

**MINUTES OF THE COMMON COUNCIL
NOVEMBER 19, 2019**

A meeting of the Common Council of the City of Oneida, NY was held on the nineteenth day of November, 2019 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 Mayor Leo Matzke

PRESENT: Councilors Alan Cohen, Michael Bowe, James Coulthart, Helen Acker, James Chamberlain and Thomas Simchik (arrived at 6:41 pm)

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
City Engineer Eric Schuler
Comptroller Lee Ann Wells
Police Chief Paul Thompson
Recreation Director Luke Griff
Supervisor Joe Magliocca
Supervisor-Elect Matt Roberts
Councilor-Elect Brandee DuBois
Councilor-Elect Carrie Earl

**PUBLIC HEARING
MAYOR 2020 CITY OF ONEIDA BUDGET**

RESOLUTION 19-259

Moved by Councilor Cohen
Seconded by Councilor Bowe

RESOLVED, that the Public Hearing of 2020 City of Oneida Budget be hereby opened at 6:30 p.m.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

APPEARANCES - None

Moved by Councilor Cohen
Seconded by Councilor Coulthart

RESOLVED, that Public Hearing regarding the 2020 Budget be hereby closed at 6:31 pm.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

**PUBLIC HEARING
MISCELLANEOUS UTILITY BILLING**

RESOLUTION 19-260

Moved by Councilor Acker
Seconded by Councilor Bowe

RESOLVED, that the Public Hearing on the City of Oneida Miscellaneous Utility Billing for unpaid service charges, water rents and sewer taxes be hereby opened at 6:32 p.m.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

APPEARANCES - None

Moved by Councilor Coulthart
Seconded by Councilor Bowe

RESOLVED, that Public Hearing regarding Miscellaneous Utility Billing be hereby closed at 6:33 p.m.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

OLD BUSINESS - None

SUPERVISORS REPORT

Supervisor Joe Magliocca said that Empire Farms is continuing to coordinate with the County to hire employees for the facility on W. Elm Street. He said that the Census is also looking for workers, and noted that the City Clerk has posted both of these job opportunities on the City Clerk's Facebook page.

Supervisor Magliocca said that relative to the State/Oneida Indian Nation/County Agreement and County's distribution formula, the City's post agreement parcels this year were Dream Catcher Plaza and a single-family home. He said that before those properties are taken into trust, the County will bill the Nation and when payment is received, the County will send the funds due to the municipality. He said that those properties are assessed at \$4.2M, and the City will receive \$32,300. Supervisor Magliocca reminded the Council of the County's annual resolution for the one-time payment to the City of \$138,400 to cover the assessed value of properties when the original agreement was penned. He said that the assessment does not change, but he will continue the fight next year to help the City get a larger share.

Mayor Matzke questioned if the County has the same difficulty as the City with infrastructure dollars from the State. He asked Supervisor Magliocca if the City and County could write a joint letter to the State requesting additional funding for infrastructure.

Moved by Councilor Chamberlain
Seconded by Councilor Cohen

RESOLVED, that the minutes of the regular meeting of November 6, 2019, and the special meeting of November 13, 2019 are hereby approved as presented.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

Moved by Councilor Chamberlain
Seconded by Councilor Coulthart

RESOLVED, that Warrant No. 22 checks and ACH payments in the amount of \$542,099.60, as audited by the Voucher Committee, is hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 5
Nays: 0
Absent: 1 (Simchik)
MOTION CARRIED

Moved by Councilor Chamberlain
Seconded by Councilor Bowe

RESOLVED, that checks in the amount of \$9,828.00 (City Attorney) as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 5
Nays: 0
Abstain: 1 (Bowe)
MOTION CARRIED

MONTHLY REPORTS

RESOLUTION 19-261

Moved by Councilor Cohen
Seconded by Councilor Chamberlain

RESOLVED, that Monthly Reports from the Chamberlain, City Clerk, City Engineer and Fire Department be hereby received and placed on file.

Ayes: 6
Nays: 0

MOTION CARRIED

ADOPT LOCAL LAW NO. 19-03 – RESIDENCY REQUIREMENTS CITY CLERK AND DEPUTY CITY CLERK

RESOLUTION 19-262

Moved by Councilor Acker
Seconded by Councilor Chamberlain

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, the Common Council of the City of Oneida introduced a Local Law to establish residency requirements for the position of City Clerk and Deputy City Clerk in the City of Oneida on October 1, 2019; **and**

WHEREAS, a Public Hearing on said Local Law to establish residency requirements for the position of City Clerk and Deputy City Clerk of the City of Oneida was duly held on November 6, 2019 and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed Local Law having been heard, and said proposed Local Law having been in the possession of the members of the Common Council of the City of Oneida in its final form in the manner required by the Municipal Home Rule of the State of New York; **and**

WHEREAS, the enactment of said Local Law is an Unlisted Action for purposes of environmental review under SEQR; **and**

WHEREAS, the Common Council has determined that a short environmental assessment form (EAF) shall be required in connection with this matter; **and**

WHEREAS, the said EAF has been prepared and has been reviewed by the Common Council; **and**

WHEREAS, the Common Council has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria; **now therefore be it**

RESOLVED, that the enactment of the proposed Local Law shall be an unlisted action, there are no other involved agencies and the Common Council shall act as lead agency in this matter for purposes of SEQR review; **therefore, be it further**

RESOLVED, the Common Council has determined this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQR; **and therefore, be it further**

RESOLVED, that the Common Council of the City of Oneida hereby enacts and adopts Local Law No. 19-03 of 2019 as follows:

A LOCAL LAW TO AMEND THE ONEIDA CITY CHARTER RELATIVE TO THE RESIDENCY OF THE CITY CLERK AND DEPUTY CITY CLERK OF THE CITY OF ONEIDA

SECTION 1. LEGISLATIVE PURPOSE AND INTENT.

The Common Council of the City of Oneida adopts this Local Law to establish residency requirements for the positions of City Clerk and Deputy City Clerk of the City of Oneida.

SECTION 2. AUTHORITY.

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law § 10.

SECTION 3. SUPERCESSION.

This Local Law shall supersede Public Officers Law § (3)(1).

SECTION 4. AMENDMENT OF ARTICLE VII (CITY CLERK) OF THE ONEIDA CITY CHARTER TO ADD A NEW SECTION 7.5 RELATIVE TO THE RESIDENCY OF THE CITY CLERK AND DEPUTY CITY CLERK.

Article VII (City Clerk) of the Oneida City Charter is hereby amended to add a new Section 7.5 titled "Residency" as follows:

"Section 7.5 Residency of City Clerk and Deputy City Clerk.

The person(s) holding the position of City Clerk or Deputy City Clerk need not be a resident or elector of the City of Oneida provided, however, that such person(s) shall reside in the County of Madison or in an adjoining county within the State of New York."

SECTION 5. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 6. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.

Councilor Cohen – Yes
Councilor Bowe – Yes
Councilor Coulthart – No
Councilor Acker – Yes
Councilor Chamberlain – Yes
Councilor Simchik – Yes

MOTION CARRIED

A PROPOSED LOCAL LAW CREATING CHAPTER 145, TITLED "SMALL CELL WIRELESS DEPLOYMENT REQUIREMENTS" OF THE CODE OF THE CITY OF ONEIDA - SCHEDULE PUBLIC HEARING

RESOLUTION 19-263

Moved by Councilor Acker
Seconded by Councilor Coulthart

WHEREAS, the proposed Local Law has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law; **and**

WHEREAS, the Federal Communications Commission ("FCC") has issued a Declaratory Ruling and Third Report and Order, known as FCC 18-133 or the "Order," to encourage and facilitate the deployment of small cell wireless communications facilities throughout the United States of America; **and**

WHEREAS, referencing several reasons and determinations as to why the deployment of small cell wireless communications facilities throughout the United States is considered beneficial, the Order is intended to streamline and accelerate the wireless infrastructure siting review process; **and**

WHEREAS, the Order does, however, explicitly reserve the right of local governments to impose aesthetic requirements and safety considerations upon such small cell wireless communications facilities; **and**

WHEREAS, by Resolution dated April 2, 2019, the City of Oneida Common Council expressed its desire to preserve and maintain all of its legal rights and options to address and reasonably regulate additional telecommunication technologies, including, but not limited to so called “4G” and “5G” technology, which rights and options included the ability to establish standards and requirements relative to the siting, construction, operation, maintenance, and permitting of such small commercial wireless facilities; **and**

WHEREAS, the Common Council desires to regulate the deployment of small cell wireless communications facilities throughout the City in conformance with the guidance and rules set forth in the Order; **and**

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law in the City of Oneida, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said Local Law, with the result that the Common Council shall act as lead agency in this matter; **and**

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQRA and a Short Environmental Assessment Form (EAF) in support of this Local Law has been prepared and has been reviewed by the Common Council; **and**

WHEREAS, the Common Council has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED that there are no other involved agencies, that the Common Council shall act as lead agency and the enactment of the proposed Local Law is an unlisted action for purposes of SEQRA review; **and it is further**

RESOLVED AND DETERMINED, that the Common Council upon review of the EAF and proposed Local Law has determined that this action, which will streamline and accelerate the wireless infrastructure siting review process while regulating local aesthetics and imposing public safety consideration in accordance with FCC 18-133, will have no adverse impact on the environment; that accordingly, an environmental impact statement (EIS) shall not be required and that this resolution shall constitute a negative declaration pursuant to SEQRA; **and it is further**

RESOLVED AND DETERMINED, that the Common Council shall conduct a public hearing as to the enactment of the proposed Local Law at the Oneida City Hall located at 109 North Main Street, Oneida, New York on December 3, 2019 at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; **and be it further**

RESOLVED, that notice of said public hearing shall be provided at least five (5) days prior to the date of said public hearing in a newspaper of general circulation within the City of Oneida.

Ayes: 5

Nays: 1 (Cohen)

MOTION CARRIED

The City Attorney gave a brief overview of the proposed Local Law. She said that the FCC severely limits the authority of municipalities to regulate these cell towers and the accessory equipment cabinets. Councilor’s Cohen and Coulthart questioned any health impacts. The City Attorney said that the Federal Government has determined that there are none, and therefore, health impacts cannot be considered. Jill Christian Lynch, Oneida, questioned if there are obligations for maintenance within the proposed Local Law, and the City Attorney said yes. Councilor Acker asked what would happen if the Council voted against the Local Law, and City Attorney Nadine Bell responded that the City would not have any authority to regulate those placed in the City, as the opportunity to say no has been taken away us. Supervisor-Elect Matt Roberts said that this proposed law has to be passed; however, the Council could find someone to give a presentation to detail the particulars. The City Attorney stressed that, because of the FCC order, the City cannot tell the wireless companies no. She said that this proposed Local Law takes whatever authority the FCC has given us into consideration, such as fees, aesthetics, and underground placement of accessory cabinets and provides the City with a small amount of control over those matters. Attorney Bell reiterated that without passage of this Local Law, the City will lose what little regulatory authority the FCC is giving to us.

MAYOR’S VETO - RESOLUTIONS 19-254, 19-255 & 19-256

APPROVED ON NOVEMBER 6, 2019

RESOLUTION 19-264

Moved by Councilor Acker
Seconded by Councilor Bowe

WHEREAS, the City of Oneida Common Council at the regular meeting on November 6, 2019 adopted Resolutions 19-254, 19-255 and 19-256 each relating to the Recreation Center Roof Replacement, Capital Project 19-12, **and**

WHEREAS, a **VETO** by Mayor Leo Matzke of Common Council Resolutions 19-254, 19-255 and 19-256 was filed with the City Clerk on December 13, 2019 and received by the Common Council on November 19, 2019, **now therefore be it**

RESOLVED, that the Common Council of the City of Oneida does hereby **approve and accept** the Mayor's **VETO** of Resolutions 19-254, 19-255 and 19-256 approved by the Common Council at their regular meeting on November 6, 2019.

Councilor Cohen – Yes
Councilor Bowe – Yes
Councilor Coulthart – Yes
Councilor Acker – Yes
Councilor Chamberlain – Yes
Councilor Simchik – Yes
MOTION CARRIED

WAIVER OF APPLICATION FEES FOR USE OF THE KALLET CIVIC CENTER

RESOLUTION 19-265

Moved by Councilor Chamberlain
Seconded by Councilor Acker

WHEREAS, St. Patrick's School has submitted a Facility Use Waiver Application for their 27th Annual Basket Bonanza to be held on April 18, 2020 from 5pm to 9pm to be held at the Kallet Civic Center, **and**

WHEREAS, this community event is St. Patrick School's largest fundraiser drawing hundreds from Oneida and surrounding areas to this sold out event, **and**

WHEREAS, the proceeds from the Basket Bonanza enable the school to offer financial aid awards to families in need by offsetting the cost of operating the school, **now therefore be it**

RESOLVED, that the Common Council hereby agrees to waive the fee for use of the Kallet Civic Center on April 18, 2020 for the 27th Annual Basket Bonanza.

Ayes: 0
Nays: 6

MOTION FAILED

Councilor Coulthart said that this is the same discussion that we have had the past several meetings. He said that when an event is for the public good it is different, but this is a private situation. Councilor Bowe said that they have paid for use in the past. Councilor Coulthart suggested that the Recreation Department remove the Facility Use Waiver Application, and the Mayor said that is a policy decision, which would be up to the Council.

PROPOSAL – WAYNE'S HOME IMPROVEMENT

RESOLUTION 19-266

Moved by Councilor Chamberlain
Seconded by Councilor Simchik

RESOLVED, to authorize the approval of the proposal from Wayne's Home Improvement in the amount of \$950.00 for repairs to the stairs at 216 E. Elm Street, Oneida and further authorize the Mayor to sign said proposal.

Ayes: 6
Nays: 0

MOTION CARRIED

The City Clerk asked that the Mayor please provide the address and phone number for Wayne's Home Improvement, so the paperwork can be properly completed.

ADVERTISE FOR BIDS

RESOLUTION 19-267

Moved by Councilor Acker
Seconded by Councilor Cohen

RESOLVED, to authorize the Purchasing Agent to advertise for bids for 2020 City Tree Services.

Ayes: 6

Nays: 0

MOTION CARRIED

NEW BUSINESS

Matthew Vincent from the U.S. Census Bureau provided the Council with a packet regarding the 2020 Census. He said that the census is a population count of everyone in the United States, which is completed every 10 years. Mr. Vincent said that the census is mandated by the US Constitution with the first census being in 1790. He said that beginning in mid-March 95% of households will receive a notice in the mail to complete the 2020 Census, and an in-person follow-up will be conducted to those households that do not respond to the mailing. Mr. Vincent stressed the importance of counting everyone in the household, including children, as the distribution of more than \$675B in federal funds, grants and support to states, counties and communities is based on the census form. He said that money is spent on funding for schools, hospitals, roads, public works and other vital programs. Mr. Vincent said that any information supplied to the Census Bureau is confidential, and they will never ask for Social Security numbers, bank information, money or donations, etc. He said that the data is only used for statistical purposes, including how much federal funding your community receives. Councilor Acker said that ancestry information is available from the census. Mr. Vincent said that genealogy organizations file large freedom of information requests to obtain that data. Councilor Coulthart suggested that the Census Bureau have workshops at the library, and Mr. Vincent said that they do partner with many local libraries, noting that he is giving a presentation later this month.

Councilor Acker said that Madison County has implemented a new program called Project Lifesaver. She said that it is a search and rescue, rapid recovery program that targets persons who have the tendency to wander due to Alzheimer's, dementia, etc. She said that the person wears a wristband that emits a tracking radio signal 24 hours a day/seven days a week. She said that this would cut the average time of a traditional search from 4 hours down to 15-30 minutes, as the highest priority is to make a quick and safe recovery. She said that there are small, affordable costs, but the entire program is non-profit.

Councilor Coulthart said that he would like to thank Oneida Dispatch reporter Charles Pritchard for the excellent media coverage he has provided this City and wished him well in his new position at the Rome Sentinel. Charles received a rousing round of applause.

The Mayor said that the Council will be going into executive session to seek advice of counsel, then return to the regular meeting for a budget discussion. He said that there may be action taken after the session.

EXECUTIVE SESSION

RESOLUTION 19-268

Motioned by Councilor Bowe
Seconded by Councilor Coulthart

RESOLVED, that the meeting is hereby adjourned to Executive Session at 7:24 p.m. to seek advice of counsel.

Ayes: 6

Nays: 0

MOTION CARRIED

PRESENT: Mayor, Councilors, City Clerk, City Attorney, Comptroller

1. Discussion with the City Attorney.

Motioned by Councilor Acker
Seconded by Councilor Coulthart

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 7:51 p.m.

Ayes: 6
Nays: 0

MOTION CARRIED

WAIVE RULE TO ACCEPT AGENDA ITEMS

RESOLUTION 19-269

Moved by Councilor Bowe
Seconded by Councilor Coulthart

RESOLVED, that per Resolution 08-180 adopted by the Common Council on August 19, 2008, the provisions of the procedure to accept agenda items is hereby waived.

Ayes: 6
Nays: 0

MOTION CARRIED

CERTIORARI SETTLEMENT DISCUSSION

RESOLUTION 19-270

Moved by Councilor Acker
Seconded by Councilor Chamberlain

RESOLVED, that the City Attorney be hereby authorized to engage in settlement discussions, under the terms discussed, with Oneida Company Ltd. to resolve the pending tax certiorari matters for the years 2017, 2018, and 2019.

Ayes: 6
Nays: 0

MOTION CARRIED

BUDGET DISCUSSION

Recreation Department

Recreation Director Luke Griff said that there is not a lot of change from 2019. He said that the biggest change is a full-time maintenance worker. He said that the City will be losing two part-time summer workers, who are normally staffing the parks, but there have not been enough kids at the parks to make this a worthwhile program.

In response to a question regarding programs for adolescents from October to May, the Recreation Director said that is a tough age group. He said they currently have an after-school program M-F where kids can play basketball, foosball, and hang out in the teen room. He said that they are looking at adding other programs, as well.

In the Kallet contracts line, Director Griff said that line can be reduced from \$8K to \$1K, as he had budgeted for items that the City Engineer also budgeted for. With respect to Kallet programming, the Director said that they have just purchased the license necessary to show movies at the Kallet, although they cannot charge for the movies. He said that they are looking at free movies for children on Sunday afternoons. Councilor Coulthart asked about the big acts that the GOCC was going to bring in, and the Director said that they have a Fleetwood Mac Cover Band coming in at the end of the month.

Mayor Matzke said that the pool loses \$40K per year and asked that an increase in fees be looked at. The Council said that that larger fees equals less people, and they want to make the fees affordable to our residents. Councilor-Elect Brandee DuBois said that the fees to rent the Rec Center for birthday parties are very low in comparison to other local venues.

The Ferris Mower purchase was removed from his budget by the Mayor, however, after discussion the \$3K for that purchase was put into the budget. After discussion, the Recreation Director said the Council could take \$1,500 from the picnic table line. The software used by the Recreation Department was briefly

discussed, noting that the City's new software program from Tyler would be more expensive. The Director said their software saves time with registrations and payments all done online.

The purchase of a dump trailer was debated, and the Director suggested that the dump truck could be sold to cover the cost. It was noted that the purchase of a pickup truck would be needed to pull the trailer. The Comptroller said that leasing may be an option, remarking that it would be approximately \$12K annually for an F250. Councilor Bowe asked if the Equipment Maintenance & Repair line could be lowered with the purchase of a new Ferris, but the Director said this account covers repairs to trucks, pool, etc., and he will need the amount budgeted. The Director said that he can hold off on the ATV, as it was stolen, then recovered, and an insurance claim has been issued to our carrier. He said that the tree work line has been lowered by the Mayor. He said that Karst Tree service gave him estimates of the tree work needed at Allen Park. Director Griff said that his Department has done some of the lower tree work, but cannot do the higher areas.

It was mentioned that part-time salary costs have risen due to the rise in the minimum wage. The cost for pool swimwear was questioned. Director Griff said that kickball has been discontinued, as Sherrill has a league. He said that all the adult programs pay for themselves through participation costs.

The Council moved on to the bids for the Recreation Center roof and gymnasium floor. The Director said that he is requesting approval for both items to be re-bid, noting that these would both require bonding. Councilor Bowe questioned the order of completion for these projects, and the Director said the floor wouldn't be able to be done until late summer, as they are always booked for events. After discussion, the Council determined that approval would be given to rebid.

WAIVE RULE TO ACCEPT AGENDA ITEMS

RESOLUTION 19-271

Moved by Councilor Chamberlain
Seconded by Councilor Acker

RESOLVED, that per Resolution 08-180 adopted by the Common Council on August 19, 2008, the provisions of the procedure to accept agenda items is hereby waived.

Ayes: 6
Nays: 0

MOTION CARRIED

AUTHORIZATION TO BID

RESOLUTION 19-272

Moved by Councilor Acker
Seconded by Councilor Chamberlain

RESOLVED, that the Recreation Director be hereby authorized to bid for the following projects:

- Oneida Recreation Center Gym Floor Replacement
- Oneida Recreation Center Roof Replacement

Ayes: 6
Nays: 0

MOTION CARRIED

The City Clerk asked that the Invitation to Bid be emailed to her to be formatted for the Legal Notice and City website.

Motion to adjourn by Councilor Acker

The regular meeting is hereby adjourned at 9:15 p.m.

CITY OF ONEIDA

Susan Pulverenti
City Clerk