The percentage of write-offs for this period is .18%.

By Councilor Kelly; Seconded by Councilor Kasper

Discussion: None

Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon

(All voted in the affirmative)

**ACTION TAKEN:** Adopted

Follow up Action: None

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**8. TRAVEL REQUEST:**

**A. RESOLVED:** In accordance with the request therefore the Common Council approves Wastewater Treatment Plant Operator Trainee Eric Bertrand to attend "Grade 3 Supervision and Technical Operations course" from June 26 – July 1, 2016 in Morrisville, NY at an estimated cost of \$1,180. This is a required class to obtain his 3A operator's license.

By Councilor O'Connell; Seconded by Councilor Kelly

Discussion: None

Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon

(All voted in the affirmative)

**ACTION TAKEN:** Adopted

Follow up Action: None

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**9. RESOLUTIONS FOR INITIAL CONSIDERATION: None**

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**10. NEW BUSINESS:**

**Councilor Kasper** mentioned at next week's work session they will be addressing SAD reports, input from Clerk, Community Development, Recreation and Promotions and Special Events. April 28 work session will be year to date budget review.

**Councilor O'Connell** spoke about recent power outage at Beekman Towers/. MLD, City PD, Lt. Beebie, Fire Chief and Building Inspector Joe McMahon all worked together, cooperation. They were all professional and caring.

**Mayor Calnon** indicated the generator stopped working again last night and they had to do it all over again. The damage was extensive and the contractor believes that it will be fully repaired by Monday.

**Councilor O'Connell** spoke about what Reality Check brought up and the mess there is with all the cigarette butts and other smoking paraphernalia that is there. When I go to events I have often wanted to ban, I don't know how, smoking. And another thing I'm really concerned about is animals at those events. I often thought about doing some policies like that again enforcement would be a big issue. What you guys did is phenomenal I think that's great. I think the world is in good hands if you're the future of it. Thanks a lot.

**Councilor Kelly** said I too would like to thank the Reality Check people for the work that you do. I think you have met with most of us and it is in the forefront of our minds as to what to do about it. We have not formulated any kind of policy or resolutions or laws to change anything yet, but, you certainly raised our consciousness about it and we really appreciate that. I plan to take some of your advice this year and do something positive with it. I also would like to recognize Emma I believe was recently recognized by your State organization as one of the leaders in your organization in the state. I am proud of you and your organization and what you are doing for us so thank you very much.

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**11. CLOSING PUBLIC COMMENTS:**

**Mike Kelly** daughter owns The Pepper. I know this is passed but it's kind of ambiguous are we going to change the whole process for getting a permit and the fees?

**Mayor Calnon** said this isn't question and answer style but in general the process will be a little bit more involved. It's to be sure that everyone understands the rules.

**Mike Kelly** said so I should have gotten up before you voted on this and asked questions?

**Mayor Calnon** said no this is not like a town meeting where you get to ask questions. We will be getting copies of everything we have out to all the businesses that we've dealt with before so they have a chance to take a look at it and we can answer questions.

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Motion to Adjourn by Councilor O'Connell; Seconded by Councilor Kasper  
Roll call: Councilors Kelly, O'Connell, Kasper, Mayor Calnon  
(All voted in the affirmative)  
**MEETING ADJOURNED: 5:54pm**

Local Law No. P-5 of the year 2016.

Introduced by Mayor Calnon at a regular meeting of the Common Council held on March 23, 2016

At a regular meeting of the Common Council on April 7, 2016

By Councilor O'Connell; Seconded by Councilor Kasper

Roll Call: All voted in the affirmative

Absent: Councilors Armstrong, Dowdle and Kretser

A local law adding Article VI entitled "Outdoor Cafes and Merchandise Displays on Public Streets and Sidewalks" to Chapter 233 "Streets and Sidewalks" the City Code of the City of Plattsburgh.

Be it enacted by the Common Council of the City of Plattsburgh as follows:

Article VI of Chapter 233 of the City Code of the City of Plattsburgh will be entitled "Outdoor Cafes and Merchandise Displays on Public Streets and Sidewalks" and will read as follows:

§ 233-38 Purpose

§ 233-39 Definitions

§ 233-40 Commercial Use of Public Streets and Sidewalks Restricted

§ 233-41 Permit Required and Where Permissible

§ 233-42 Permit Application Procedure

§ 233- 43 Permit Term

§ 233- 44 General Permit Regulations

§ 233-45 Revocation or Denial of Permit

§ 233-46 Temporary Suspension of Permit

§ 233-47 Permit and Use Fees

§ 233-48 Display of Permit

§ 233-49 Sale and Consumption of Alcoholic Beverages

§ 233-50 Penalties for Offense

§ 233- 51 Effective Date

**§ 233-38 Purpose**

Sidewalk cafes and merchandise displays on the public streets and sidewalks may promote the public interest by contributing to an active and attractive pedestrian environment. The purpose of accommodating sidewalk dining and sales is to add activity, attract pedestrians, extend their

visits and enhance overall community quality of life. Reasonable regulation of street and sidewalk cafes and merchandise displays is necessary to protect the public health, safety, and welfare, including the maintenance of pedestrian access. The intent of this article is to set forth the conditions and requirements under which a sidewalk café and sidewalk merchandise display, as defined, may operate by permit on a public sidewalk and street within the City of Plattsburgh.

### **§ 233-39 Definitions**

**Sidewalk Café:** Any portion of public sidewalks or streets in the downtown area in which tables, chairs, and associated exterior property are placed for the sole purpose of patrons consuming food and/or beverages (alcoholic or non-alcoholic) beverages served by a food establishment adjacent to the public sidewalk property.

**Clear Path of Travel:** Measured from the outside edge of the sidewalk café fencing, fence post base or other sidewalk café related obstruction (that limits pedestrian passage) to the planter/furniture zone where one exists or else to the curb zone. Clear path of travel must fall entirely within the pedestrian zone as defined below. Measurements must be clearly identified on the café permit application site plan.

**Curb Zone:** The first 6-inches of the sidewalk corridor immediately adjacent to the roadway.

**Frontage Zone:** The area between the pedestrian zone and the private property line. A standard frontage zone shall be at least 12-inches wide.

**Pedestrian Zone:** The area of the sidewalk corridor that is specifically reserved for pedestrian travel. It should be completely free of obstacles, protruding objects, and vertical obstructions which can be hazardous to pedestrians, particularly for individuals with vision impairments who may not be able to detect or avoid the hazard. A standard pedestrian zone should be at least 60-inches wide

**Planter / Furniture Zone:** Lies between the curb zone and pedestrian zones and is intended to house utilities, such as traffic poles and fire hydrants, trees, plants and pedestrian amenities, such as benches and bus shelters.

**Public Right-of-Way:** means any public street, alley, roadway, sidewalk, walkway, highway, bicycle lane right-of-way, or public way designed for vehicular, bicycle, or pedestrian travel that is dedicated to public use and/or publicly owned.

**Sidewalk Café Permit :** means a permit issued by the City Building Inspector for operation of a sidewalk cafe which meets all of the requirements of this section and all other applicable laws

and ordinances of the city and all state and federal laws.

**Merchandise Display Permits:** means a permit issued by the City Building Inspector for the temporary placement of merchandise on public sidewalk property by a commercial retail store adjacent to the public sidewalk property.

**§ 233-40 Commercial Use of Public Streets and Sidewalks Restricted**

Use of public streets and sidewalks for any commercial purpose, including sidewalk cafes and merchandise displays, shall be unlawful except as specifically provided herein or as specifically authorized by this article.

**§ 233-41 Permit Required and Where Permissible**

(A) It shall be unlawful to sell, or offer for sale, any food, beverage, merchandise, or service on any street, sidewalk, alley, City parking lot or other thoroughfare or public right-of-way without first obtaining the applicable sidewalk café permit or merchandise display permit.

(B) A sidewalk cafe shall be permitted only in zoning districts which allow indoor restaurants, or other indoor business selling food for consumption on the premises, and then only if the sidewalk cafe is contiguous to an indoor restaurant, or other indoor business selling food for consumption on the premises, and the cafe's operation is incidental to and a part of the operation of such contiguous indoor restaurant, or other indoor business selling food for consumption on the premises. A sidewalk cafe shall be located on the public sidewalk or public street right of way immediately contiguous to and abutting the indoor restaurant, or other indoor business selling food for consumption on the premises, which operates the cafe, provided that the area in which the sidewalk cafe is located extends no farther along the sidewalk's length than the actual sidewalk frontage of the operating indoor restaurant, or other indoor business selling food for consumption on the premises, and all other applicable provisions of this article are fulfilled.

(C) A merchandise display permit shall be permitted only in zoning districts which allow for the retail sale of goods on the premises and then only if the merchandise display is contiguous to an indoor retail store and the merchandise display is incidental to and part of the operation of such contiguous indoor store. A merchandise display shall be located on the public sidewalk immediately contiguous to and abutting the retail store, provided that the display extends no farther along the sidewalk's length than the actual sidewalk frontage of the retail store, and all other applicable provisions of this article are fulfilled.

(D) No signs shall be hung or attached to the sidewalk café or merchandise display unless a sign permit has been issued by the City Building Inspector pursuant to the City Code.

### **§ 233-42 Permit Application Procedure**

Applications for a sidewalk café permit and a merchandise display permit will be available in the City Building Inspector's Office. Applications shall be made on forms as approved by the Common Council by resolution. Necessary information shall include, but not be limited to: application forms, site plan details, pedestrian zone maintenance, insurance requirements, and proof of food and beverage licenses and permits. All permit and use fees will be established per section 233-47. The City Building Inspector may impose any other restriction on the location, size or design of the sidewalk cafe or merchandise display that, in their sole judgment, protects the accessibility, health, safety and welfare of the public.

### **§ 233- 43 Permit Term**

A sidewalk café permit and a merchandise display permit shall have a one year term from the date of issuance unless suspended or revoked pursuant to this article.

### **§ 233-44 General Permit Regulations**

A sidewalk cafe and merchandise display permitted, authorized and operated pursuant to this article shall:

- A. Comply with all plans submitted to and permits approved by the City Building Inspector.
- B. Serve no alcoholic beverages on or at any sidewalk cafe after 12:00 a.m. or before 8:00 a.m. All service of any kind whatsoever shall cease at 12:00 a.m. and not begin until 8:00 a.m.
- C. Ensure that by no later than 12:30 a.m. all patrons must be vacated from the sidewalk cafe and by no later than the closing of the establishment all furniture, utensils, containers or any other materials used in the operation of the sidewalk cafe or within the area used by the sidewalk cafe shall be removed from the sidewalk cafe area, provided that any railing, flooring or other support or enclosure used in the assembly, operation or enclosure of the sidewalk cafe may be allowed to remain on the sidewalk area if specifically permitted in the Building Inspector's approval of the sidewalk cafe plans.
- D. Remove all sidewalk cafe structures by October 31 and not install prior to April 1 in any year for which a permit is granted.
- E. Not allow music, from whatever source (acoustical, electric or other), to be played on the premises outdoors between the hours of 12:00 midnight and 8:00 a.m.
- F. Not allow advertisements, signs, neon signs, decorations or displays to be placed in, on, or about the sidewalk café premises without the prior written approval of the Code Enforcement Officer.
- G. Not allow encroachment on the public sidewalk beyond the authorized sidewalk café premises or merchandise display into the public right-of-way.
- H. At all times, keep or cause to be kept the sidewalk café or merchandise display free of litter, trash, obscene material, paper and other waste including during special events held by other organizations.
- I. At the termination of the permit, return the sidewalk café or merchandise display premises to the City in as good condition as at the commencement of the term hereof, usual wear and tear, acts of God, or unavoidable accidents excepted.

- J. Be located and permitted only where the sidewalk is wide enough to adequately accommodate a pedestrian zone in the area and the operation of the proposed sidewalk café or merchandise display.
- K. Comply with all other provisions of the Code of the City of Plattsburgh, state and federal regulations, including the Americans with Disabilities Act.

**§ 233-45 Revocation or Denial of Permit**

- A. Upon a finding by the City Building Inspector that an application for a permit is unable to comply with the requirements as set forth in the permit application, the City Building Inspector shall deny said permit.
- B. Upon a finding that an applicant has violated any provisions of this article, the City Building Inspector shall give notice of violation by personal delivery of written notice to the permit holder or their authorized agent or officer, or by first class mail addressed to the permit holder at the premises address set forth in the permit application. Said notice shall require the applicant to correct said operational violations within 24 hours of receipt of said notice by the City Building Inspector. Upon failure to correct said operational violation within 24 hours, the City Building Inspector may revoke the applicant's sidewalk cafe permit or merchandise display permit issued pursuant to this article. The City Building Inspector shall, in his or her sole judgment, give the violator reasonable time to repair any structure damage or physical violation of any provision of this article. If revoked for a violation, the permit holder will not be entitled to a refund of any permit or use fees. Any appeal of the City Building Inspector's revocation or denial of a permit issued under this article may be brought to the City of Plattsburgh Zoning Board of Appeals pursuant to the City Code.
- C. Any sidewalk café permit or merchandise display permit which allows commercial operations on the public right-of-way may be terminated at the will of the City without cause on 7 days' notice to the permit holder. If the permit is terminated without cause, the City will refund to the permit holder a prorated portion of the permit and/or use fee for the unexpired term of the permit. The City may give notice of termination by personal delivery of written notice to the permit holder or their authorized agent or officer, or by first class mail addressed to the permit holder at the premises' address set forth in the permit application.

**§ 233-46 Temporary Suspension of Permit**

A permit may be temporarily suspended, if it is determined by the Chief of Police or Fire Chief and/or their designees that, by reason of disaster, public calamity, riot, or other emergency, the public safety requires such suspension. A temporary suspension may also be issued by the Mayor

due to a special event or celebration on the public right-of-way. Written notice of the temporary suspension shall be provided, where practical, to the permit holder.

**§ 233-47 Permit and Use Fees**

A fee for the permit and use of the public right-of-way shall be charged based upon the direct and indirect costs of administration, inspection, and enforcement as set by resolution of the Common Council.

**§ 233-48 Display of Permit**

All permits shall be displayed at all times during the operation of the sidewalk café or merchandise display business.

**§ 233-49 Sale and Consumption of Alcoholic Beverages**

The area encompassed within a sidewalk cafe authorized pursuant to this article shall be considered duly licensed for sale and consumption of alcoholic beverages and shall not be subject to Chapter 129, Alcoholic Beverages, of the Code of the City of Plattsburgh.

**§ 233-50 Penalties for Offense**

- A. Any person who violates any of the provisions of this article shall, upon conviction thereof, be subject to a fine not exceeding \$250. Each day that such violation continues shall constitute a separate violation. In addition, the Building Inspector may cause any sidewalk cafe existing in violation of this article to be removed without notice. A fee of \$200 shall be charged to the licensee for the cost of such removal. The Department of Public Works may store the removed sidewalk cafe structure for a period of 30 days; and if unclaimed, the structure may be destroyed, sold or discarded.
- B. Any person who fails to remove a sidewalk cafe structure by October 31, or who receives two written notices from the Building Inspector's Office for a general permit violation as provided for in § 233-43, shall not be eligible for a sidewalk cafe or merchandise display permit in any following year.

**§ 233- 51 Effective Date**

This Local Law shall take effect immediately upon approval by the Mayor and filing with the New York Secretary of State.