

**MINUTES OF THE COMMON COUNCIL
JUNE 2, 2015**

A meeting of the Common Council of the City of Oneida, NY was held on the second day of June, 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 Brahim Zogby, Michael Bowe, Erwin Smith, Helen Acker, James Chamberlain, and Thomas Simchik

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
City Engineer Jon Rauscher
Fire Chief Kevin Salerno
Police Chief David Meeker
Public Safety Commissioner Mike Kaiser

COMMENDATION TO THE ONEIDA FIRE DEPARTMENT EMS SERVICES

The Mayor said it was his extreme pleasure to recognize the team commitment of the Oneida Fire Department to the Emergency Medical Services Program. The Mayor presented a Certificate of Commendation recognizing their diligence and determination to provide the highest level of EMS care to our City residents. Mayor Smith said these efforts reflect great credit upon the Department and the EMS in-house administrators, Lt. David Hoffman and FF Marcel Jeffrey. A round of applause was given to the department members. Those present on behalf of the Fire Department were Public Safety Commissioner Mike Kaiser, Chief Kevin Salerno, Lt. David Hoffman, FF Marcel Jeffrey, and FF Ross Relyea.

OLD BUSINESS

Solar Energy Initiative

Mayor Smith said the solar project is moving forward with only two pieces left; subdividing the property and securing the inter-connection with National Grid. The Mayor said it shouldn't be long before we will be breaking ground.

Revisit 2013 Water Bill – Acct No. 51-03100600

Mike Musacchio asked that the Council reconsider the unpaid 2013 water bill, which was relieved onto the 2014 tax bill, for the property located at 218 N. Main Street. Mr. Musacchio said that at the water hearing, he thought it was agreed that \$2,000 be paid, rather than the \$7,500 that was owed. He said there is a buyer for the property, and they are in the middle of closing. The City Attorney explained there was confusion with abstaining and recusal, and she explained the difference of the words "abstain" and "recuse". The City Attorney said there is a time frame involved for challenging a bill, and Mr. Musacchio has waited almost two years to do so. Councilor Zogby questioned Mr. Musacchio about ownership of the building, and he said has a land contract, and he is trying to get out of that contract. The City Attorney asked if the water bill at the property is current, with no additional charges on the water bill other than the original debt in question, and Mr. Musacchio stated that he has paid for the last year and a half. Mr. Musacchio stated that he owes the original amount of \$7,500, which has grown to \$9,800 because of interest and penalties. He said that \$15,000 is also owed in property taxes. He said he cannot sell the building until the taxes and water bills are cleared and noted he has 45 days. Mr. Musacchio said the owner of the property was supposed to put the money in for payment of the water bills, and she did not. The City Attorney said that he is technically not the owner, he is doing this on behalf of the owner. After a brief discussion about the 2013 water hearing, City Attorney Bell said that once a bill has been levied onto the tax rolls, she is unsure if, once it hits the tax rolls, we can now make it go away. Attorney Bell suggested, and it was agreed, that the Council will revisit this matter at the next meeting.

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, that the minutes of the regular meeting of May 19, 2015 are hereby approved as presented.

Ayes: 6
Nays: 0

MOTION CARRIED

Moved by Councilor Acker
Seconded by Councilor Smith

RESOLVED, that Warrant No. 11, checks and ACH payments in the amount of \$365,745.97 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

ZONING MAP AMENDMENT – NYE AUTOMOTIVE GROUP

RESOLUTION 15-129

Moved by Councilor Zogby
Seconded by Councilor Acker

WHEREAS, a written request from William Nye, Nye Automotive Group, 1479 Genesee Street, Oneida NY 13421 requesting a zone change from NC (Neighborhood Commercial) to C (Commercial) on the parcel (SBL#37.-3-61) located on Route 5 (Genesee Street) adjacent to the eastern boundary of the Nye Automotive Group property was received and placed on file and referred to the Planning Commission by the Common Council on December 31, 2014; **and**

WHEREAS, the requirements of 6 N.Y.C.R.R. Part 617 have heretofore been satisfied by Resolution, dated May 5, 2015, in which the City of Oneida Planning Commission reviewed the Short Environmental Assessment Form, determined that the proposed action, which, in its non-segmented entirety, includes a zone change, site plan review and area variance relief for a proposed fence and silos, was an Unlisted Action and concluded that such action avoids or minimizes adverse environmental impacts to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable; **and**

WHEREAS, the City of Oneida Planning Commission having duly considered the applicant's proposal, unanimously recommended approval of the zoning map amendment at their April 16, 2015 meeting, **and**

WHEREAS, having received a request for such zoning map amendment and the recommendation of the Planning Commission, the Common Council introduced on May 5, 2015 an Ordinance to amend the Zoning Map of the City of Oneida to change the designation of certain property as being C (Commercial); **and**

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of an ordinance 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 Ordinance; **and**

WHEREAS, a Public Hearing on an Ordinance amending the Zoning Map of the City of Oneida to change the Zoning designation for said property being zoned NC (Neighborhood Commercial) to C (Commercial) in the City of Oneida was properly held on May 19, 2015 at 6:30 p.m. in the Common Council Chambers, 109 N. Main St., Oneida; **now therefore be it**

RESOLVED AND DETERMINED, that the proposed zone change is consistent with the City of Oneida's Comprehensive Plan, the present use of the property and the uses and zoning designation of contiguous properties; **and be it further**

RESOLVED AND DETERMINED, that the Common Council does further enact the Proposed Ordinance amendment, as herein set forth:

“An Ordinance Amending the Zoning Map of the City of Oneida to
Change the Zoning Designation for Certain Properties in the City of Oneida”

Be it ordained by the City of Oneida Common Council, as follows:

Section 1. The Zoning Map of the City of Oneida, as provided for in Section 190-9 of the Code of the City of Oneida, shall be amended to change the zoning use designation of certain lands situated on Route 5 (Genesee Street), Tax Map Parcel No. 37.-3-61, from NC (Neighborhood Commercial) to C (Commercial) as such zoning districts are defined and regulated pursuant to the provisions of Chapter 190 of the Code of the City of Oneida.

Section 2. The parcel of land, which shall be the subject of said zone change total approximately .93 acres, is designated as Tax Map Parcel No. 37.-3-61, and is situated on Route 5 adjacent to on the eastern boundary of the Nye Automotive Group property in the City of Oneida.

Section 3. The City of Oneida Zoning Map shall be amended and shall incorporate the change of zoning classification, as herein provided.

Section 4. This Ordinance shall become effective immediately upon publication in the official newspaper.

Councilor Zogby – Yes
Councilor Bowe – Yes
Councilor Smith – Yes
Councilor Acker – Yes
Councilor Chamberlain – Yes
Councilor Simchik – Yes
MOTION CARRIED

**PROPOSED LOCAL LAW ESTABLISHING NEW CHAPTER OF THE CITY OF ONEIDA
CODE TITLED “PROHIBITION REGARDING THE SALE AND POSSESSION OF
SYNTHETIC DRUGS AND OTHER SIMILAR SUBSTANCES OR COMPOUNDS
PROHIBITING SYNTHETIC DRUGS”**

RESOLUTION 15-131

Moved by Councilor Acker
Seconded by Councilor Smith

WHEREAS, a proposed Local Law, titled “Prohibition Regarding the Sale and Possession of Synthetic Drugs and Other Similar Substances or Compounds,” which prohibits the sale and possession of synthetic drugs and other similar substances or compounds be hereby received and placed on file; **and**

WHEREAS, Volume 6 N.Y.C.R.R., Section 617 of the Regulations relating to Article 8 of the New York State Environmental Conservation Law, requires that as early as possible an involved agency shall make a determination whether a given action is subject to the aforementioned law; **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; **and**

WHEREAS, the City of Oneida, among municipalities nationwide, has experienced and encountered businesses selling products containing synthetic alternatives to the active ingredient of marijuana, or tetrahydrocannabinol (“THC”), or other similar substances, hereinafter collectively referred to as “Synthetic Drugs” and/or have encountered the effects of said substances on persons who use same; **and**

WHEREAS, in recent months, the Oneida Police Department has experienced numerous health, safety and other crime-related issues that are affecting both the adult and juvenile population of the City of Oneida, which said issues include, but are not limited to numerous cases where emergency medical attention and/or the intervention of the Oneida Police Department is necessary to prevent serious injury to the person(s) who has/have ingested a Synthetic Drug or injury to people who encounter a person(s) who has/have ingested a Synthetic Drug; **and**

WHEREAS, the United States Drug Enforcement Administration has noted the increase in use of Synthetic Drugs by various demographic groups and the adverse effects said Drugs have on persons who use same, which include, but are not limited to: personal injuries, agitation, anxiety, nausea, vomiting, tachycardia, elevated blood pressure, tremors, seizures, hallucinations, paranoid behavior, non-responsiveness, serious medical issues (such as loss of organ function and comas) and death; **and**

WHEREAS, the United States Congress, with the approval of the President, enacted the “Synthetic Drug Abuse Prevention Act of 2012” to ban the sale and possession of synthetic drug compounds and chemicals that make up the drugs that are commonly referred to as “bath salts”; **and**

WHEREAS, the State of New York, through the New York State Commissioner of Health, has, in the past, prohibited the sale of Synthetic Drugs within New York State; **and**

WHEREAS, this Common Council has determined that people will continue to be able to obtain and use Synthetic Drugs, such that the adverse effects of said Drugs will continue to adversely impact the health, safety and well-being of the citizens of the City of Oneida; **and**

WHEREAS, this Common Council is of the opinion that the health, safety and well-being of the citizens of the City of Oneida is furthered by banning the sale and possession of synthetic cannabinoids and other similar synthetic substances because the possession of such Synthetic Drugs will continue to have adverse impacts on the community; **now therefore be it**

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

RESOLVED the Common Council has determined this action shall 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 under SEQRA; **and it is further**

RESOLVED that a public hearing on said proposed Local Law be scheduled for June 16, 2015 at 6:30 p.m. in the Common Council Chambers, 109 N. Main Street, Oneida.

Ayes: 6

Nays: 0

MOTION CARRIED

**CITY OF ONEIDA
PROPOSED LOCAL LAW
A LOCAL LAW TO ESTABLISH A NEW CHAPTER TITLED
“PROHIBITION REGARDING THE SALE AND POSSESSION OF SYNTHETIC DRUGS AND
OTHER SIMILAR SUBSTANCES OR COMPOUNDS”**

Be it enacted by the Common Council of the City of Oneida, that the Code of the City of Oneida (hereinafter “Code”) is hereby amended to include a new Chapter titled “Prohibition Regarding the Sale and Possession of Synthetic Drugs and Other Similar Substances or Compounds,” to ban the sale and possession of synthetic cannabinoids and other similar synthetic substances within the City of Oneida, which shall read as follows:

SECTION 1. DEFINITIONS.

As used in this Section, “Synthetic Drug” means any product, whether described as tobacco, potpourri, herbs, incense, spice, aromatic, bath salts, synthetic marijuana, synthetic stimulant or any combination thereof, and whether marketed for the purpose of being ingested otherwise marketed which includes, but is not limited to one or more of the following hallucinogenic substances:

1. 1-Pentyl-3-(1-naphthoyl) indole; some trade or other names: JWH-018; or
2. 1-Butyl-3-(1-naphthoyl) indole; some trade or other names: JVVH-073; or
3. 1-[2-(4-morpholinyl) ethyl]-3-(1-naphthoyl) indole; some trade or other names: JWH-200; or
4. 5-(1.1-dimethyloctyl)-2-[1R,3S]-3-hydroxycyclohexyl[-phenol]; some trade or other names: CP 47, 497; or
5. 5-(1.1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl] -phenol; some trade or other names: cannabicyclohexanol; CP-47, 497 C8 homologue; or
6. 4-methylmethcathinone (Mephedrone); or
7. 3, 4-methylenedioxypropylvalerone (MDPV); or
8. 3,4-Methylenedioxymethcathinone, commonly known as Methylone; or
9. 3-Methoxymethcathinone; or

10. 3-Fluoromethcathinone; or
11. 4-Fluoromethcathinone;
12. Any substance prohibited in an Order for Summary Action in the Matter of the Sale and Distribution of Synthetic Cannabinoids issued by the New York State Department of Health, dated March 28, 2012, and any similar Order subsequently issued by the State of New York Department of Health;
13. Any substance prohibited under federal law pursuant to the “Synthetic Drug Abuse Prevention Act of 2012”;
14. Any synthetic drug analog which shall mean a substance containing the following:
 - a. The chemical structure of which is substantially similar to the chemical structure of a synthetic drug as described above; or
 - b. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a synthetic drug as described above; or
 - c. Which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant or hallucinogenic effect on the central nervous system of a synthetic drug as described above.
15. In order to prevent the creation, possession and use of the drug commonly known as “Water” the unauthorized use of embalming fluid or similar compounds is hereby prohibited within the City of Oneida with such unauthorized use of embalming fluid or similar item defined herein and pursuant to Section 3400 of the New York State Public Health Law and any applicable provision of federal law. For the purposes of this Chapter embalming fluid means any chemicals or substances manufactured primarily for use by licensed funeral directors, undertakers or embalmers, or registered residents, to prepare, disinfect or preserve, either hypodermically, arterially or by any other recognized means the body of a deceased person for burial, cremation or other final disposition. In particular such unauthorized use shall include dipping a marijuana or regular cigarette in embalming fluid.

SECTION 2. PROHIBITION.

1. No person shall sell, offer for sale, give away, barter, exchange or otherwise furnish or provide any synthetic drug as defined herein and by any applicable federal or state law in the City of Oneida, New York.
2. No person shall be in the possession of any synthetic drug as defined herein and by any applicable federal or state law within the City of Oneida, New York, unless said synthetic drug is expressly prescribed to said person by a physician, psychiatrist or person otherwise duly licensed and authorized to prescribe medication within the State of New York, and at the time of the alleged violation, the person in possession of the synthetic drug is able to provide written proof to the law enforcement officer(s) that the synthetic drug was so prescribed.

SECTION 3. PENALTIES.

Any person who violates the provisions of this Chapter shall be guilty of an unclassified misdemeanor punishable by a fine of up to one thousand dollars (\$1,000.00) and/or imprisonment of up to one (1) year, or a civil penalty of one thousand dollars (\$1,000.00) to be recovered by the City of Oneida in a civil action or proceeding.

SECTION 4. SEVERABILITY.

In the event that any section, paragraph, sentence, clause or phrase of this Chapter is held invalid or unconstitutional by any court of competent jurisdiction, the invalid or unconstitutional portions of this Chapter shall be deemed severable from the Chapter and shall in no way affect the validity of the rest of this Chapter.

SECTION 5. EFFECTIVE DATE.

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

Mayor Smith said this proposed Local Law has manifested from the problems with “bath salts” several years ago. He said that the makers of these drugs regularly change the ingredients to avoid the law, and this proposed law addresses that issue. This law is designed to protect our community from those substances.

ADVERTISE FOR BIDS

RESOLUTION 15-132

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, to authorize the Purchasing Agent to advertise for bids for a Custom Built Rescue Truck with Extrication Equipment for the Fire Department.

Ayes: 6
Nays: 0

MOTION CARRIED

BUDGET TRANSFERS

RESOLUTION 15-133

Moved by Councilor Chamberlain
Seconded by Councilor Acker

RESOLVED, to approve the following budget transfer to close out Capital Project 11-13:

<i>Amount</i>	<i>From</i>	<i>To</i>
\$76,000	200.8300.0408 (2011 Water Glenmore Gen)	200.9902.0900 (Transfer to Water)

(Pursuant to City Charter projects must be returned to their original funds if not used within three years if there has been no expenditure or encumbrance)

RESOLVED, to approve the following budget transfer:

<i>Amount</i>	<i>From</i>	<i>Balance</i>	<i>To</i>	<i>Balance</i>
\$1,085.00	001.3650.0400 (Building Demo)	\$15,125.88	001.7521.0403 (Kallet Repairs)	\$6,085.00

(Mayor – Repair to Kallet chiller air-conditioning unit)

Ayes: 6
Nays: 0

MOTION CARRIED

SALES CONTRACT

RESOLUTION 15-134

Moved by Councilor Smith
Seconded by Councilor Acker

RESOLVED, to authorize the Mayor to execute a Sales Contract by and between Smeal Fire Apparatus Co., 610 W. 4th Street, PO Box 8, Snyder, Nebraska 68664 and the City of Oneida Fire Department for the purchase of one (1) Smeal 55’ Aerial Apparatus on a Spartan Chassis in the amount of \$748,907.00.

Ayes: 6
Nays: 0

MOTION CARRIED

Fire Chief Kevin Salerno said this is being purchased off the NJPA contract. The apparatus company will be responsible for delivery to the Oneida Fire Department, and the City Attorney said the apparatus company has the risk of loss until it is delivered.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$6,117,000 JOINT BONDS OF THE CITY OF ONEIDA, MADISON COUNTY, NEW YORK, AND THE TOWNS OF VERONA, VERNON.

VIENNA, LINCOLN AND LENOX, TO PAY THE COST OF THE CONSTRUCTION OF A NEW
LIBRARY FACILITY FOR THE ONEIDA PUBLIC LIBRARY - MOTION TABLED

RESOLUTION 15-130

Moved by Councilor Acker
Seconded by Councilor Chamberlain

WHEREAS, the Common Council of the City of Oneida, Madison County, New York, in conjunction with the Towns of Verona, Vernon, and Vienna in Oneida County, New York and the Towns of Lenox and Lincoln in Madison County, New York, has determined to participate in the financing for the Oneida Public Library District (the "District") of construction of a new public library facility in the City of Oneida, New York and to contract joint indebtedness therefor in accordance with Section 15.00 of the Local Finance Law pursuant the requirements of Chapter 493 of the Laws of 1996 (the "Special Act"); and

WHEREAS, said capital project has been determined to be a "Type I Action" pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, the implementation of which as proposed, it has been determined will not result in a significant environmental impact; and

WHEREAS, in accordance with the requirements of the Special Act, the Common Council now wishes to authorize the joint financing thereof as provided therein, at a maximum estimated cost of \$6,117,000 with an estimated City of Oneida share of \$3,844,986.99; NOW, THEREFORE, BE IT

RESOLVED, by the Common Council of the City of Oneida, Madison County, New York, as follows:

Section 1. For the specific object or purpose of paying the cost of the construction of a new public library facility at 456 Elizabeth Street/Main Street in the City of Oneida, New York, including original furnishings, equipment, machinery, apparatus, appurtenances, site and other improvements and expenses in connection therewith at a maximum estimated cost of \$6,117,000, which specific object or purpose is hereby authorized at said maximum estimated cost, there are hereby authorized to be issued \$6,117,000 joint bonds of said City of Oneida, Madison County, New York (the "City" or the "City of Oneida"), together with the Towns of Verona, Vernon and Vienna, in Oneida County, New York, and the Towns of Lenox and Lincoln in Madison County, New York, pursuant to the provisions of Title 1A of the Local Finance Law and Section 1 of Article VIII of the Constitution of the State of New York. (The five towns are hereinafter referred to collectively as "Towns", and each, a "Town", the Towns and the City are collectively referred to herein as "municipalities").

Section 2. It is hereby determined that the plan for the financing of said specific object or purpose is by the issuance of the \$6,117,000 joint bonds of said City authorized to be issued pursuant to this bond resolution; provided, however, that the amount of joint bonds ultimately issued shall be reduced by any federal and/or state grants-in-aid and other contributions received therefor. The maximum amount of joint indebtedness to be contracted therefore is \$6,117,000 and the amount initially estimated to be allocated and apportioned to the City of Oneida is \$3,844,986.99.

Section 3. For the purposes of Section 15.10 of the Local Finance Law relating to the allocation of joint indebtedness, the amount of joint indebtedness to be apportioned and allocated to each of said Towns and the City, shall be in the same proportion as the levy of the taxes authorized to be levied on behalf of the District in the Special Act in each of the Towns and the City of Oneida. Said allocation is estimated to be, and for purposes of determining gross indebtedness of each of said municipalities in their respective debt statements pursuant to Section 15.10 of the Local Finance Law, the amount to be allocated for the purpose of ascertaining each of the respective municipalities' debt contracting powers, shall be as follows:

Oneida (City)	\$3,844,986.99	62.8574%
Verona (Town)	\$ 827,009.03	13.5198%
Vernon (Town)	\$ 584,009.00	9.5473%
Vienna (Town)	\$ 412,219.63	6.7389%
Lenox (Town)	\$ 305,183.03	4.9891%

Lincoln (Town) \$ 143,592.32 2.3474%

Nothing in this section shall be deemed to be in conflict with or to supersede the provisions of Section 6 of this resolution relating to the annual apportionment of the amount of principal and interest on the bonds herein authorized to be issued as among said Towns and said City, nor the manner of collection and payment of the amounts of annual debt service provided to be apportioned annually by said Section 6. The Supervisors of said Towns and the Comptroller of said City are hereby authorized to act jointly upon further optional action of the respective legislative bodies determining to make application to the State Comptroller for the allocation and apportionment of said joint indebtedness in accordance with the provisions of this section and to perform all acts and furnish all information required in connection with such application, to make such allocation and apportionment conclusive upon approval of the State Comptroller pursuant to Section 15.10(d) of the Local Finance Law.

Section 4. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is thirty years pursuant to subdivision 11(a)(1) of paragraph a of Section 11.00 of the Local Finance Law. It is hereby further determined that the maximum maturity of the bonds herein authorized will exceed five years.

Section 5. Subject to the provisions of the Local Finance Law and this section, the power to authorize the issuance of and to sell joint bond anticipation notes in anticipation of the issuance and sale of the joint bonds herein authorized, including renewals thereof, is hereby delegated to the Comptroller of the City of Oneida, the chief fiscal officer of said City acting on her own behalf and on behalf of the chief fiscal officers of the Towns. Such joint bond anticipation notes shall be of such terms, form and contents and shall be sold by said Comptroller in such manner as may be prescribed by a bond anticipation note certificate, as authorized by Section 30.00 of the Local Finance Law; provided, however, that any bond anticipation notes so issued shall be the joint indebtedness of said Towns and said City and shall be executed in the names of each Town and the City of Oneida, and shall be signed by the Supervisor of each Town on behalf of said respective Town and shall have affixed thereto the seal of each respective Town, attested by the Town Clerk of each respective Town, and shall be signed by the Comptroller of the City of Oneida on behalf of said City and shall have affixed thereto the seal of the City of Oneida, attested by the City Clerk of said City.

The Comptroller of the City of Oneida, as the chief fiscal officer of the City of Oneida to whom is hereby delegated the power to authorize the issuance of and to sell such joint bond anticipation notes, shall file an executed copy of each such bond anticipation note with the finance board of each of the aforesaid municipalities upon or prior to the issuance of the bond anticipation note or notes authorized by such certificate.

Section 6. The faith and credit of said City of Oneida, Madison County, New York; said Town of Verona, Oneida County, New York; said Town of Vernon, Oneida County, New York, said Town of Vienna, Oneida County, New York, said Town of Lenox, Madison County, New York and said Town of Lincoln, Madison County, New York, are hereby jointly pledged for the payment of the principal of and interest on said joint bonds as the same become due and payable. The principal of said joint bonds and the interest thereon shall be apportioned annually amongst said Towns and said City in accordance with the provisions of the Special Act hereinabove referred to in the recitals of this resolution, on the ratio as therein provided, such ratio to be annually determined in accordance with the provision of the aforesaid Special Act. The share of said principal and interest to be borne by the aforesaid Towns and City, shall be annually assessed, levied and collected within each such Towns and City on behalf of the District in accordance with the provisions of the Special Act.

Each such Town and the City of Oneida shall annually levy and collect a tax on behalf of the District sufficient to pay the share of said principal and interest to be borne by each such Town and the City, as the same may become due and payable on behalf of the District in accordance with the provisions of the Special Act.

If not paid from the aforesaid sources, all the taxable real property in said City of Oneida, and all the taxable real property in said Town of Verona, and all the taxable real property in said Town of Vernon and all the taxable real property in said Town of Vienna, and all the taxable real property in said Town of Lenox, and all the taxable real property in said Town of Lincoln, shall be jointly subject to the levy of an ad valorem tax, without limitation as to rate or amount sufficient to pay the principal of and interest on said joint bonds as the same become due and payable.

Section 7. The validity of such joint bonds and joint bond anticipation notes may be contested only if:

- 1) Such joint bonds are authorized for an object or purpose for which said Towns and said City are not authorized to expend money, or
- 2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication, or
- 3) Such joint bonds are authorized in violation of the provisions of the Constitution.

Section 8. Upon the adoption of this resolution by each of the aforesaid Towns and the aforesaid City, and the publication thereof with the notice provided for herein, the Clerks of each such Town and such City shall file with the Clerk of each of the other Towns and of the City a certified copy of this resolution and a certified copy of a printer's affidavit or affidavits, as the case may be, of publication thereof with the required notice or notices, as the case may be.

Section 9. (a) Pursuant to Section 15.00(m) of the Local Finance Law, the powers and duties of advertising such joint bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Comptroller of the City of Oneida, Madison County, New York, who on her own behalf and on behalf of the chief fiscal officers of each of the Towns shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of the aforesaid Towns and the City including sale by private negotiation (including same with the United States Department of Agriculture); provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of said Comptroller of the City of Oneida shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money. All other matters except as provided herein relating to the joint bonds herein authorized including the date, denominations, maturities and interest payment dates, within the limitations prescribed herein and the manner of execution of the same shall be determined by the Comptroller of the City of Oneida on behalf of the City of Oneida and the chief fiscal officers of each of the Towns. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law, and shall otherwise be in such form and contain such recitals, in addition to those required by Section 51.00 of the Local Finance Law, as said Comptroller shall determine consistent with the provisions of the Local Finance Law. Such joint serial bonds shall be in fully registered form and shall be signed in the name of each Town and City by the manual signature of each respective chief fiscal officer and a facsimile of the corporate seal of each Town and City shall be imprinted thereon and shall be attested by the manual signatures of each respective Town or City Clerk.

(b) Pursuant to Section 15.00(j) of the Local Finance Law, the Comptroller of the City of Oneida on behalf of the City of Oneida and the chief fiscal officers of each of the Towns is hereby designated as the registration agent in relation to such joint bonds or bond anticipation notes to perform the functions of fiscal agent as provided therein. The Comptroller of the City of Oneida in said capacity may contract with a bank or trust company located and authorized to do business in the State to perform said functions. It is hereby determined that it is to the financial advantage of each of the Towns and City not to impose and collect from registered owners of such joint bonds charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent.

Section 10. Any obligation issued under authority of this resolution shall contain on its face a recital in substantially the following form: "This obligation evidences the joint indebtedness of the City of Oneida, Madison County, New York, the Town of Verona, Oneida County, New York, the Town of Vernon, Oneida County, New York, the Town of Vienna, Oneida County, New York, the Town of Lenox, Madison County, New York and the Town of Lincoln, Madison County, New York."

Section 11. This resolution shall take effect immediately and shall be published in summary form in the official newspaper of said Town for such purpose, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Councilor Zogby – No
Councilor Bowe – No
Councilor Smith – No
Councilor Acker – Yes
Councilor Chamberlain – Yes
Councilor Simchik – Yes
Mayor – Yes (broke the tie)

MOTION TABLED

The original motion to open discussion was moved by Councilor Smith and seconded by Councilor Simchik.

John Campanie, Attorney, said he is here as the representative of the library, however, he is not the bond counsel. Attorney Campanie said the Oneida Public Library was established by a State statute in 1996. He said the library is co-extensive geographically with the Oneida school system, but has absolutely nothing to do with the school system. This means that it encompasses parts of five towns and the City of Oneida. The statute provides for the issuance of bonds and notes in order to permit the library district to provide facilities. He explained the process by which the library raises funds through its budget. He said once approved, the library doesn't have the money; it is raised through tax levies of the constituent's municipality, and the City of Oneida participates in that process. He said what we have here today is similar to that. The statute provides that the library can have new facilities, and it further provides that it has to be put up for a vote to all those within the library district. The vote was held on March 3, 2015, and the vote passed with a project cost not to exceed \$6.1M.

Attorney Campanie said this now brings us to the next stage of the process, which is the mechanical function of issuing the bonds. He explained that this statute has been in place since 1996, and has nothing to do with the legislation that is pending. He said the existing State legislation provides that once the vote occurs, on request of the library board, "the respective legislative bodies, jointly shall authorize, sell and issue the bonds". He said the bond resolution was delivered to the City on April 29, 2015 and requires a two-third's vote or 4 of 6 need to vote for it. The total amount authorized by the voters was \$6,117,000. However, the bond resolution explicitly provides that "any amount of joint bonds ultimately issued shall be reduced by any federal and/or state grants-in-aid and other contributions received therefor." Attorney Campanie said that approximately \$2.3M has been raised by the library to date, of which, \$2M in cash has been received and approximately \$380K is in pledges to be collected over a short time period. It is anticipated that another \$700K will be raised through further fund raising, grants, and the sale of the existing library facility. Attorney Campanie said, as a lifelong resident of the City, this a great opportunity for the City to increase the services to its residents, to have a first class facility at the gateway of the community, and he believes it will do a lot for the City.

In response to a question from Councilor Smith, Attorney Campanie said this same resolution will be before each of the five town boards. The City of Oneida will be committing themselves only and not committing the other towns. All the towns are jointly liable according to the statute. He said this debt is separate from the annual library budget, this debt has already been approved by the voters. Councilor Bowe questioned as to why, if there is \$2M in cash, is the library not using those funds and bonding for a lesser amount. Attorney Campanie said the bond counsel has recommended it be done that way. He said the ultimate issuance of these 30 year bonds will be for a lesser amount, as they will be reduced by any contributions received. Councilor Chamberlain said his concern is that the City was not informed of this ahead of time, and this was a big hit to us by not knowing until three weeks ago. Attorney Campanie said the authorization was in the library vote that was held. He said the bond documents are complex and technically written for the market. When the bonds go out, they have the right terms and conditions, so if there is a market for them; the best rate is received. Councilor Simchik said this was originally a low interest USDA loan, and Attorney Campanie said USDA is still involved.

Brad Adams, Library Board of Directors, said that during the construction period is when the bonds come into play. He said the bonds in question are short term bonds for only a period of one to two years. Once the library is completed, the obligation changes with the USDA paying off the bonds with the interest rate already set at 4% or lower. Councilor Simchik said once the project is complete this comes off the City's credit, and Mr. Adams said yes, that is his understanding; it becomes a USDA loan and not a City of Oneida loan. Councilor Acker asked if the City could have that in writing from anybody.

Tom Murray, Library Board of Directors, said the USDA loan is a general obligation bond, in which the good faith of the taxpayers of the library district are good for. The term is thirty years at 4%, but this does not kick in until the building is complete and can be occupied. The reason why the actual loan is up to over \$5M is to guarantee the building be completed and all the fund raising, private donations, grants, etc., will reduce that final USDA loan to the estimated amount of \$3.1M, which would be the loan amount. The interest and principal would be paid for over 30 years by the taxpayers.

Jim Simile, 410 N. Willow Street, Oneida, said that the payment at 4% of \$6.1M would be over \$30,000 per month for thirty years. He asked the Council to run the numbers, the library is asking you bind the taxpayers to that payment.

Mr. Murray said the project was approved not to exceed \$6.1M, but the actual loan they can take from the USDA is \$5.1, but that has been reduced through contributions including three grants. As the grants and contributions come in, the amount of the loan is reduced. The loan is estimated to be \$3.1M for thirty years, and although the Resolution says not to exceed \$6.1M; the actual loan amount will be \$3.1M. Attorney Campanie stressed that this has already been approved by the voters.

Councilor Zogby asked at what point in the planning and development of this library program did the fact that the City would have to back the bonds for this project come to light and Attorney Campanie said it's in the statute. Councilor Zogby asked if the members of the library board and Mr. Campanie knew that this requirement would be coming to the City of Oneida when this project was planned. Attorney Campanie said the statute has broad circulation shows how the mechanism works, and it is just being carried forward as set forth in the statute. Councilor Zogby asked about the new legislation, and Attorney Campanie said it has some technical corrections and explained how the City could benefit from this in the future.

The Mayor called on an unidentified person who said that his question was just asked by Councilor Zogby, as he wondered how the vote would have gone if everyone was informed about the bonding issue ahead of time, and he also wondered about the new legislation.

Peter Hedglon, 449 Broad Street, Oneida said he agrees that we need a new library, but he has grave reservations about how this has been conducted. Initially, we were told that there wouldn't be any additional cost to the taxpayers for this new library, as money would be raised through grants, foundations and donations. The fund raising campaign has been unsuccessful. He said then, on the library website, it says if the library has to borrow money, they might have to go to taxpayers. Mr. Hedglon said Attorney Campanie is right that Chapter 493 of the 1996 statute does set it up so that if there is a referendum, the municipalities are responsible to bond for it. It will show as a liability on the municipality's financial statement and with no provision for an off-setting asset. He said the City will have an unsecured, extra liability on its financial statements that will impact their credit for at least a couple of years, and this will cost more when financing for its own operations.

Mr. Hedglon said he disagrees with what was approved at the referendum in March of 2015. He said he printed off the OPL website what it said was being voted on for the referendum and read it aloud: "OPL has received federal approval for a \$5M USDA long term loan and grant to guarantee the completion of the construction. The approved referendum will allow OPL to accept this financing and although the need for the full amount is not anticipated, the construction can begin without any concerns of having inadequate funding to complete the project." Mr. Hedglon said that all of the reporting talked about the USDA loan and not one word (that he could find) has referenced the section in Chapter 493 regarding public bonding. When the small number of people that came to vote on the library, they were given a ballot that didn't mention the USDA loan, but it did mention public financing. What the public was told outside the scope of the ballot was one thing, and what they were given on a piece of paper to vote on was quite different. Mr. Hedglon said that the Council should reject this resolution tonight, and that they should study and seek a careful analysis, as to whether the March 3, 2015 referendum can be rescinded by a court on the basis that the people were not told what they were voting on; in fact, they were told something completely different. Mr. Hedglon said that there is no provision in Chapter 493 for the USDA loan to do anything, and there is no authorization for the public library district to enter into that loan, nor is it in the new legislation that has been proposed.

Attorney Campanie responded that there has been no effort to mislead; there were public notices in the newspaper as to what was being voted on. The ballot was not that complex and very simply sets forth what was being authorized, and he read the ballot aloud. He said what is being advocated is to spend library and city monies to litigate. He said that people have put up \$2.3M, with \$2M of that in cash, and we would be using that money for lawsuits. Attorney Campanie asked the City to lead by example and approve this project.

Jeff Cardinali, 451 Broad Street, Oneida said he has never voted in the library election. He said the reason he came out tonight is because of the amount of debt the City is considering taking on. He said that he was always taught that we have to live within our means. He said our City is literally falling apart. We have vacant buildings, buildings that are falling down, properties coming off the tax rolls, our streets are crumbling and now we are going to take on the debt for the library. He said we are spending a million dollars for fire equipment and trying to support our public safety and infrastructure. He said the extra debt needed for the library is unrealistic, and we are not living within our means. He said that there are less and less taxpayers in the City, and we are not attracting industry. Mr. Cardinale said this extra debt is not affordable, and he asked the Council not to accept this resolution.

Councilor Acker asked Attorney Campanie what it meant on the ballot where it said "through the issuance of debt by the municipalities of the library district or through the auspices of the Dormitory Authority of the State of New York". Attorney Campanie said that was inserted with the hopes that monies would be available through DASNY, however that was not case. He said DASNY has created a list to qualify for financing, and the library was not on their list. Attorney Campanie said new legislation affects the municipalities in our library district. Councilor Acker said this affects the City's bond rating, and added that some of the towns affected cannot do projects that they had planned to do, because they don't have high enough bond ratings. Councilor Simchik said based on \$3.8M, this will be 24.7% of our availing bonding, and Councilor Chamberlain said that is not what it will start out as.

Councilor Bowe said if the library has \$2M in cash, why are they are not using that money to lessen the amount of the bonds. Attorney Campanie said the bonds won't be \$6M, because two million has already been raised. Councilor Bowe said he doesn't feel comfortable with this, but would rather have the \$4M than \$6M.

Fred Cianfrocco, 4484 Seeber Rd., Canastota, said he has never gone to the library other than to vote, but has come tonight because of the money involved. He asked why the library building is costing so much. He said the cost estimates to build this building have never been presented to a contractor. He asked if there would be problems with the soil. He said at least a half a million will have to be spent just to prepare the site with stone fill, etc. He said the Oneida Dispatch building is for sale, and the structure is sizeable and has enough parking. The more you have, the more you have to maintain, and said in 15 years we will be back for a new roof, new driveway, more employees, etc. He said that repurposing the Dispatch building is a much better idea. He said we need a library, but we do not need to spend that kind of money when we have many other problems in the City of Oneida that need to be addressed. He said all winter long at the library, windows were left open and five air conditioners were left in the windows with cardboard filling the sides.

Rick Kinsella, Library Trustee, responded to Councilor Zogby's question about how long the library board knew about the bonding and why wasn't the City told earlier. He said if the referendum had not passed, there was no issue to bring before the Council. He said on March 3rd, we knew that we had an issue, and the results of the referendum sent by certified mail to all the municipalities the next day. He said questions about other locations or cheaper ways to do this are moot; the taxpayers in the library district approved the referendum. He said every year there will be an opportunity to look at the annual library budget. This bonding resolution, if accepted, is not to be questioned every year. It will be paid over a period of time and the loan, once the building is constructed, will be paid by the taxpayers. This is the next step in a complex process. He said once the bonding is in place, we can have contractors bid on the project.

In response to several questions from Councilor Acker, Tom Murray said 576 people voted for the resolution, and 455 said no. The estimated amount of the USDA loan will be \$3.1M. He said municipalities issue the taxes and turn it over to the library. The USDA loan requires that the bond resolution and estoppel notice be certified before bidding can begin. A brief discussion about the bidding process ensued, with Councilor Chamberlain noting that if the contractors all know we have approved \$6M for the project, then that is how much the estimates will come in for. Joe Magliocca, 429 Grand Street, said when the bids go out, the contractors do not see those numbers. Attorney Campanie said the complete project in its entirety is estimated at \$6.1M. The City's share of the total is \$3.844M, however, it is estimated that 50% of that amount is needed.

Mayor Smith said much of the debate about the vitality of this project is irrelevant, because the voters have already spoken to that. Mayor Smith said the bigger question is if we are mandated by the 1996 statute to approve this, and if we decide to challenge that mandate, are we prepared to spend legal fees. The Mayor said we have been doing a lot of positive things in this community, and we should not construe that if this library project goes through, we cannot repave a street. These are not connected, it may however, have a greater tax burden for our residents. Mayor Smith said the question is "are we mandated or are we not"?

The City Attorney said prior to the recent vote, she was not familiar with the statute. She said the language that Mr. Campanie quotes states "shall" and typically that means must. If the City wants to dispute this it would end up in litigation. The library would be taking the position that the City must, and the City would have their objections, whether based on Mr. Hedglon's comments of the validity of the referendum or whether it does in fact require a mandate. The City Attorney said that if the library cannot move forward without this resolution, given the discussion tonight, the City will most likely be sued by the library because they will feel they have no other choice. The City Attorney said she cannot guarantee that the City would win in court. Attorney Campanie read aloud the statute once again. He said the library doesn't want to be in the position of suing the City, however, the voters have spoken and asked that the City consider this positively and gives the necessary votes.

The time frame for the vote was discussed. Mr. Cianfrocco said that haste makes waste and two weeks to get all your thoughts together is not a long time. Councilor Bowe said the City has thrown out bids if they come in higher than expected and inquired what the library would do if that was the case with their bidding. City Attorney Bell said the referendum said up to \$6.1M and anything more would not be supported.

Councilor Zogby said, since the bond counsel determined the full \$6.1M should be in the bonding resolution, what if the Council decided to apply the \$2.3M already raised and bonded for the difference. He asked what the bond counsel would say about that change. Attorney Campanie said the bond counsel has encouraged the way it is reflected in the resolution, and the voters approved the \$6.1M. Brad Adams said the \$2.3M is going to change, as the library continues to raise more funding. He said if the Council reduces that amount from the top, the math won't work out. Attorney Campanie said the volunteers who

have raised these funds have shown commitment in trying to put this together for the community. He said there is a binding description of how much can be bonded for. Peter Hedglon said bond counsel usually gets paid a percentage on the gross amount of the bond. He said the statute doesn't mandate that the Council bond for \$6.1M, and the Council can take into account what has been already raised. Tom Murray said the USDA requires that the total project of \$6.1M be approved, which is what the voters approved. The wording of the resolution reflects USDA guidelines, but Mr. Murray fears it may endanger the loan agreement if it was altered.

Sue Pulverenti, 217 Maple Drive, Oneida, said she has a concern with all the estimates being shared. When the library came to the Council the first time it was \$4M, then the headlines in the paper read \$5M, then \$5.5M, and now it is \$6.1M. She said she is not against a library, but the library continues to share estimates with a past track record showing these estimates just continue to morph. The library board members said it cannot go up past \$6.1M. The Mayor said the question is "are we mandated" and "is it something we should do". An unidentified man in the audience said to not accept this resolution and let it go to court. He said there are a lot of unknown questions and asked why the Council would want to vote on the unknown. The discussion briefly returned to the use of the words "shall" and "may" and potential litigation costs. Councilor Acker questioned what type of input the Council would have with the library as we are carrying the biggest portion of the debt. Attorney Campanie said the library is subject to the same open meetings laws as the City, and they would like to work cooperatively with the City.

Mayor Smith that whenever we have a public hearing, the Council does not vote on that item the same night. Although this is not an official public hearing, he said it feels like one. The Mayor said he believes that it is best to review what has been discussed and come to a comfort level before voting. The Mayor asked about the time frame and if two weeks was crucial, and it was questioned when the other five municipalities would be voting. Town of Vienna is meeting Monday, Town of Lenox on Tuesday and Verona is having a special meeting June 22, 2015. Attorney Campanie said if this is not supported by our City, it will make for a difficult time. The Mayor said he would like to reach out to NYCOM and NYS to provide their input. Councilor Bowe said he wants to know how this is going to affect our City's bonding before he votes and would like to see this pro-rated because of the cash raised. He said you are telling us it's not going to be \$3.8M, but that's what the resolution says. Peter Hedglon said the viable issue to be litigated is whether this was a fair and proper referendum, with respect to what was told to the public and what was buried in legal notices. He said if the bonding amount ends up being \$3M the City's portion would be \$62,000 per year. He said this is approximately equal to a 2% tax increase each year, and he is confident that it can be litigated for a lot less. Attorney Campanie said he believes the library would be successful in its defense, but it would take years of litigation with the costs coming from the taxpayers. Mayor Smith said there is discomfort about some of the issues, and he would like to give the Council time to find that comfort level. Joe Magliocca said this will be a short term bond.

Councilor Simchik said we spend months putting a budget together, and Friday, we find out that will be on the hook for \$3.8M for thirty years on our credit. We work very hard keeping our bond rating low. The City Attorney said this was brought to her attention on April 29, 2015 and she asked that it be placed on the agenda for the June 2nd meeting. Councilor Acker motioned to table the Resolution for two weeks and Councilor Chamberlain seconded. With the vote to table being a tie, there was a brief discussion. The Mayor broke the tie and the vote was tabled.

NEW BUSINESS - None

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

CITY OF ONEIDA

Susan Pulverenti, City Clerk