

**MINUTES OF THE REGULARLY SCHEDULED MEETING
OF THE SCHENECTADY CITY COUNCIL
July 24, 2023**

The City Council meeting was called to order by the City Council President Marion Porterfield at 7:00 P.M. in room 209, City Council chambers at City Hall.

At this time, Ms. Porterfield called on Reverend James Konicki to deliver the invocation.

Ms. Porterfield then called on Councilmember Carmel Patrick to lead the pledge of allegiance.

The City Clerk called the roll and the following members of the City Council answered to be present:

Present - Councilmembers: John Mootoveren, Doreen Ditoro, Carmel Patrick, John Polimeni, and Marion Porterfield

Also Present - Mayor Gary R. McCarthy, City Clerk Samanta R. Mykoo, and Corporation Counsel Andrew B. Koldin, Esq.

Absent – Councilmembers: Carl Williams

APPROVAL OF MINUTES:

Ms. Porterfield asked for a motion to approve the minutes from the July 10, 2023 council meeting as submitted by the City Clerk. Ms. Patrick made a motion to approve the minutes and Mr. Mootoveren seconded the motion.

COMMUNICATIONS PRESENTED TO THE CITY COUNCIL

Official:

None.

General:

An email from Mark Baker, president of the Soft Lights Foundation, regarding the health hazard of LED streetlights.

Petitions:

None.

PRIVILEGE OF THE FLOOR (LEGISLATIVE ITEMS):

Ms. Porterfield invited all who wished to address the Legislative Agenda to come forward or otherwise submit their comments to the City Clerk:

Seeing no speakers come forward, Ms. Porterfield declared the Privilege of the Floor regarding Legislative Items, to be closed.

INTRODUCTION OF AND ACTION UPON LOCAL LAWS, ORDINANCES AND RESOLUTIONS:

Ms. Porterfield made a motion that the Council approves the Consent Agenda, the motion was moved by Mr. Mootoveren and seconded by Ms. Patrick.

Consent Agenda

Resolution No. 2023-140.....Adopted Unanimously

Resolution No. 2023-141..... Adopted Unanimously

Resolution No. 2023-142.....Adopted Unanimously

Roll Call

A Resolution Authorizing the Abandonment of a Portion of Larch Street

The motion to table this item was made by Mr. Polimeni and seconded by Mr. Mootoveren:

5:0:0

Voting AYE: Mr. Mootoveren, Ms. Ditoro, Mr. Farley Ms. Patrick, Mr. Polimeni, Ms. Porterfield

Voting Nay: None

Abstain: None

PRIVILEGE OF THE FLOOR:

Ms. Porterfield directed all who wished to discuss any items for City Business to come forward or otherwise submit their comments to the City Clerk.

Ed Laven, Jr. – Informed Council and the Mayor they are obstructing justice by not taking further action on an ethics complaint he made which reached a decision he felt was unsatisfactory.

Wayne Harper – Asked to speak with workers who are responsible for grass seeding in the city, ends statement asking the Mayor to give him a call.

Matt Nelligan - Made a statement regarding the ongoing state of emergency issued by Schenectady County, stating the city should have enacted their own state of emergency sooner. Praised a local hotel owner for denying a deal proposed by New York City to house undocumented asylum seekers on the premises.

Tom Kennedy – Asked the council to put residents and children of the city first when determining suitable locations for recreational marijuana dispensaries and not place them in places where they likely impede other businesses, older residents, and children.

Rod Hubert – Expressed frustration over the state of roads in the city and asked members of the Council to contact him directly so the matter can be discussed in greater detail.

Robin Barnhill - Voiced concerns over an overgrown tree rooted on city property that has begun to interfere with their home, as well as their neighbors. Asked council to have the tree trimmed.

Jamaica Miles – Addressed discussion regarding the placement of cannabis dispensaries, arguing that they bring traffic to wherever they are placed which is ultimately good for all surrounding businesses. Miles also raised concerns over a portion of Becker Street where cars are known to speed, emphasizing the danger the road poses, citing an incident a few weeks ago where a child was struck by a moving car. Miles urged Council to implement stop signs or speed bumps to ensure the safety of others.

Seeing no other speakers come forward, Ms. Porterfield declared the Privilege of the Floor regarding City Business to be closed.

MISCELLANEOUS BUSINESS OF THE COUNCIL:

Mayor McCarthy – Thanked everyone for coming out to provide their thoughts and comments, and also reminded all of an upcoming open competitive exam for police officers in the city.

Marion Porterfield – Thanked everyone who came out to express their concerns and addressed the discussion over speeding on Becker Street.

Adjourned:

Seeing no further business to come before the City Council, Ms. Porterfield asked for a motion to adjourn the meeting. The motion was moved by Mr. Mootoveren and seconded by Ms. Patrick. The meeting was adjourned at 7:37 p.m.

A true record

A handwritten signature in black ink that reads "Samanta R. Mykoo". The signature is fluid and cursive, with the first name being the most prominent.

By Samanta R. Mykoo
Schenectady City Clerk

July 20, 2023

BY EMAIL

Andrew Koldin, Corporation Counsel
Schenectady, New York
akoldin@schenectadyny.gov

Re: LED Streetlights Lack FDA Approval

Dear Andrew Koldin,

An LED streetlight is an electronic product which is regulated by the US Food and Drug Administration. The FDA presentation “How to Get Your Electronic Product on the U.S. Market” details the authority of the FDA to regulate the radiation from electronic products and the requirements of manufacturers to receive FDA approval for their electronic products that emit radiation.¹

Schenectady, New York has installed or is considering installing LED streetlights. However, the FDA has not approved any LED streetlight products to ensure the comfort, health, and safety of the public. The FDA is mandated by the 1968 Radiation Control for Health and Safety Act (21 U.S.C. 360ii) to publish performance standards for electronic products that emit radiation, and yet the FDA has failed to comply with 21 U.S.C. 360ii for LED products, including LED streetlights. The Harvard University research article The Radiation Control for Health and Safety Act of 1968: History, Accomplishments, and Future² details the history of radiation regulation in the US. With LEDs, the FDA, Congress, companies, and cities are repeating the same errors from the 1960s and failing to protect the public from this new source of radiation.

LED streetlights are a human health hazard which have been documented to cause seizures, migraines, anxiety, nausea, eye pain, and eye injury. In addition, artificial light at night has been documented to cause significant increases in risk for mood disorders, diabetes, heart disease, breast cancer, and early mortality. It is likely that LED streetlights have increased acts of misbehavior and violence. The street lighting company Cree Lighting states that LED streetlights are dangerous.³ The LED chip company Lumileds states that blue wavelength light is a hazard to human health.⁴ The contact person at the FDA is Robert Ochs, Director, FDA Center for Devices and Radiological Health, OHT8 (robert.ochs@fda.hhs.gov). The use of LED streetlights creates illegal discriminatory barriers that

¹ <https://www.fda.gov/media/88417/download>

² <https://dash.harvard.edu/bitstream/handle/1/8846732/Tran06.pdf>

³ <http://www.softlights.org/wp-content/uploads/2022/04/Cree-Lighting-White-Paper.pdf>

⁴ <https://lumileds.com/lumileds-nightscape-technology-lowers-blue-light-below-2-to-support-our-natural-ecosystem-and-dark-sky-initiatives/>

prevent equal access, in violation of 42 U.S.C. Chapter 126. The contact person at the Access Board is Christopher Kuczynski (kuczynski@access-board.gov).

It is negligent for a city to install and operate an electronic product that has no FDA approval, and which is known to put the public at risk of harm. New York has waived its claim to sovereign immunity, and thus a municipality may be sued for negligence or discrimination.⁵ The installation or operation of LED streetlights meets the criteria for negligence, harm, discrimination, and liability.

To protect the public from LED visible radiation, LED streetlights must not be operated in public spaces. To recover expenses related to the removal of any existing LED streetlights, the Soft Lights Foundation recommends that Schenectady sue the FDA and the DOE for failing to disclose to Schenectady that LED products are a human health hazard and for failing to comply with 21 U.S.C 360ii and publish the required performance standards for LED streetlights.

To protect the public and the environment from further harm, the Soft Lights Foundation recommends that the city adopt the following ordinance(s) to protect against light pollution and LED visible radiation:

1. Any LED outdoor lighting must be FDA approved.
2. Outdoor lighting must be fully shielded.
3. Outdoor lighting must have a Color Temperature in the amber range, not exceeding 2700K.
4. Outdoor lighting must be turned off when not in direct or immediate use.
5. LED flashing/strobing lights must be FDA approved.

In any case, Schenectady must not install or operate LED streetlights knowing that the LED streetlights have not been FDA approved, knowing that the LED streetlights are causing serious adverse health impacts, knowing that LED streetlights are creating discriminatory barriers, and knowing that LED streetlights are defective and dangerous.

Sincerely,

/s/ Mark Baker

President

Soft Lights Foundation

mbaker@softlights.org

cc:

City Clerk - smykoo@schenectadyny.gov

Mayor - gmccarthy@schenectadyny.gov

Sustainability – smartcity@schenectadyny.gov

⁵ <https://www.nycbar.org/get-legal-help/article/personal-injury-and-accidents/suing-government/>

Engineering - cwallin@schenectadyny.gov

ADA Coordinator - akoldin@schenectadyny.gov