

**MINUTES OF THE COMMON COUNCIL
FEBRUARY 3, 2015**

A meeting of the Common Council of the City of Oneida, NY was held on the third day of February, 2015 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 Alden M. Smith

PRESENT: Councilors Michael Bowe, Erwin Smith, James Chamberlain, and Thomas Simchik

ABSENT: Councilor Brahim Zogby, Councilor Helen Acker

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
City Engineer Jon Rauscher
Director of Parks and Recreation Lucas Griff
Fire Chief Kevin Salerno
Police Chief David Meeker
Public Safety Commissioner Michael Kaiser
Supervisor John Reinhardt

The City Attorney said the properties at 120-126 Phelps Street and 128 Phelps Street will each have a separate hearing. The City Attorney swore in Fire Marshal Timothy Cowan, City Engineer Jon Rauscher, Terry Karst and Rebecca Karst.

**PUBLIC HEARING REGARDING PROPERTY LOCATED AT 120-126 PHELPS STREET TO
DETERMINE WHETHER SAID PROPERTY IS A PUBLIC NUISANCE IN ACCORDANCE
WITH ARTICLE III CHAPTER 34 OF THE ONEIDA CITY CODE
TAX MAP NO. 30.72-1-90**

RESOLUTION 15-24

Moved by Councilor Smith
Seconded by Councilor Chamberlain

RESOLVED, that the Public Hearing relating to 120-126 Phelps Street be hereby opened at 6:36 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

APPEARANCES - TESTIMONY

Fire Marshal Timothy Cowan provided a brief history. On July 2, 2014 the Fire Department responded to a reported building collapse at 120-128 Phelps Street. He said, upon arrival, he found the building at 128 Phelps had extensive damage and part of the wall had collapsed. He said at that point they used search and rescue to find out if anyone was in the building and found out no one was in the building. The City

Engineer and Mayor were called to respond and various others from the Council responded to actually witness what was going on. There was no one in the building at that time, and it was decided that outside help would be needed to determine if this building was completely unsafe or whether it could be saved or exactly what was happening with it. So the next day, engineers were called in and it was determined that both buildings between 128 and 120-126 Phelps were deemed unsafe and had to be demolished. This was July 3, 2014 and on July 4, 2014 demolition commenced. At that time both buildings were demolished by an outside company that had come in, and then after the demolition, over various days, the City went over and installed temporary fencing to keep the safety and welfare of the public. Then fast forward six months up to January, there were numerous correspondences with both property owners notifying them that they needed to clean up their property. It was unsightly, it was unsafe and the building couldn't stay on the ground like it was. Correspondence back and forth with both property owners noted they were having numerous issues with their insurance companies. In the mean time, it was decided that understandably those things were happening, but the City still has some responsibility to protect the citizen's safety. Notices were sent and again correspondence was back and forth with both property owners and it was still determined that they were fighting with their insurance companies to figure out how they were going to get the money to pay for it. Again, the City still has some sort of obligation and responsibility to the public to have it cleaned up. He said he went over, along with the City Engineer, and did an inspection on January 14th, and the building was basically the same as what it has been since July 4th except there was a temporary fence put up by the City. Fire Marshal Cowan said he is asking the Council to declare the property a public nuisance, so that we can take further action to try to get this cleaned up.

Councilor Chamberlain asked, what time the demolition actually started on July 4th, and the Fire Marshal said sometime in the morning, he wasn't sure of the exact time, but 8 or 9 in the morning. The Fire Marshal said he is asking the City to declare this property a public nuisance so we can keep moving forward. Councilor Smith asked what the next step was and Fire Marshal Cowan said the next step is in the Council's hands to decide what they want to do. He said if it is declared a public nuisance, the next step is up to the Council. Councilor Chamberlain asked if in order for the City do anything, does it have to be declared a public nuisance first. The Fire Marshal said the property owner can decide to start cleaning up at anytime, but before the City can take any action, it has to be declared a public nuisance by our City Code.

City Attorney Nadine Bell asked the Fire Marshal to clarify for the Council how the property is in violation; if it is in violation of state or local codes and why he feels it is a public nuisance. Fire Marshal Cowan said it is in violation of the 2010 Fire Code of the State of New York, Section 107 Unsafe Structures and he read that section of the code aloud, stating that was one violation. The second violation is part of our City Code, Chapter 34 Article III, titled Unsafe Buildings and Collapsed Structures, Section 34-9 through 34-10, and it is basically a reiteration of the Fire Code. The Fire Marshal said his opinion, as the Fire Marshal, declaring it a public nuisance is that looking at what is left over there of the demolished debris, and the past inspection on January 14th, it is creviced up and down and not very secure. It is very easy for anyone to get in there and not know somebody is in there and not be able to get out.

Councilor Bowe asked, if the area was fenced in, would that temporarily remove the hazard until the debris was removed, and the Fire Marshal asked what type of fence. Councilor Bowe said not a snow fence, a six foot fence or however high it was deemed that it would have to be. He said a construction fence from the existing buildings where it's fenced in, and post it, until they can sort out with their insurance. The Fire Marshal said he thinks that would be a temporary fix, and the Council would have to put a timeline in place, as it couldn't stay like that forever. It would help the immediate problem, but not the long term problem. Councilor Bowe said it would make it safer and secure, but wouldn't address the entire problem.

The City Attorney said that our City Code requires that notice of this public hearing be either personally served or by certified mail and asked if that was done. The Fire Marshal responded yes. The City Attorney said the notice came from her office and offered a copy the affidavit of personal service to Mr. Karst's attorney.

Linda Fatata, Attorney for the Karst's, said she wants to make the Council aware of and be part of the record, that they understand that there is a problem at that property and it definitely needs to be cleaned, but the problem is that they didn't cause it and they don't feel that they are responsible for it. So they wanted to make the Council aware that there will be litigation over this, they have filed the notice of claim and had depositions, and they will be filing their action shortly. There are a ton of facts, as you can imagine, with a case as involved as this. Attorney Fatata said she doesn't fault the Fire Chief with whatever it is he feels was done, and they don't agree with what he says, but that will be all have to be ironed out in court or between the attorneys. She said her client's property did not collapse; it was the Waterman property next door that had the problem. She said here is a huge question as to whether her client's property had to be torn down at all, but we believe it did not. She said there is even an engineering report by an outside agency, and never in the report is her client's property even addressed; it is all on the Waterman property. She said she has experts from where this has happened in other cities, engineering firms, and we have them ready to say how that building could have been cut away from the other building. She says her clients have suffered a great loss here and it is sort of like adding insult to injury to them to say it is a public nuisance and you are not cleaning up the mess. She said they understand that it is a mess, and she understands that the Council may have to declare it a public nuisance to be able to let the City of Oneida step in, after time limits have passed, and take care of it if they want to. Attorney Fatata said for the record that this was a terrible thing that was done to them, and they are going to seek some type of reimbursement. All of their property that was inside that antique store, and she said that many of you are probably aware of how long Mrs. Karst ran that antique store; all of those items are underneath that rubble. They were allowed to get none of them out of that building. She said those are their facts, and she understands the other side may have a different set of facts, but she is here presenting their case so you can understand where they are coming from. They are not trying to be irresponsible owners. They are not trying to say, forget you, we are not going to do our part. They are not trying to do that at all. They are taking the legal means necessary to address the wrong they believe has been done to them and whatever the City has to do to protect its population, they understand that. She said basically that is what we wanted to put on the record and thank you.

The Mayor asked if there were any other questions or comments from the Council and Councilor Chamberlain said we are either going to declare it or not declare it and asked at what point could we get a guarantee from the owner or owners that it could have a legitimate safety type fence that no one could get into. City Attorney Bell said this would be the opportunity for the Council to declare the property a public nuisance; at the hearing when the Council contemplates whether there is sufficient evidence that supports whether this is a public nuisance. The determination is traditionally made at the time of the hearing, but if Council needs to adjourn this matter for additional information to be provided, the Council has the right to do so. With regard to any assurance that you want to obtain or would like to obtain, the property owner is here and you can ask what assurances they can offer with securing the property. The Mayor said it depends on what the intent is with securing the property. The Mayor said we are seven months in, and if you listen carefully to what their attorney stated, he would put forward the idea that their position is that they are not going to remove that debris until the end of the lawsuit. He said that could be sitting there fenced in for years and that is an untenable situation to deal with. Councilor's Chamberlain and Bowe briefly discussed the fencing issues.

The City Attorney said a notice of claim has been filed and a hearing held, but there has not been a complaint filed against the City. At this moment there is no lawsuit. They have a time in which to file their lawsuit, which under General Municipal Law is approximately a year and a half to even file their

lawsuit. The City Attorney said the notice of claim was filed within the ninety days, and the Council is basically seven months in to the year and a half they have to file. Once the lawsuit is filed, the City has to file an answer, and the discovery process could be years in a civil lawsuit. If there was a lawsuit filed, with the court calendar, it is not uncommon after motions have been made and both parties are ready for trial, it can be another six months to a year beyond that. The City Attorney said the Council is potentially looking at a very, very long time.

City Attorney Bell said with respect to the costs of removal, she has not seen any quotes and has no idea of the cost. She said if the Council makes the determination that a public nuisance exists, chooses to issue an order to make the property owner take action to clean it up, and if there is a time frame to accomplish that and nothing happens; then the City would prepare an order that says if you fail to do so in the time permitted, we have the right to go in and assess the cost of doing so against you. That is a matter that would require going to bid and prevailing wages because we are a municipality. The City would have the right, under our code, to assess the costs back onto the property. There is also statutory language and case law available that also says that if there are any insurance proceeds, the City can file a lien against any insurance proceeds. The rights are not exclusively on the taxes, any and all insurance proceeds could be subject to the cost of removal.

Attorney Linda Fatata said that they are not going to put up a fence. They know it is temporary and the cost of doing so, along with any time frame the City would be looking for to get the debris gone, would be an actual waste of money for her client to do. She said they are not going to do it, so the City can move into the next phase, if they would like to, by declaring a public nuisance. She said that everything Ms. Bell said was true, unless it is found the City is wrong, in which case the City will bear the cost of the cleanup along with additional damages.

Moved by Councilor Smith
Seconded by Councilor Chamberlain

RESOLVED, that the Public Hearing on 120-126 Phelps Street be hereby closed at 6:59 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

DECLARE 120-126 PHELPS STREET (TAX MAP NO. 30.72-1-90) A PUBLIC NUISANCE

RESOLUTION 15-25

Moved by Councilor Smith
Seconded by Councilor Simchik

WHEREAS, in accordance with Article III of Chapter 34 of the Oneida City Code, as amended, a public hearing was conducted on February 3, 2015, for purposes of receiving and considering evidence presented by the City of Oneida Fire Marshal to determine whether real property located at 120 Phelps Street (a/k/a 120-126 Phelps Street), Tax Map No. 30.72-1-90, in the City of Oneida (“Property”) is a public nuisance; **and**

WHEREAS, the City Attorney confirmed issuance of the Notice of Unsafe Building/ Collapsed Structure, dated January 22, 2015, such Notice having been duly filed in accordance with Section

34-11 of the Oneida City Code with the Madison County Clerk's Office on January 26, 2015, Index No. 2015-1056; **and**

WHEREAS, in addition to posting notice of the due process hearing in the Municipal Building and publishing such notice in the newspaper and on the City of Oneida website, the City Attorney submitted an affidavit of service as evidence of personal service of the notice of the public hearing upon Terry E. Karst, Rebecca A. Karst, as Trustees of the B&B Irrevocable Trust and as owners of the Property, by the City of Oneida Police Department; **and**

WHEREAS, the Fire Marshal presented his report, dated January 14, 2015, and photographic evidence documenting the unsafe condition of the Property and informed the Common Council of the efforts made by the City to obtain voluntary compliance; **and**

WHEREAS, the Fire Marshal testified to having inspected the Property with the City Engineer on January 2, 2015, and reported having observed a large, unsightly debris pile containing dangerous materials and unstable crevasses that had not been remedied from the initial building tear down performed on July 4, 2014; **and**

WHEREAS, the Fire Marshal further reported that there were no physical barriers on the Property to prevent or impede the public from accessing the debris pile, nor were there any means present to restrict rodents and animals from seeking shelter within the debris; **and**

WHEREAS, the Fire Marshall confirmed that the Property is located in a commercial zoning district within the City's more densely populated Inner District; **and**

WHEREAS, the Fire Marshal determined that the condition of the Property violated Section 107.2 of the 2010 the New York State Uniform Fire Prevention Code and Section 34-9 of the Oneida City Code; **and**

WHEREAS, the Fire Marshal opined that the debris pile, which occupies a majority of the Property, presents a danger to the health, safety and welfare of the public; **and**

WHEREAS; Mr. Karst and Mrs. Karst appeared at the due process hearing represented by their attorney Linda Fatata; **and**

WHEREAS, Ms. Fatata acknowledged that the condition of the Property presented a problem, but informed the Council that, because the City demolished the structure, a lawsuit on the issue is imminent and that Mr. and Mrs. Karst did not feel they had any responsibility to remove the demolition debris and therefore had no intention to do so; **and**

WHEREAS, Ms. Fatata further informed the Council that Mr. and Mrs. Karst would not undertake any efforts to physically secure the Property; **and**

WHEREAS, the Common Council closed the public hearing; **and**

WHEREAS, it is the desire of the Common Council to undertake any and all measures permitted in the Oneida City Code and City of Oneida Charter that are necessary to protect the public's health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED that the Common Council, having duly considered the documentary evidence and oral testimony presented by the Fire Marshal, hereby declares the property located at 120 Phelps Street (a/k/a 120-126 Phelps Street), Tax Map No. 30.72-1-90, to be a public nuisance; **and**

BE IT FURTHER RESOLVED, that, having declared the Property to be a public nuisance, the Common Council elected to postpone rendering a decision on what, if any, remedial action is to be required of the property owner or persons with interest in the Property and instead determined to issue such an order at the Common Council's next regularly scheduled meeting on February 17, 2015.

Councilor Zogby – Absent
Councilor Bowe – Yes
Councilor Smith – Yes
Councilor Acker – Absent
Councilor Chamberlain – Yes
Councilor Simchik – Yes

MOTION CARRIED

The City Attorney said there are two elements to the Fire Marshal's request. You have declared it a public nuisance and the second part of his request is asking for an order for the property owners to clean up the property within a time period. She said the Fire Marshal requested that 14 days from the declaration/order be provided, and in the event the property owner did not remove the debris in the time frame allotted, the City could do so and assess the cost to the property owners. The Mayor said he would like it put on the agenda for the next meeting, stating that two more weeks would not make a difference. The City Attorney said, so the property owner is clear, the Council has declared this a public nuisance, and at the next meeting, February 17th, the Council will consider a Resolution deciding what corrective or remedial action, if any, is necessary.

PUBLIC HEARING

**PUBLIC HEARING REGARDING PROPERTY LOCATED AT 128 PHELPS STREET TO
DETERMINE WHETHER SAID PROPERTY IS A PUBLIC NUISANCE
IN ACCORDANCE WITH ARTICLE III CHAPTER 34 OF THE ONEIDA CITY CODE
TAX MAP NO. 30.72-1-91**

RESOLUTION 15-26

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing relating to 128 Phelps Street be hereby opened at 7:05 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

APPEARANCES - TESTIMONY

Mayor Smith asked if anyone representing Mr. Waterman was here to speak. The City Attorney swore in Fire Marshal Timothy Cowan.

Fire Marshal Timothy Cowan said 128 Phelps was the building attached on the easterly end of 120-126 Phelps. For the call on July 2nd, their building was the one that was majorly damaged and collapsed. Upon arrival and seeing that 128 Phelps had a collapsed exterior wall, it was assessed for victims in the building and there were none. He said taking a look at the building, trying to assess and make sure everything was going to be okay for the victims and anyone else, was first and foremost. It was decided to bring an engineer in. The engineer came in on July 3rd, evaluated the building and decided that the building had to come down; it was unsafe. The demolition commenced on July 4th, and the property still sits in the same condition. The inspection on July 14th had the same violations written for 120-126 Phelps Street, as were written for 128 Phelps St. The violations are of the 2010 Fire Code of the State of New York, Section 107 Unsafe Structures and violations of our City Code, Chapter 34 Article III, titled Unsafe Buildings and Collapsed Structures, Section 34-9 through 34-10. They both reiterate what happened with the other one, they were unsafe, unsound and again he asked that Council declare the property a public nuisance, so we can further go ahead with action to try to get this building cleaned up.

The City Attorney asked if this notice of hearing, since Mr. Waterman is not with us this evening, was served upon him, and the Fire Marshal Cowan replied yes. The City Attorney said the Police Department did personally serve Mr. Waterman on January 23, 2015 and displayed the affidavit of service to that effect. City Attorney Bell asked the Fire Marshal to elaborate, for the record, why he feels this property is a public nuisance. Fire Marshal Cowan stated the way the building sits now with all the debris on the ground and the many crevices, it is unsecured and anybody/anything could get in there and get trapped and it would be quite a while before anyone realized they were in there; thus, putting responders and the public in danger. As the building sits there longer and longer, the building is going to become more unstable as it sits on the ground. The Fire Marshal said for the safety of the public, this is what he recommends. He said he has photographs of the January inspection if the Council would like to see them and Councilor Simchik said they had copies of the photos.

The City Attorney said that she spoke with the Attorney for Mr. Waterman and asked the Mayor if she could share the conversation as requested by Attorney DeTraglia. She said the purpose of the call from Mr. DeTraglia was to convey his efforts with the insurance company on behalf of his client, Mr. Waterman. She said most of officials here at City Hall are aware of the efforts that Mr. Waterman and his attorney have been taking. There was some concern that they did not want it to appear in any way that Mr. Waterman has been uncooperative with the City or that he has been unresponsive. It is their position that they are currently locked in a dispute with the insurance company, and they are actively trying to resolve it. Ms. Bell said Mr. DeTraglia is an attorney who deals with a good amount of collapsed structures. He is arguing with the insurance company right now about their obligation to pay for the debris, and he has a memorandum of law that he is using to set forth his position. He has asked, and is aware of Fire Marshal's report and request, that in the event the Common Council declares this a public nuisance, he would like the Council to consider not 14 days, but instead 30 days. As he feels 30 days is a more reasonable time for anything to happen, and fourteen days would put his client in a crunch that they simply cannot accommodate. He was quite concerned that his client not be perceived as difficult or uncooperative, and the City Attorney said she told him that was not the case, but offered to share that with the Council. In response to a question from Councilor Smith, the City Attorney said she did not know if they could get something done in thirty days with the insurance company. Ms. Bell said Attorney DeTraglia is hopeful that if the Council issues an order and then has to take the action, and the insurance company does agree to pay for the removal of that demolition debris that they would be encouraged to do so as soon as possible, so as to preclude the incursion of additional expense. Councilor Bowe said he would think the Council would treat this property the same as the first property and declare this a public nuisance. The Mayor said that basically they would have the thirty days requested.

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing for 128 Phelps Street be hereby closed at 7:15 p.m.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

DECLARE 128 PHELPS STREET (TAX MAP NO. 30.72-1-91) A PUBLIC NUISANCE

RESOLUTION 15-27

Moved by Councilor Bowe
Seconded by Councilor Smith

WHEREAS, in accordance with Article III of Chapter 34 of the Oneida City Code, as amended, a public hearing was conducted on February 3, 2015, for purposes of receiving and considering evidence presented by the City of Oneida Fire Marshal to determine whether real property located at 128 Phelps Street, Tax Map No. 30.72-1-91, in the City of Oneida (“Property”) is a public nuisance; **and**

WHEREAS, the City Attorney confirmed the issuance of the Notice of Unsafe Building/ Collapsed Structure, dated January 22, 2015, such Notice having been duly filed in accordance with Section 34-11 of the Oneida City Code with the Madison County Clerk’s Office on January 26, 2015, Index No. 2015-1059; **and**

WHEREAS, in addition to posting notice of the due process hearing in the Municipal Building and publishing such notice in the newspaper and on the City of Oneida website, the City Attorney submitted an affidavit of service as evidence of personal service of the notice of the public hearing upon Heath Waterman, owner of the Property, by the City of Oneida Police Department; **and**

WHEREAS, the Fire Marshal presented his report, dated January 14, 2015, and photographic evidence documenting the unsafe condition of the Property and informed the Common Council of the efforts made by the City to obtain voluntary compliance; **and**

WHEREAS, the Fire Marshal testified to having inspected the Property with the City Engineer on January 2, 2015, and reported having observed a large, unsightly debris pile containing dangerous materials and unstable crevasses that had not been remedied from the initial building tear down performed on July 4, 2014; **and**

WHEREAS, the Fire Marshal further reported that there were no physical barriers on the Property to prevent or impede the public from accessing the debris pile, nor were there any means present to restrict rodents and animals from seeking shelter within the debris; **and**

WHEREAS, the Fire Marshall confirmed that the Property is located in a commercial zoning district within the City's more densely populated Inner District; **and**

WHEREAS, the Fire Marshal determined that the condition of the Property violated Section 107.2 of the 2010 the New York State Uniform Fire Prevention Code and Section 34-9 of the Oneida City Code; **and**

WHEREAS, the Fire Marshal opined that the debris pile, which occupies a majority of the Property, presents a danger to the health, safety and welfare of the public; **and**

WHEREAS, Mr. Waterman did not appear at the due process hearing, nor did anyone appear on his behalf; **and**

WHEREAS, the Common Council closed the public hearing; **and**

WHEREAS, it is the desire of the Common Council to undertake any and all measures permitted in the Oneida City Code and City of Oneida Charter that are necessary to protect the public's health, safety and welfare.

NOW THEREFORE, BE IT RESOLVED, that the Common Council, having duly considered the documentary evidence and oral testimony presented by the Fire Marshal, hereby declares the property located at 128 Phelps Street, Tax Map No. 30.72-1-91, to be a public nuisance; **and**

BE IT FURTHER RESOLVED, that, having declared the Property to be a public nuisance, the Common Council elected to postpone rendering a decision on what, if any, remedial action is to be required of the property owner or persons with interest in the Property and instead determined to issue such an order at the Common Council's next regularly scheduled meeting on February 17, 2015.

Councilor Zogby – Absent

Councilor Bowe – Yes

Councilor Smith – Yes

Councilor Acker – Absent

Councilor Chamberlain – Yes

Councilor Simchik – Yes

MOTION CARRIED

The City Attorney said to be clear, this will also be an item on the next Common Council agenda for consideration of what remedial action, if any, is appropriate.

OLD BUSINESS

Solar Energy Project

Mayor Smith said these solar energy projects have many facets to them and deferred to the City Engineer for the update. City Engineer Jon Rauscher said they are in the process of doing solar site evaluations with the developers with no sites determined as yet. He said they are also working with Madison County with their project. The RFP has been submitted to evaluate what else is out there with other developers, that we have good pricing and to see if there are other solar deals out there. He said we are moving forward. Engineer Rauscher said ten to twelve acres are needed for a 2 megawatt system. The existing

grant is a 2.8 megawatt system, but if we didn't have the orphaned grant, the limit is 2mg. Mayor Smith said the deadline is 30 days and we are hoping for this first aspect of it. The City Engineer said there are some other RFP's coming in. Mayor Smith said if we are able to take advantage of the orphaned project and get the 2.8 megawatt facility, we still have opportunities to participate with the County of Madison, who he thinks is taking exciting advances and initiatives in solar energy. He said we should support and participate in what the County is doing, so we are in the position that we have several solar energy projects of different size and different design all of which reduces our energy footprint and provides us with cheap energy moving forward.

Common Council Meeting of January 20, 2015

Mayor Smith said two weeks ago at the Council meeting Councilor Zogby made some impassioned and inflammatory statements about the Oneida Indian Nation Compact with the State of New York and our participation with the county securing monies, what that all meant and what the impact was. The Mayor said there were enough pretty clear inaccuracies in that, which he said need to be addressed, so that it is part of the public record.

First, with respect to our level of taxation, the Mayor said he looked at a grid this week and out of 33 cities in NYS of comparable size to the City of Oneida, we have the second lowest tax rate. A significant number of those cities our size have tax rates in the \$16 per/1000 range and some as high as \$22 per/1000. Oneida is in the \$8 per/1000 range. The Mayor said no one likes taxes, but nothing comes free, you have to pay for the services that you are receiving.

There was a statement made to Chief Salerno and Chief Meeker that they are endanger of losing their equipment. The Mayor said he was not sure what that means, but all equipment purchases that we have authorized and discussed as a Council, that have been put into our City Budget and budgeted for will be purchased once the specs are completed and State Bid information is received. The Mayor said he doesn't understand how it is that those vehicles are in danger.

Mayor Smith said another statement made was that "if you don't live here and you work here, your job is in jeopardy and I can tell you that for a fact". The Mayor said he disagrees with that fact. He said one simple reality of that fact is that it is against the laws of the State of New York to require members of police and fire to live within the City limits. The Mayor said he looked into that issue ten years ago when he was a City Councilor. He said he feels it is unfair to require other City workers to live within the City of Oneida, if it is unlawful to require others to live within the City.

Mayor Smith said he needs to clarify the statement made that we have paid "millions and millions of dollars" for a lawsuit and "we were talked into getting out of this, even though we would have been paid for by the State of New York." When the County engaged in this lawsuit, the State of New York determined that the County would represent us and one of the debates we had on City Council was that the State of New York would not ever reimburse the City of Oneida for the fees having to do with this lawsuit. They would do so for the County, but it was the State's feeling that the County was representing us in this matter; therefore we were not going to get reimbursed. The Mayor said the accurate number for nine years of attorney work is \$256K, which was expended to the Law Group representing the City against the Oneida Indian Nation, and that is across the terms of five Mayors with one of those Mayors's being a two-term Mayor.

Another comment made was that he was "tired of sitting around waiting to get a grant" and "we are not going to get a grant". Then there was an attempt to ridicule individuals like myself, who believe in grant opportunities, that we are sitting waiting for a present with a pretty bow on it. The Mayor said he wanted to inform the public that in 2013 and 2014, the City of Oneida received \$6.6M in grants awarded directly

to this community and to this City for direct application to our issues and against those challenges that we face.

Finally, the Mayor said he wants to address the comment that “we were talked into stopping our lawsuit”. Mayor Smith said we were not talked into stopping our lawsuit. This Council voted, after having a discussion and debate about whether to continue the lawsuit, when it was aptly considered to continue the lawsuit. The Mayor said we would not be having this discussion about County monies, because by the compact anyone continuing to sue cannot receive any of the disbursement monies, which we are now debating. The Mayor said he wanted this in the record, so that those who are looking at this issue and forming opinions as to what is appropriate or inappropriate will have the facts in front of them, as opposed to what was brought forward.

Old Hotel Oneida Building

Mayor Smith said he is optimistic and excited about our opportunities to do something with that building. He said he will be having a second meeting with the owner and their architects to review floor plans and exterior options, and he will bring them up to speed on the study of the City Center that we will be conducting.

Retiree Health Insurance

Mayor Smith said he believes there is an opportunity to save money for health insurance for our retirees. He said he is committed to maintain our commitment to cover our retirees and should stand by it. He said it is very expensive at this time, and if we can look to provide good coverage while saving money, we should do so. The Mayor said he requested a formal request for proposals be conducted and will be scheduling a time for One Group Benefit Consulting to meet with the Council to provide some education on retiree alternatives.

Redistricting of Ward Boundaries

Mayor Smith said he sent a letter to Oneida County Executive Anthony Picente and has followed up with phone calls regarding the redistricting of our wards. He said he will be meeting with Mr. Picente on February 12 to discuss if the County has the expertise, software capabilities and the inclination to tackle this project for us.

Fluoride in the City Water

Mayor Smith said Dr. Barr and other dentists have been passionate about trying to convince the City to fluoridate our water. After Dr. Barr’s presentation, we stated we would be looking at this further. The Mayor said he has requested a Public Hearing be held in two weeks at the next Council meeting, (February 17, 2015) on the subject of fluoridation of our City water.

Codes Enforcement and Housing Codes

Mayor Smith said over the past year we have discussed our Codes offices. The Mayor said he came to office passionately believing that we need to maintain our existing housing stock, as it is a vital part of the community and we cannot continue to watch it deteriorate. He said he asked Councilor Chamberlain to review our codes and to consult with the City Engineer, Fire Chief and Codes Enforcement Officer and provide him with any recommendations for greater efficiency, which the Mayor said he will pass onto the Council.

Sign Ordinance

Mayor Smith said he has asked Public Safety Commissioner Mike Kaiser and Councilor Smith to assist City staff in looking at the Sign Ordinance to see where they can be improved, modernized, etc.

Sprinkler Policy

Mayor Smith said there is a sprinkler policy that has been out there for some time that was tabled. This is currently being reviewed by the Fire Chief, and he will provide me with his recommendations in the next several weeks. The Mayor said he will pass those recommendations on to the Council once received.

HP Hood Expansion

Mayor Smith said there were people here at a Council meeting several weeks ago who were passionate about HP Hood expansion. They also went to the Planning Commission meeting and were very vocal. The Mayor said tried to stress to them that the members of the Planning Commission were volunteers. The City has a number of volunteers on various Boards. He said those individuals do so out of a civic responsibility and commitment, and we should treat them with respect, as they are not there to harm their fellow neighbors. The Mayor said he is continuing to see what we can do to remediate some of their concerns with aesthetics, noise, traffic flow and safety for children. The Mayor said he is pleased and impressed with the proposed high, large wall with a nice façade to make the property safe, isolate it from the park and provide a sound barrier. Hood is also planning white fir trees along fence to further create a sound and visual block. The Mayor said the plans show that tractor trailers will be parked 50-60 feet back from the fence. The Mayor said we take the neighbors concerns very seriously and will continue to work with HP Hood and the residents to remediate these problems in such a way that allows for that expansion, as we need business growth. He said at the same time, we want to provide some assurance that the neighbors quality of life will not be adversely impacted by this development.

Moved by Councilor Smith
Seconded by Councilor Chamberlain

RESOLVED, that the minutes of the meeting of January 20, 2015 are hereby approved as presented.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

Moved by Councilor Smith
Seconded by Councilor Chamberlain

RESOLVED, that Warrant No. 3, checks and ACH payments in the amount of \$568,001.55 as audited by the Voucher Committee is hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

Moved by Councilor Chamberlain

Seconded by Councilor Smith

RESOLVED, that Check No. 52366 in the amount of \$405.19 (Oneida Office Supply) as audited by the Voucher Committee is hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 4

Nays: 0

Absent: 2 (Zogby, Acker)

MOTION CARRIED

**PARTICIPATION WITH CNY REGIONAL PLANNING AND DEVELOPMENT BOARD
IN SOLARIZE CNY CAMPAIGN**

RESOLUTION 15-28

Moved by Councilor Simchik

Seconded by Councilor Chamberlain

WHEREAS, NYSERDA has initiated a program to encourage municipalities to adopt programs to support the installation of solar generated electricity and reduce greenhouse gas emissions, **and**

WHEREAS, the Central New York Regional Planning and Development Board has provided technical assistance to other communities and has a proven track record of success for Solarize programs in Central New York, **and**

WHEREAS, the Central New York Regional Planning and Development Board has invited the City of Oneida to participate in a proposed "Solarize Central New York" campaign to assist municipalities, businesses and residential property owners to learn more about solar technology and coordinate large scale procurement of solar installations in order to realize substantial discounts for installation of solar panels for participating communities, **and**

WHEREAS, the City of Oneida supports the Solarize NY initiative and would like to encourage its residential and commercial property owners to join with the City of Oneida to generate more clean energy, reduce energy costs and reduce carbon emissions, **then, therefore, it is hereby**

RESOLVED, that the City of Oneida is committed to participate with the CNY Regional Planning and Development Board in the Solarize CNY initiative, **and be it further**

RESOLVED, that the Mayor is authorized to provide a letter of commitment to the CNY Regional Planning and Development Board to include in its proposal to NYSERDA for the Solarize CNY campaign to be administered through the CNY Regional Planning and Development Board with local support provided by the City of Oneida for community meetings and outreach.

Ayes: 4

Nays: 0

Absent: 2 (Zogby, Acker)

MOTION CARRIED

Mayor Smith said he is very energized by solar energy initiatives.

CAPITAL PROJECT NO. 14-2
ONEIDA CREEK STREAM BANK STABILIZATION PROJECT

RESOLUTION 15-29

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, to authorize the Mayor to sign and accept a Professional Services Proposal with Environmental Design & Research, Landscape Architecture, Engineering & Environmental Services, DPC, 217 Montgomery Street, Suite 1000, Syracuse, NY 13202 for Phase I Archeological Survey for Capital Project No.14-2 Oneida Creek Stream Bank Stabilization, **and be it further**

RESOLVED, that the City Engineer be authorized to proceed with Capital Project No.14-2 Oneida Creek Stream Bank Stabilization and be further authorized to expend funds in the amount of \$4,250.

Ayes: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

City Engineer Jon Rauscher said he has worked with Madison County Soil and Water to put together a plan and submitted the approvals to the DEC/other agencies that need approval. This plan will take the bank back about 10 feet to stabilize it and limit amount of erosion.

BUDGET TRANSFERS

RESOLUTION 15-30

Moved by Councilor Chamberlain
Seconded by Councilor Simchik

RESOLVED, to approve the following budget transfers:

	FROM:	BALANCE:	TO:	BALANCE:
\$823.00	001.9060.0805 (Health Insurance)	\$2,056,259.53	001.1210.0101 (Mayor Secretary Salaries)	\$38,030.91
\$5,483.00	001.9060.0805 (Health Insurance)	\$2,050,776.53	001.1315.0101 (Comptroller Office Salaries)	\$118,439.13
\$2,231.00	001.9060.0805 (Health Insurance)	\$2,048,545.53	001.1325.0101 (Chamberlain Office Salaries)	\$48,208.09
\$2,860.00	001.9060.0805 (Health Insurance)	\$2,045,685.53	001.1355.0101 (Assessor Office Salaries)	\$80,527.73

\$3,614.00	001.9060.0805 (Health Insurance)	\$2,042,071.53	001.1410.0101 (Clerk's Office Salaries)	\$61,639.05
\$2,140.00	001.9060.0805 (Health Insurance)	\$2,039,931.53	001.1430.0101 (Civil Service Salaries)	\$37,163.98
\$3,908.00	001.9060.0805 (Health Insurance)	\$2,036,023.53	001.8020.0101 (Planning Dept. Salaries)	\$97,715.99
\$71,299.00	001.9060.0805 (Health Insurance)	\$1,964,724.53	001.3410.0101 (Fire Salaries)	\$1,393,339.10
\$2,716.00	001.9060.0805 (Health Insurance)	\$1,962,008.53	001.7140.0101 (Recreation Salaries)	\$79,901.38
\$1,139.00	001.9060.0805 (Health Insurance)	\$1,960,869.53	001.5010.0101 (DPW Management Salaries)	\$73,795.57
\$52,252.00	001.9060.0805 (Health Insurance)	\$1,908,617.53	001.3120.0101 (Police Salaries)	\$1,537,796.40
\$110,856.00	001.9010.0806 (Retirement)	\$411,644.00	001.3120.0101 (Police Salaries)	\$1,648,652.40
\$16,078.00	001.9010.0806 (Retirement)	\$395,566.00	001.9030.0801 (Social Security Taxes)	\$355,540.62
\$3,760.00	001.9010.0806 (Retirement)	\$391,806.00	001.9035.0802 (Medicare Taxes)	\$87,304.71
\$1,710.00	003.0003.0909 (Sewer Fund Balance)	\$2,617,012.44	003.8110.0101 (Sewer Salaries Management)	\$479,768.75
\$106.00	003.0003.0909 (Sewer Fund Balance)	\$2,617,118.44	003.9030.0801 (Sewer Social Security Taxes)	\$33,461.05
\$25.00	003.0003.0909 (Sewer Fund Balance)	\$2,617,143.44	003.9035.0802 (Sewer Medicare Taxes)	\$7,826.09
\$5,634.00	002.8300.0436 (Water Contingency)	\$44,366.00	002.8300.0101 (Water Salaries)	\$765,577.30
\$430.00	002.8300.0436 (Water Contingency)	\$43,936.00	002.9030.0801 (Water Social Security Taxes)	\$49,836.55
\$101.00	002.8300.0436 (Water Contingency)	\$43,835.00	002.9035.0802 (Water Medicare Taxes)	\$11,619.39
<i>(Budget Adjustments - due to Contract Settlement and retro for Police, Fire and Management)</i>				
\$4,250.00	001.8140.0403 (Storm Sewers)	\$750.00	001.9950.0900 (Transfer to Capital)	\$9,365.00

(Transfer to capital project 14-02 for streambank revitalization archeological survey)

Ayes: 4

Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

Councilor Smith said he hopes the City does not come up short in the retirement and health insurance accounts with these transfers. He said he will see the Comptroller tomorrow, as she is not here tonight.

WAIVE RULE FOR AGENDA ITEMS

RESOLUTION 15-31

Moved by Councilor Smith
Seconded by Councilor Chamberlain

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: 4
Nays: 0
Absent: 2 (Zogby, Acker)

MOTION CARRIED

The City Clerk said the City Attorney and Mayor have requested an additional item for the agenda. It is to approve and authorize the Mayor to sign the negotiated lease agreement with Syracuse SMSA Limited Partnership, d/b/a Verizon Wireless to allow for the installation, operation and maintenance of telecommunications equipment with accessory antenna's to be placed on a portion of the rooftop at the Kallet Civic Center. Councilor Bowe requested an Executive Session at the end of the meeting to discuss some questions he has regarding the lease agreement.

NEW BUSINESS

Governor Cuomo's Opportunity Agenda

Mayor Smith said he went to Rochester on January 15, 2015 for the unveiling of the Governor's 2015 opportunity agenda. It was an impressive agenda, which presents us with some significant opportunities. The Governor stated the upstate regions lag behind the downstate region, so there is an initiative put forth to use empower through money and using the regional economic development committee process to bring an influx of dollars into the upstate region. He said there is a competition between the three upstate regions of the committee competing for \$500M. We are part of the central region, and the Mayor said he will be meeting with the regional co-chair next week to see what he can do to see that our region wins. Mayor Smith said \$500M put into a five county area of CNY will have a huge impact, and if we can leverage to receive our portion, we should certainly be about doing so.

Governor Cuomo's State of State

The Mayor said he attended the Governor's State of State address in Albany. He said he met the CNY Regional Director of Comptroller Thomas P. DiNapoli's office and will be meeting with her next week to establish a relationship with that office.

Presentation in Cazenovia of the 2015 Opportunity Agenda

Mayor Smith stated that he and Councilor Simchik attended another presentation of the 2015 Opportunity Agenda in Cazenovia that was much less formal, so there was much opportunity for discussion and give and take on budget proposals.

SUNY Environmental Science and Forestry Statewide Winter Energy Tour

Mayor Smith said he attended a presentation at SUNY Environmental Science and Forestry given by NYSERDA to promote the new microgrid initiative. The plan is to build a number of microgrids using a number of different sources, geothermal, solar or wind energy, etc., so in the event damage occur to the large grid, your “island” would continue to operate. This is a competition for \$40M.

Procurement Presentation

Mayor Smith said the City Engineer and Comptroller attended a procurement presentation at the County. The County has hired a procurement person, and he is hopeful we can develop a successful and good working relationship with her to save money. The Mayor said this is another good initiative with the County, and we will be working with her to try to save money in the future.

Greater Oneida Kallet Civic Center

Tom Downes, President of the Board of Directors at the Kallet Civic Center, said he would like to provide an update on what is happening at the Kallet. He stated the Kallet now has an official caterer, the Madison Bistro, who will offer a variety of menu options and prices. The long standing arrangement that the Rotary Club has with Napoleon’s will be honored, and Napoleon’s will be the backup caterer should Madison Bistro be unavailable on any given date. The Kallet is being overseen by an Executive Director. Kerryanne Kennedy, from Morrisville, comes to the Kallet with over a decade of experience in the field of Arts Management. She has the artistic, management and financial skills to make the Kallet a very vibrant civic center. The Board will be expanded to seven board members, four females and three males, and continues to look for additional members with specific skill sets in mind. The hourly rental rates are now being discounted for Oneida residents and non-profits, as well as, being adjusted for various days and times. They are continuing to run social dances, open-mic night, weddings and other programs. He said they have many volunteers lined up to help with the various events. He thanked the Mayor and Council for their continued support.

Barbara Buehner, Oneida, inquired about closing off other businesses from catering and said the Kallet has lost some events because of it. Mr. Downes said there was an entire branding strategy around the catering decision.

Oneida Rail Trail

Joe Magliocca, Oneida, said the 2014 Annual Rail Trail Report highlights the activities and achievements in 2014 and the proposed activities for 2015. Councilor Chamberlain said the rail trail display at the Oneida Commons is nice. Mr. Magliocca outlined the assorted items available for purchase in the shop.

EXECUTIVE SESSION

RESOLUTION 15-32

Motioned by Councilor Bowe
Seconded by Councilor Simchik

RESOLVED, that the meeting is hereby adjourned to Executive Session at 7:57 p.m. for the purpose of discussing the proposed lease of real property.

Ayes: 4

Nays: 0

Absent: 2 (Zogby, Acker)

MOTION CARRIED

PRESENT: Mayor, Councilors, and City Attorney

Discussion was held regarding the proposed lease of real property.

Motioned by Councilor

Seconded by Councilor

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 8:22 p.m.

Ayes: 4

Nays: 0

Absent: 2 (Zogby, Acker)

MOTION CARRIED

The City Clerk said the Council will be voting on a Resolution to approve and authorize the Mayor to sign the negotiated lease agreement with Syracuse SMSA Limited Partnership, d/b/a Verizon Wireless to allow for the installation, operation and maintenance of telecommunications equipment with accessory antenna's to be placed on a portion of the rooftop of the Kallet Civic Center.

**LEASE AGREEMENT BETWEEN THE CITY OF ONEIDA AND
SYRACUSE SMSA LIMITED PARTNERSHIP, D/B/A VERIZON WIRELESS**

RESOLUTION 15-33

Moved by Councilor Simchik

Seconded by Councilor Smith

WHEREAS, the City of Oneida is the owner of premises situated at 157-161 Main Street, in the City of Oneida("Premises"), known as the former Kallet Theater Building ("Building"); **and**

WHEREAS, Syracuse SMSA Limited Partnership, d/b/a Verizon Wireless ("Verizon Wireless"), with principal offices located at One Verizon Way, Mail Stop 4AW100, Basking Ridge, New Jersey 07920, has presented the City of Oneida a proposed lease agreement ("Lease Agreement"), which is attached hereto and made a part hereof, to allow for the installation, operation and maintenance of telecommunications equipment, with accessory antennas, on the Premises; **and**

WHEREAS, the Lease Agreement proposes to lease Verizon Wireless approximately 84 square feet of space on the roof of the Building, together with additional space on the rooftop for the installation, operation and maintenance of antennas and within the Building for the installation, operation and maintenance of wires, cables, conduits and pipes running between and among the space on the rooftop and the antennas and to all necessary utilities, as shown on Exhibit "A" of the Lease Agreement; **and**

WHEREAS, the aforementioned space on the Building's rooftop and within the Building has not been and is not presently used for municipal purposes, nor are there any plans to use such space for municipal purposes in the future; **and**

NOW THEREFORE, BE IT RESOLVED, that the City of Oneida Common Council does hereby determine that the space within the Building and on the rooftop to be leased to Verizon Wireless is not needed for municipal purposes; **and**

BE IT FURTHER RESOLVED, that the Common Council does hereby approve the Lease Agreement between the City of Oneida and Syracuse SMSA Limited Partnership, d/b/a Verizon Wireless, relative to real property situated at 157-161 Main Street, in the City of Oneida, in substantial accordance with the attached Lease Agreement that has been negotiated for this purpose, and hereby authorizes the Mayor to sign the Lease Agreement and to execute any and all other documents necessary to effectuate the Lease Agreement on behalf of the City of Oneida.

Ayes: 4

Nays: 0

Absent: 2 (Zogby, Acker)

MOTION CARRIED

Councilor Bowe said that he would like leverage to get out of the lease.

Motion to adjourn by Councilor Chamberlain

The regular meeting is hereby adjourned at 8:26 p.m.

CITY OF ONEIDA

Susan Pulverenti, City Clerk