

**MINUTES OF THE COMMON COUNCIL
DECEMBER 4, 2018**

A regular meeting of the Common Council of the City of Oneida, NY was held on the fourth day of December, 2018 at 6:30 o'clock P.M. in Council Chambers, Oneida Municipal Building, 109 N. Main Street, Oneida, NY.

Meeting was called to order by Deputy Mayor James Chamberlain

PRESENT: Councilors Alan Cohen, Mike Bowe, James Coulthart,
Helen Acker, James Chamberlain, and Thomas Simchik
(arrived at 6:37 pm)

ABSENT: Mayor Leo Matzke

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
City Engineer Eric Schuler
Civil Service Officer Dawn Andrews
Fire Chief Dennis Fields
Assistant Fire Marshal Reay Walker
Police Chief Paul Thompson

The Deputy Mayor asked for a moment of silence in honor of President George H.W. Bush.

**PUBLIC HEARING – PURSUANT TO ONEIDA CITY CODE CHAPTER 34, ARTICLE III,
UNSAFE BUILDINGS – 216 E. ELM STREET**

RESOLUTION 18-245

Moved by Councilor Acker
Seconded by Councilor Bowe

RESOLVED, that the Public Hearing Pursuant to Oneida City Code Chapter 34, Article III,
Unsafe Buildings – 216 E. Elm Street be hereby opened at 6:32 p.m.

Ayes: 5

Nays: 0

Absent: 1 (Simchik)

MOTION CARRIED

The City Attorney asked if anyone with an interest in the property at 216 E. Elm Street was in attendance. Attorney Bell asked Assistant Fire Marshal Reay Walker to please come forward and provide his testimony as to the violations found at said property.

Assistant Fire Marshal Reay Walker said that on January 25, 2017, a Notice of Violation was sent via both US Mail and Certified Mail notifying Mr. Scott Lewis, the property's owner, that the building was in violation of the City Code Section 34-7 "Dangerous Structures" and the 2017 Uniform Code Supplement Section 101.2.7.4 "Unsafe Structures and Equipment". He said that on April 19, 2017, a Final Order to Remedy was issued and sent via both US Mail and Certified Mail requesting compliance with City Code Section 34-7 and the 2017 Uniform Code Supplement Section 101.2.7.4. Assistant Fire Marshal Walker said that to date, he has not received any verbal or written correspondence from Mr. Scott Lewis. He said

that on October 25, 2018, he visited the property and found that all previous violations are still in existence, adding that he did a visual inspection from the sidewalk and took photographs of the structure as it exists today.

Assistant Fire Marshal Walker said that the structure has exterior stains and there are weed and tree saplings growing up through the structure. He said that there are visible signs of decaying wood, the steps are not level and appear to be loose. He said there is no protective treatment on the stairs to protect from the elements, and they are not properly secured to the porch, and the stairs are in such a state of disrepair that they are likely to collapse, causing injury if someone attempted to use them. He said that the porch deck appears to be in major disrepair. He said that much of the deck is missing and open floor joints can be observed, and the decking that is present shows significant deterioration as a result of being exposed to the elements. The Assistant Fire Marshal said that there is no hand rail and pieces of the trim are hanging loose. He said that the porch is located about three feet from the public sidewalk, and in its current state constitutes an imminent threat to human life, safety or health.

The Assistant Fire Marshal said that an inspection of the exterior to which the porch is attached was also conducted. He said that the porch roof is collapsed, and there is unsupported roofing material protruding from the front of the structure that could fall causing injury to anybody that may be nearby. He said that there are numerous areas where the siding is missing, exposing the building to the elements, and there is peeling, flaking and chipping paint present on the entire exterior of the structure.

Deputy Mayor Chamberlain asked the Assistant Fire Marshal if he has been inside the property, to which he replied no; it is private property, and the house is occupied. The City Attorney said that a search warrant would need to be obtained to go inside to see if it is structurally sound. Councilor Bowe said that it makes sense to see what else is wrong with the structure. The City Attorney said the City may want to obtain the opinion of a structural engineer. Assistant Fire Marshal Walker said that the front porch area may need to be demolished. He said that based on the condition of the exterior, it may be best to get inside to assess whether it is structurally sound. The City Engineer said that he would take care of contacting a local structural engineer. Councilor Bowe asked that this been done before the next Council meeting, and the City Engineer said he would do his best.

The City Attorney said the Public Hearing will remain open and continue at the next regular Council Meeting on December 18, 2018.

SEARCH WARRANT AND STRUCTURAL ENGINEER ORDER FOR 216 E. ELM STREET

RESOLUTION 18-246

Moved by Councilor Acker
Seconded by Councilor Cohen

RESOLVED, that the City Attorney be hereby authorized to prepare an Application for a Search Warrant to secure permission for the Assistant Fire Marshal and a Structural Engineer to enter onto the premises located at 216 E. Elm Street, Oneida, NY, Tax Map No. 30.64-1-53, for the purpose of conducting an inspection of the interior and exterior of the residential structure situated thereon, **and be it further**

RESOLVED, that the City Engineer be hereby authorized to obtain the services of a Structural Engineer, who shall accompany the Assistant Fire Marshal, by order of said Search Warrant, into the structure located 216 E. Elm Street, Oneida, NY, Tax Map No. 30.64-1-53 to assess the condition of the structure to determine whether it is structurally sound.

Ayes: 6

Nays: 0

MOTION CARRIED

OLD BUSINESS

Leaf Pickup

Gary Taylor, Oneida, asked the City Engineer about the leaf pickup, and the City Engineer said that his department was back on leaf pickup last week.

Snowbank Removal Request and Dumpster Placement

Councilor Acker asked that if the matter of snow banks removal and the dumpster placement for Cosbros Properties, Inc., 131 Main Street could be finalized this evening. Councilor Acker said that since the request has come from Cosbros, she has received requests from other businesses who would like the same offer of removing the snowbanks on their private property in exchange for the use of their property. A lengthy discussion ensued, which included snow bank removal from downtown sidewalks, precedents being set, blurring the lines between public and private, other downtown parking lots in close proximity, and the manner in which this property was conveyed to the current owner. The Council ultimately decided against any agreement to remove the snow banks. It was determined that a letter be sent from the Mayor or Deputy Mayor, and the City Attorney proposed that the Council approve a Resolution denoting the denial of the request.

SNOW REMOVAL SERVICES DENIED

RESOLUTION 18-247

Moved by Councilor Acker

Seconded by Councilor Coulthart

WHEREAS, the Common Council received a request from the owner of the real property located at 131 Main Street, Oneida NY, Tax Map No. 30.800-1-41, asking that the City provide snow removal and disposal services for the parking lot facilities situated upon an adjacent parcel known as Messenger Street, Tax Map No. 30.80-1-53.2 , **and**

WHEREAS, the Common Council has considered said request, as well as the circumstances under which the Messenger Street property was transferred from the City to the owner, **now therefore be it**

RESOLVED, that the Common Council hereby determines that such snow removal and disposal services for the parking lot facilities situated upon a parcel generally known as Messenger Street, Tax Map No. 30.80-1-53.2, shall not be provided.

Ayes: 6

Nays: 0

MOTION CARRIED

The Council continued discussion about the property located at 131 Main Street with respect to the dumpsters located on City property. It was noted that the property owner's position is that the dumpster placement is grandfathered in, as the previous owner of the building housed his dumpsters in the same location for many years. Councilor Bowe said that there are other parking lots where there are dumpsters

on City property, mentioning the parking lot by Higinbotham Park as an example. Another lengthy discussion ensued, which included locations of other dumpsters, liability issues, space availability at 131 Main St., the span needed for trucks emptying the dumpsters, use of garbage cans, and the City Code regulating how close a dumpster can be to a building. City Attorney Nadine Bell said that if the Council is concerned about liability, an agreement could be composed whereby the City is named as an additional insured for any dumpsters located on City property, similar to how the situation of ornamental mailboxes in the right-of-way was addressed. Gary Taylor, Oneida, said it sounds like the Council is just going after one person as there was never a problem with this for 10-15 years, and now all of the sudden the Council is making this an issue. Councilor Acker responded that once a complaint is filed, they have to look into it; she said that the Council is trying to make it right now. Councilor Bowe said the insurance indemnity makes sense, noting that the City needs to tread lightly, as this type of situation seems to be happening in other City owned parcels. The Council decided to have the Police Department's CSO see what's out there now and report back to them before any action is taken.

Sidewalk Maintenance on Lenox Avenue - Sayles Street to Walmart

Councilor Bowe questioned the City Engineer about the maintenance of the new sidewalk located from Sayles Street to Walmart. He said that the sidewalk maintenance on this area is the responsibility of the State. The City Engineer said that he spoke with someone from the State, and they are currently reviewing the Arterial Maintenance Agreement.

Tree Lighting at Higinbotham Park

Councilor Coulthart thanked the Recreation Department and the Greater Oneida Civic Center for the great job with the tree lighting celebration both at the Kallet and Higinbotham Park. He said that this was a wonderful family event.

Buyout Program Demolitions

Councilor Acker said that all the structures in the Buyout will be demolished by the end of December. She said that the shopping center on Wilson Street that once housed Alfred's Bargain City will be the last to be torn down. Councilor Acker said that there are two companies currently working on the demolitions.

Moved by Councilor Bowe
Seconded by Councilor Acker

RESOLVED, that the minutes of the regular meeting minutes of November 20, 2018, and the special meeting minutes of November 19, 2018 are hereby approved as presented.

Ayes: 6
Nays: 0

MOTION CARRIED

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, that Warrant No. 24, checks and ACH payments in the amount of \$775,552.87, as audited by the Voucher Committee is hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 6
Nays: 0

MOTION CARRIED

MISCELLANEOUS UTILITY BILLING

RESOLUTION 18-248

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, that the Miscellaneous Utility Billing for unpaid service charges, water rents and sewer taxes in the amount of \$49,269.37 be hereby inserted into the 2018 assessment roll to be relieved into the 2019 tax roll.

Ayes: 6
Nays: 0

MOTION CARRIED

2019 CITY OF ONEIDA BUDGET

RESOLUTION 18-249

Moved by Councilor Acker
Seconded by Councilor Bowe

RESOLVED, that agreeable to the estimates of the expenses and disbursements for the year 2019 constituting the budget, including Capital Plan, for the City of Oneida, the same is hereby approved by the Common Council on the 4th day of December, 2018 as set forth in the minutes of this meeting; there shall be levied and raised on the taxable property of the entire city, not including pension, pastor and over sixty-five (65) exempt property as follows:

Total Gross Budget - \$ 19,046,808

Less estimated revenues - \$ 14,637,836

Taxable balance - \$ 4,408,972

Of which \$2,346,495 shall be levied on the entire city establishing a tax rate of \$5.02046 per thousand and \$1,599,517 shall be levied on the corporation tax district at a rate of \$4.90962 per thousand; thereby establishing a combined rate of \$9.93008 per thousand inside tax district; **and be it further**

RESOLVED, that \$424,028 shall be levied and a rate of \$3.76809 per thousand shall be established for the outside fire district, **and be it further**

RESOLVED, that \$38,932 shall be levied and a rate of \$.097033 per thousand shall be established for hydrant tax, **and be it further**

RESOLVED, that the total tax levy for the City of Oneida 2019 budget is \$4,408,972.

Councilor Cohen – Yes
Councilor Bowe – Yes
Councilor Coulthart – Yes

Councilor Acker – Yes
Councilor Chamberlain – Yes
Councilor Simchik – Yes

MOTION CARRIED

Deputy Mayor Chamberlain thanked the Council and Department Heads for their help and hard work with the budget. Councilor Bowe said that they worked hard to provide the same services and keep the costs down the best they could. He said the Council added \$100K in extra funding for paving, \$50K for sidewalks, and two new police officers. Councilor Coulthart said that he was glad the City was being proactive with looking at the engineering for the mini brook, which is located in his Ward. Councilor Cohen said that this is definitely a proactive budget looking to the future.

David Cimpi questioned the amount of tax revenue being lost because of the buyout program, and Councilor Acker said that \$85K was already removed three years ago. Mr. Cimpi asked if the Mayor's salary was addressed by the Council stating that he is concerned because we have not had a leader for two years. He said that this needs to be looked at going forward, as we are paying for a position that someone is not earning. Deputy Mayor Chamberlain responded that we all have roles here, and it is his job to fill in for the Mayor in his absence. He said that he respected Mr. Cimpi's opinion, but also reminded Mr. Cimpi that when he was Deputy Mayor a few years ago, he had stepped in for the Mayor on different occasions as well.

SCHEDULE/RESCHEDULE COUNCIL MEETINGS

RESOLUTION 18-250

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, the Special Meeting to close-out the year of 2018 be hereby scheduled for Monday, December 31, 2018 at 9:00 a.m. in the Common Council Chambers, **and be it further**

RESOLVED, that the 2019 Organizational Meeting of the Common Council be hereby scheduled for Monday, December 31, 2018 in the Common Council Chambers immediately following the end of the year end-of-year meeting due to New Year's Day being on the first Tuesday of 2019.

Ayes: 6

Nays: 0

MOTION CARRIED

CANVASS AND APPROVE BIDS FOR CHEMICALS USED IN WATER TREATMENT

RESOLUTION 18-251

Moved by Councilor Acker
Seconded by Councilor Coulthart

RESOLVED, that the lowest bid meeting specifications for liquid zinc orthophosphate and liquid polyphosphate in the amount \$27,960.00 from Shannon Chemical Corporation, PO Box 376, Malvern PA 19355 is hereby approved, **and be it further**

RESOLVED, that the lowest bid meeting specifications for aluminum sulfate in the amount of \$44,400.00 from Holland Company, Inc., 153 Howland Avenue, Adams, MA 01220 is hereby approved, **and be it further**

RESOLVED, that the lowest bid meeting specifications for liquid chlorine and sodium hypochlorite in the amount of \$28,685.06 from Slack Chemical Company, 465 SO Clinton Street, Carthage NY 13619 is hereby approved.

Ayes: 6

Nays: 0

MOTION CARRIED

CANVASS AND APPROVE BIDS FOR CHEMICALS USED IN WASTE WATER TREATMENT

RESOLUTION 18-252

Moved by Councilor Bowe

Seconded by Councilor Acker

RESOLVED, that the lowest bid meeting specifications for liquid iron salts in the amount \$110,000.00 from Kemira Water Solutions, 4321 W. 6th Street, Lawrence KS 66049 is hereby approved.

Ayes: 6

Nays: 0

MOTION CARRIED

NEW BUSINESS

Driveway Dispute

Alicia Colclough, Oneida, said that her aunt is having a dispute with her neighbor about her driveway. She said that for 22 years her aunt has maintained the driveway, which was always shared with the neighbor. She said that for the past 15 years there has not been a problem with this neighbor, but now it has become an issue. She said the neighbor is blocking the driveway, so they cannot get in and they end up having to park on the front lawn. Ms. Colclough said that there has never been anything in writing in the deed, just a handshake many years ago that the driveway be shared. Although, the Council agreed that this not a City matter, Councilor Bowe suggested maybe talking with the church across the street, as they share parking with the school and may allow them to use their lot until this gets resolved. City Attorney Nadine Bell said since they do not have anything in writing, they should consult a real estate attorney. She said they should ask for a prescriptive easement. She said that they will incur some costs for the attorney and possibly a survey, easement agreement, and County filing fees. Ms. Colclough thanked the Council and City Attorney.

Plowing Snow across the Street

Marsha Signore, 307 Boston Street, started out by thanking the DPW for putting up stakes by her home to stop folks from ruining the lawn. She said that she has filed a complaint through the Police Department hoping to stop the neighbor across the street from plowing snow from his driveway across the street onto their property. She said that as we get more and more snow, he continually pushes the pile coming from his driveway back further onto their lawn, putting ruts in their lawn in the process. She said the Police have been very helpful in trying to get this resolved. The Council briefly discussed what constitutes a

street, if the right-of-way is considered part of the street and what the current City Code states. Ms. Signore asked if the City Code could be modified to include the placement of snow “not onto private property”, along with the current wording of “not onto a sidewalk or public street.” The City Attorney said that she will look into this.

Executive Session

Deputy Mayor Chamberlain said that the Council will be going into Executive Session relating to a personnel matter and the proposed acquisition, sale or lease of real property. He said that there may be action taken at the end of the session.

EXECUTIVE SESSION

RESOLUTION 18-253

Moved by Councilor Acker
Seconded by Councilor Coulthart

RESOLVED that the meeting is hereby adjourned to Executive Session at 7:45 p.m. for the purpose of discussing a personnel matter and the proposed acquisition, sale or lease of real property.

Ayes: 6

Nays: 0

MOTION CARRIED

PRESENT: Councilors, City Clerk, City Attorney, Fire Chief

1. Discussion relating to a Personnel matter.

PRESENT: Councilors, City Clerk, City Attorney

2. Discussion relating to the proposed acquisition, sale or lease of real property.

Moved by Councilor Coulthart
Seconded by Councilor Acker

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 9:29 p.m.

Ayes: 6

Nays: 0

MOTION CARRIED

Motion to adjourn by Councilor Coulthart

The regular meeting is hereby adjourned at 9:30 p.m.

CITY OF ONEIDA, NEW YORK

Susan Pulverenti, City Clerk