

**MINUTES OF THE COMMON COUNCIL
JANUARY 20, 2015**

A meeting of the Common Council of the City of Oneida, NY was held on the twentieth day of January, 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, Helen Acker, James Chamberlain, and Thomas Simchik

ABSENT: Councilor Erwin Smith

ALSO PRESENT: City Attorney Nadine Bell
City Chamberlain Nancy Andrews
City Clerk Susan Pulverenti
City Engineer Jon Rauscher
Civil Service Officer Peg Margo
Comptroller Linda Pease
Director of Parks and Recreation Lucas Griff
Director of Planning and Development Cassie Rose
Fire Chief Kevin Salerno
Police Chief David Meeker
Public Safety Commissioner Michael Kaiser

OLD BUSINESS

Solar Energy Project

The Mayor said that he is still in the process of negotiations regarding the solar energy project, which was discussed at the last meeting. The RFP's will be going out for potential solar energy providers, and he said he is very optimistic of a beneficial result for the City.

City's Tax Reimbursement Madison County per the Oneida Indian Nation Agreement

Mayor Smith's Remarks relating to Common Council Meeting of January 20, 2015 – Approved by the Common Council on February 3, 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. (All amendments are in italics and a hard copy will be attached in the formal record)

Councilor Zogby asked the Mayor if there were any updates regarding the Oneida Indian Nation settlement with Madison County and lack of settlement with the City of Oneida, and the Mayor said there are no additional developments since the last Council meeting. Councilor Zogby passed out some documents to the Mayor and Council. He said that is unacceptable, and we are fighting for our lives. He said he is tired of sitting back and waiting for the State to tell us what to do and for the Federal Government to tell us what to do when we are flooded. He said the State/Feds decided to buy houses in our City without any consultation to this Board. Our residents are being shortchanged. We have an agreement put together by the State of New York and jammed down the throats of the County of

Madison, and subsequently down our throats, and now the County of Madison is doing the same thing to us. He referred to the agreement the Council had in front of them and said it clearly states \$11M to Madison County, of which the County has decided to give the City of Oneida and its residents "zero". Someone should be screaming about that, and if no one else will, he said he will have to. There is an additional \$3.5M that is going to be given to the County annually, and we are talking to them going back and forth about getting \$100K/\$150K. We are taking \$1.2M out of our reserve fund to take care of the residents of Madison County that happen to live in the City of Oneida.

Mr. Zogby said, in his opinion, this agreement absolutely clearly states that the County's share of all of these payments is in full satisfaction of all existing tax liens that they claim as against the Nation. It seems clear it is about property taxes, and it goes on to say "and the full satisfaction of tax revenues of any kind that the Counties will not receive in the future from the Nation" under terms of this agreement. Councilor Zogby shouted that we are talking about fire and hydrant taxes, and there is an entire portion of taxes that we lose as a result of this agreement. The County is going to get reimbursed, we are not; it is not even on the table. The County is talking about "deciding" what they are going to give the City of Oneida. Councilor Zogby said he thinks we should tell the County what we want and sit down and negotiate with them, and if not, then we will have to take them to court to get what's due our citizens who happen to be in their county. We cannot continue to pay county and city taxes, our residents are choking. *Amended minutes- 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.*

Councilor Zogby yelled and pointed at Chief Salerno telling him that he should be screaming because his equipment is in jeopardy, which puts his men in jeopardy. Councilor Zogby continued yelling and pointed at Chief Meeker telling him that he should be screaming because the cars and equipment he wants for his men to protect our citizens are in jeopardy. *Amended minutes - 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.*

Councilor Zogby yelled and pointed to the audience saying every citizen in this city should be screaming, and if you don't live here and you work here, you should be screaming, because your job is in jeopardy. He shouted that this is absolutely unacceptable. *Amended minutes - 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.*

Councilor Zogby asked the Council to refer to page one of the documents he passed out. He stated that for the last four years the City has received \$336K, and we gave the County \$180K, and we kept \$157K. He loudly repeated that we kept \$150K and that is simply property taxes, and now we are not even negotiating. They are telling us that they are looking at the figures. He yelled that he wants "us" to look at the figures, and would like us to stop giving them money until we look at our figures and determine what we think we owe them, and then we can tell them what we are going to give them. This can be played both ways. In 2012, we collected \$341K from the Nation. They paid their bill, and we kept \$160K. In 2013, \$355K came to the City and we kept \$171K. In 2014, we kept \$174K. He said that it

seems to him that this incrementally went up because the taxes went up, so we got more money, and now the County wants to go back to 2011 and give us the property tax without any consideration for any sales tax. He said "Have we lost any sales tax, I'd say so". Councilor Zogby said "did we engage in a lawsuit against the Nation at the request of the County, and did we pay millions of dollars for that with no reimbursement from the County while they were being reimbursed by the State of New York for their activity". *Amended minutes - 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' being a two-term Mayor.*

We were talked in to reducing and getting out of the claim, even though we would have been paid for by the State of New York. *Amended minutes - Finally, the Mayor said he wants to the 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. We need to start fighting for it; someone needs to start fighting for it.*

Councilor Zogby offered options on how the amount could be calculated. He was also concerned that this is a 19 year deal. Councilor Zogby requested an executive session at the end of the regular meeting to sit and talk about what action we want to take. He said at least with Wards 1, 2 & 3 occasionally we see a County representative here at the City. He said he feels sorry for Wards 4, 5 & 6, as he has no idea who represents you, but all four of those people are supposed to represent the City, and they are not around. They are not standing up yelling and screaming. He said he understands there are four of them and they may get out voted. We need help; he said this Council and Mayor are guilty of waiting and waiting, but the time has come to take action. He said he doesn't know exactly what it is, "but whatever we have to do legally or illegally, I don't care frankly". *Amended minutes - Another comment made was that Councilor Zogby 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.*

The City Attorney said executive session is appropriate if there is potential litigation and some of what to be discussed would involve strategy, you wouldn't want to discuss that in an open forum with minutes being taken. The Mayor asked Councilor Zogby if he was asking to go into executive session to discuss potential litigation against the County, to which he replied absolutely correct. The consensus of the Council was to go into executive session. Councilor Acker said to Councilor Zogby that he would not do anything illegal, she is not going to jail for anyone. Councilor Zogby said "you don't have to."

Mayor Smith said the only comment he has about that outburst is that stridency, screaming and histrionics do not speak to commitment, and they do not speak to understanding the issue. The Mayor said it speaks to certainly one style, and it is a style to which he is becoming quite familiar.

Moved by Councilor Simchik
Seconded by Councilor Chamberlain

RESOLVED, that the minutes of the meeting of January 6, 2015 are hereby approved as presented.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, that Warrant No. 2, checks and ACH payments in the amount of \$771,361.78 as audited by the Voucher Committee is hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

Moved by Councilor Chamberlain
Seconded by Councilor Bowe

RESOLVED, that Check No. 52284 in the amount of \$9.29 (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: 1 (Smith)
Abstain: 1 (Acker)

MOTION CARRIED

MONTHLY REPORTS

RESOLUTION 15-08

Moved by Councilor Simchik
Seconded by Councilor Chamberlain

RESOLVED, that the monthly reports from the Chamberlain, City Clerk, Comptroller, Director of Planning and Development, Fire Chief, Police Chief, and Recreation Director are hereby received and placed on file.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

Councilor Chamberlain said when you look at the monthly reports relative to what the Police and Fire Departments deal with, and in this case the Police Department, they do an outstanding job. He said both the Fire and Police are good departments. The Mayor commended those police officers who didn't take a single sick day for the entire year, especially with what they deal with during the course of the year.

The Mayor said the final sales tax receipts were \$54K to the positive, which is a good thing.

SCHEDULE HEARING ON PROPERTY LOCATED AT 120-126, 128 PHELPS ST.

RESOLUTION 15-09

Moved by Councilor Zogby
Seconded by Councilor Acker

RESOLVED, that a memo from Timothy S. Cowan, City of Oneida Fire Marshall notifying the Mayor and Common Council that the demolition debris from the commercial structure formerly situated upon real property located at 120-126, 128 Phelps Street needs to be safely removed and the site excavated to lot level, **and be it further**

RESOLVED, that a public hearing be scheduled to be held on February 3, 2015 at 6:30 p.m. in the Common Council Chambers, 109 N. Main Street, Oneida NY 13421 to afford the Council the opportunity to issue an order deeming the property to be a "public nuisance" and to order corrective action be taken.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

The Mayor said there are some that may be of the opinion that the debris has sat for too long, and he explained that he made a decision to attempt to work with the property owners and be as patient as possible in recognition of the catastrophe they encountered and the significant expense that would be incurred by the taxpayers to remove that debris. He said that several weeks ago he decided that the City had waited long enough to see that happen and he began this preceding. The Mayor said that unfortunately, we will be expending our funds, but we cannot have that debris sit there indefinitely.

AMUSEMENT DEVICE LICENSE

RESOLUTION 15-10

Moved by Councilor Simchik
Seconded by Councilor Bowe

RESOLVED, that the following 2015 Amusement Device License be hereby approved:

- Ye Olde Pizza Pub, Inc., 403 Lenox Ave., Oneida NY 13421

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

CHANGE ORDER NO. 2 - FISH CREEK CROSSING IMPROVEMENTS PROJECT

RESOLUTION 15-11

Moved by Councilor Bowe
Seconded by Councilor Simchik

RESOLVED, to authorize the Mayor to sign Change Order No. 2 to decrease contract amount of work related to the Fish Creek Crossing Improvements Project in the amount of \$25,259.80.

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

TASK AUTHORIZATION

RESOLUTION 15-12

Moved by Councilor Chamberlain
Seconded by Councilor Acker

RESOLVED, to authorize the Mayor to sign the 2015 Task Authorization – Task 001 – Laboratory & Process Control and Industrial Pretreatment Assistance with O’Brien and Gere Operations LLC to assist the City of Oneida Waste Water Treatment Plant operators with laboratory and process control support at the Waste Water Treatment Plant on an as needed basis, as requested by the City.

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

WATER FUND TRANSFER

RESOLUTION 15-13

Moved by Councilor Zogby
Seconded by Councilor Acker

WHEREAS, by Resolution duly adopted on April 7, 1992, the City has established a Capital Reserve Fund to finance the cost of construction or reconstruction of water treatment and transmission facilities, pursuant to General Municipal Law, Section 6-c, **and**

WHEREAS, pursuant to said Resolution, the City Comptroller has deposited monies of this reserve fund in a separate bank account known as the Water Reserve Fund, **now therefore be it**

RESOLVED, that the City Comptroller is hereby authorized to transfer \$101,915.62 from the Water Fund to the Water Reserve Fund.

Ayes: 5

Nays: 0
Absent: 1 (Smith)
MOTION CARRIED

ADVERTISE FOR BIDS

RESOLUTION 15-14

Moved by Councilor Acker
Seconded by Councilor Chamberlain

RESOLVED, to authorize the Purchasing Agent to advertise for bids for Water Meters for 2015.

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

AGREEMENTS

RESOLUTION 15-15

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, to authorize the Mayor to sign the following water agreements:

- New Beginnings Free Methodist Church – 2015-2019 Hydrant Agreement
- Town of Stockbridge – 2015-2024 Supply Agreement
- Prospect Street Water District – 2015 Maintenance Agreement
- Prospect Street Water District – 2015-2024 Supply Agreement
- Oneida Castle Water District – 2015-2024 Supply/Hydrant Agreement

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

SUBSTANCE ABUSE TESTING AGREEMENT

RESOLUTION 15-16

Moved by Councilor Bowe
Seconded by Councilor Simchik

RESOLVED, that the Mayor be authorized to sign the annual agreement with Industrial Medical Associates, P.C., 961 Canal Street, Syracuse, NY for substance abuse testing.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

This is for a controlled substance abuse testing agreement for employees per Federal regulations.

BRIDGES AGREEMENT

RESOLUTION 15-17

Moved by Councilor Bowe
Seconded by Councilor Simchik

RESOLVED, that the Mayor is hereby authorized to sign the annual agreement in the amount of \$2,048.00 with BRiDGES a/k/a Madison County Council on Alcoholism and Substance Abuse, Inc. for the Employee Assistance Program.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

This is a Federal mandate.

PROFESSIONAL ENGINEERING SERVICES PROPOSAL – KALLET CIVIC CENTER ROOF

RESOLUTION 15-18

Moved by Councilor Simchik
Seconded by Councilor Chamberlain

RESOLVED, to authorize the Mayor to sign a Professional Engineering Services Proposal with Barton and Loguidice, D.P.C. for the development of construction contract documents for the removal and replacement of existing EPDM roof system at the Kallet Civic Center and further authorize the City Engineer to expend funds in the amount of \$23,400. (2015 Capital Project No. 1 - Kallet and Armory Capital Improvements).

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

City Engineer Rauscher said that Barton and Loguidice are familiar with the Kallet building and up to speed on the project. The Mayor said this has been a long time coming, and as we own this building, it is certainly something we need to do. We need to continue to maintain this jewel in the center of our community, so we have this wonderful asset to use.

ADVERTISE FOR BIDS FOR A STEAM BOILER FOR THE KALLET CIVIC CENTER

RESOLUTION 15-19

Moved by Councilor Acker
Seconded by Councilor Simchik

WHEREAS, on November 18, 2014 the Common Council authorized the Mayor to sign a Professional Engineering Services Proposal with Barton & Loguidice, Syracuse NY, for the development of construction contracts documents for the removal and replacement of the existing steam boiler at the Kallet Civic Center, **now therefore be it**

RESOLVED, to authorize the City Engineer to expend funds in an amount not to exceed \$16,500 for said design services for Capital Project No. 1 – Kallet and Armory Capital Improvements in the amount of \$16,500, **and be it further**

RESOLVED, to authorize the purchasing agent to advertise for bids for the removal and replacement of the existing steam boiler at the Kallet Civic Center, Capital Project No. 1 – Kallet and Armory Capital Improvements.

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

AGREEMENT – ONONDAGA COUNTY SHERIFF’S DEPARTMENT

RESOLUTION 15-20

Moved by Councilor Zogby
Seconded by Councilor Acker

RESOLVED, to authorize the Mayor to sign a contract with the Onondaga County Sheriff’s Department to allow the Oneida Police Department access to the Onondaga County Sheriff’s RICIS System (repository for integrated criminalistic imaging system) from January 1, 2015 through December 31, 2019 in the amount of \$1,000.00 annually.

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

Police Chief Meeker said this is for the renewal of the live scan system; electronic finger printing. The records go to Onondaga County, who forwards them to DCJS in Albany, and we get our response back from them.

BUDGET TRANSFERS

RESOLUTION 15-21

Moved by Councilor Acker
Seconded by Councilor Simchik

RESOLVED, to approve the following budget transfers:

AMOUNT	FROM	BALANCE	TO	BALANCE
\$2,000	001.1990.0400 (Contingency)	\$48,000	001.7140.0202 (Kallet – Boiler)	\$2,000

(For Temporary Heat at the Kallet) – Mayor Smith

\$23,000	001.9950.0900 (Transfer to Capital)	\$5,515	005.1620.0407 (2015 Kallet Boiler/Roof DASNY Grant)	\$23,000
\$16,500	001.1620.0401 (Buildings Electric and Gas)	\$116,908.51	005.1620.0407 (2015 Kallet Boiler/Roof DASNY Grant)	\$39,500

(Construction document fees for the boiler bid documents) – Jon Rauscher

(All balances are as of 01/14/2015)

Ayes: 5

Nays: 0

Absent: 1 (Smith)

MOTION CARRIED

The Mayor said we have been without heat at the Kallet, and we are providing them with a temporary heat source to keep that building up and running while the new heating system is installed.

PROFESSIONAL ENGINEERING SERVICES PROPOSAL – WWTP STUDY

RESOLUTION 15-22

Moved by Councilor Simchik

Seconded by Councilor Chamberlain

RESOLVED, to authorize the Mayor to sign a Professional Engineering Services Proposal with O'Brien and Gere, 333 W. Washington Street, Syracuse NY 13221 to complete a study of dechlorination and alternative disinfection methods to recommend an approach to compliance for the 3.75-MGD-rated City of Oneida WWTP, and further authorize the City Engineer to expend funds in an amount not to exceed \$45,700.

Ayes: 5

Nays: 0

Absent: 1 (Smith)

MOTION CARRIED

The City Engineer said this is a DEC mandate based on the 2014 SPEDES update. They have made the chlorine threshold lower, so this cannot be done by operation; we have to look at design changes at plant.

NEW BUSINESS

Mayor Smith Announces Change in Party Affiliation

Mayor Smith announced that he is going to the Board of Elections tomorrow and change his party affiliation from Republican to Democrat. This has become a matter of conscience and after deliberating about this for some time, he said he has no choice moving forward. This decision has very little to do with those sitting here and very little to do with local politics. He said he believes local politics is based on people and is people specific, but he has found himself significantly out of step with the party he is

currently affiliated with and can no longer rectify that feeling of dramatically being out of place. The Mayor reiterated that he does this as a matter of conscience.

MOMENT OF SILENCE IN HONOR OF KANE BUSS

Mayor Smith said there has been a tragic loss in our community. Claudette Buss served on this Council for two years, and he said all of us can have real empathy for a family who loses a child at the tender age of 19 and asked for a moment of silence in consideration for their loss.

EXECUTIVE SESSION

RESOLUTION 15-23

Motioned by Councilor Zogby
Seconded by Councilor Bowe

RESOLVED, that the meeting is hereby adjourned to Executive Session at 7:05 p.m. for the purpose of discussing proposed litigation.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

PRESENT: Mayor, Councilors, and City Attorney

Discussion was held regarding proposed litigation.

Motioned by Councilor Simchik
Seconded by Councilor Zogby

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 8:30 p.m.

Ayes: 5
Nays: 0
Absent: 1 (Smith)

MOTION CARRIED

Motion to adjourn by Councilor Simchik

The regular meeting is hereby adjourned at 8:30 p.m.

CITY OF ONEIDA

Susan Pulverenti, City Clerk