

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

A meeting of the Common Council of the City of Oneida, NY was held on the twentieth day of October, 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 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  
Deputy Comptroller Lee Ann Wells  
Director of Parks and Recreation Luke Griff  
Fire Chief Kevin Salerno  
Police Chief David Meeker  
Public Safety Commissioner Mike Kaiser

**OLD BUSINESS**

*Update on Kallet Civic Center and Phelps Street Projects*

Mayor Smith said there has been significant progress on the Kallet Civic Center projects and the Phelps Street debris cleanup. City Engineer Jon Rauscher said the Kallet roof is complete, and the new boiler, as it is steam, needs a bit of troubleshooting and should be done by Thursday. The Phelps Street site has been backfilled and is finished.

*CNY Upstate Revitalization Project*

Mayor Smith said he will be heading to Albany tomorrow for the final pitch from Central New York to be chosen for the \$500 million Upstate Revitalization project. The Mayor said they have a very competitive submission.

*Solar Initiative*

Councilor Zogby asked if there were any updates on the solar project, and the Mayor said there is a press release in the Oneida Dispatch today that speaks to the efforts underway with regard to the solar initiative. Mayor Smith said the City will reserve comment until the opinion from the Court is received. The City Attorney said she is uncertain as to when the judge will make a determination.

*Sign Committee Update*

Councilor Simchik asked how the changes to the sign ordinance are coming. Public Safety Commissioner Kaiser, Chairman of the committee, said it has been through the Planning Commission, and the recommendations are complete. The Mayor said the documents are on his desk, and he will forward them to the City Attorney.

*Madison County Nation Settlement Funding*

Joe Magliocca, Oneida, said the City will be receiving \$106K of the OIN settlement funds from Madison County per a County Resolution that states it is only for this year. He said this amount is down \$57K from the \$172K the City received last year. The County is not providing funding to any of the school

districts from the settlement funds. He explained how Oneida County is disbursing their settlement funds through “Partners in Prosperity Funding” to share with those directly affected with the intent to make them whole. He said Oneida County is doing it right, and Madison County is not. Mr. Magliocca said that there is \$38M in Nation lands within the County and \$24M or 62% of that land is in the City of Oneida. He asked that a Resolution be prepared for the next meeting stating the City’s displeasure with not being made whole. He said it should be presented to Madison County and forwarded onto the Governor. Mr. Magliocca said residents should be contacting the City’s Supervisors and letting them know that we want to receive the funding the City is entitled to. Mayor Smith said when Governor Cuomo made the agreement with the Nation, it made all other agreements null and void, including the 2006 agreement that the City had with the Nation. Through that 2006 agreement, the City made the County whole. Mayor Smith said we are in a difficult position, as we have no leverage with County government other than asking them to please do the right thing.

Moved by Councilor Smith  
Seconded by Councilor Acker

**RESOLVED**, that the regular meeting minutes of October 6, 2015 be hereby approved as presented.

Ayes: 6  
Nays: 0

**MOTION CARRIED**

Moved by Councilor Chamberlain  
Seconded by Councilor Simchik

**RESOLVED**, that Warrant No. 20 checks and ACH payments in the amount of \$101,870.37, 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**

Moved by Councilor Chamberlain  
Seconded by Councilor Simchik

**RESOLVED**, that Check No. 54040 (Oneida Office Supply) in the amount of \$810.18, 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  
Abstain: 1 (Acker)

**MOTION CARRIED**

## **RESCHEDULE ELECTION DAY COUNCIL MEETING**

### **RESOLUTION 15-230**

Moved by Councilor Zogby  
Seconded by Councilor Smith

**WHEREAS**, the General Election is being held on the first Tuesday in November, which is a regularly scheduled Common Council meeting time, **now therefore be it**

**RESOLVED**, that the first Council meeting in November shall be scheduled for Wednesday, November 4, 2015 at 6:30 p.m. in the Common Council Chambers.

Ayes: 6

Nays: 0

**MOTION CARRIED**

**PROPOSED LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT  
ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C**

**RESOLUTION 15-231**

Moved by Councilor Acker

Seconded by Councilor Chamberlain

**RESOLVED**, that a proposed Local Law authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c be hereby received and placed on file, **and be it further**

**RESOLVED**, that a Public Hearing on said proposed Local Law be scheduled for Wednesday, November 4, 2015 at 6:30 p.m. in the Common Council Chambers, 109 N. Main St. Oneida NY 13421.

Ayes: 6

Nays: 0

**MOTION CARRIED**

Councilor Bowe said he provided the Council with the formula from the State Comptroller's Office used for the tax cap. It is not arbitrary and not always 2%, there is a formula to be followed. Mayor Smith said he will have the City Comptroller provide an explanation at the next meeting.

**LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS  
OF THE LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C**

Section 1. Legislative Intent

It is the intent of this local law to allow the City of Oneida to adopt a budget for the fiscal year commencing January 1, 2016 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law § 3-c.

Section 2. Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override

The Common Council of the City of Oneida, County of Madison, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2016 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

#### Section 4. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

#### Section 5. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

### **LEGAL COUNSEL FOR SOLAR INITIATIVE**

#### **RESOLUTION 15-232**

Moved by Councilor Simchik  
Seconded by Councilor Smith

**WHEREAS**, on February 17, 2015, the Common Council approved William M. Buchan, Esq., Buchan & Sutter, P.C., 15 Lakeshore Drive Constantia, New York 13044 to be retained as legal counsel for the City's solar energy initiative at a rate of \$160.00 per hour, in an amount not to exceed \$8,000.00, **and**

**WHEREAS**, the expenditures for said legal counsel have increased due to current litigation in regards to the setting of the solar project, **now therefore be it**

**RESOLVED**, that the Common Councilor hereby approves that the amount allotted to William M. Buchan, Esq., Buchan & Sutter, P.C., 15 Lakeshore Drive Constantia, New York 13044, as legal counsel for the City's solar energy initiative at a rate of \$160.00 per hour be increased from the original amount of \$8,000, so as not to exceed \$16,000.00.

Ayes: 5

Nays: 0

Abstain: 1 (Zogby)

#### **MOTION CARRIED**

The Mayor said this is in anticipation of work that will be done, as well as, some that has already been done. The Mayor said the last couple months have shown the need for additional counsel, and there is a need to continue to this initiative. The City Attorney's hours are separate costs from Mr. Buchan's.

Darren Lynch, Oneida, asked if the City was still going to continue with Mr. Buchan who negotiated an agreement that he feels was unfair to some taxpayers. Mayor Smith said that Mr. Lynch is a litigant in a lawsuit regarding this specific issue, and he will not debate the merits.

Kelly Lewin, Oneida, said you are requiring the same taxpayers, who don't think this solar initiative is in the best interest of the City, to pay for this attorney to defend the solar farm. Ms. Lewin asked Councilor Zogby make a motion to table this Resolution until the taxpayers know what the final plan is for solar in the City.

### **MONTHLY REPORTS**

#### **RESOLUTION 15-233**

Moved by Councilor Acker  
Seconded by Councilor Simchik

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

Ayes: 6  
Nays: 0

**MOTION CARRIED**

Councilor Smith said sales tax is up and encouraged shopping local. Fire Chief Salerno said that non-fire calls include false alarms, wires down, etc.

**BUDGET TRANSFERS AND BUDGET AMENDMENTS**

**RESOLUTION 15-234**

Moved by Councilor Simchik  
Seconded by Councilor Bowe

**RESOLVED**, to approve the following budget transfers:

	<b>FROM</b>	<b>BALANCE</b>	<b>TO</b>	<b>BALANCE</b>
\$12,600	002.8300.0436 (Water Contingency)	\$15,585	002.8300.0102 (Water Overtime)	\$11,231.01
	<i>(Increase in overtime is attributable to covering Chris Hawks shift with overtime, as trainee obtains experience and license.)</i>			
\$10,586	001.0022.2680 (Insurance Recovery)	\$9,533.93	001.3410.0102 (Fire Overtime)	\$60,889.60
	<i>(Wage reimbursement for a fireman hurt on the job)</i>			
\$4,000	001.1910.0400 (Insurance)	\$22,424.22	001.1420.0412 (Attorney Purchase of Property)	\$3,137.50
\$16,000	001.1910.0400 (Insurance)	\$6,424.22	001.1420.0419 (Attorney Misc)	\$16,143.72
	<i>(To increase attorney budget for purchase of property and miscellaneous billable items)</i>			
\$8,000	001.9011.0807 (Police & Fire Retire)	\$1,126.76	001.1420.0409 (Solar Energy Buchan)	\$9,320.00
	<i>(To increase solar energy attorney line)</i>			
\$1,087.27	001.7140.0418.2025 (Recreation Pool Swim/Instr)	\$0	001.7140.0403.2033 (Recreation Toddler Program)	\$1,754.11

**RESOLVED**, to approve the following budget amendments:

	<b>FROM</b>	<b>BALANCE</b>	<b>TO</b>	<b>BALANCE</b>
\$2,248	001.0022.2680 (Sale of Real Property)	\$17,976.50	001.1420.0413 (Attorney Fees Sale of Real Property)	\$2,248

*(To account for sale of property proceeds to pay attorney fees)*

\$879	001.0017.1521 (Police Revenue)	\$4,350	001.3120.0300 (Police Supplies)	\$5,330.92
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*(Reimbursement from the Madison County District Attorney's Office for half the cost of the Leads Online Program).*

Ayes: 6

Nays: 0

**MOTION CARRIED**

### **NEW BUSINESS**

#### *Madison County Tourism Event*

Mayor Smith said Madison County Tourism is having their annual Harvest Celebration at the White Eagle Banquet and Conference Center Teepee Room in Hamilton on November 5, 2015. This is an evening of networking with tourism professionals. Mayor Smith said he will provide the Council with further information on the event and recommended attending if available.

#### *Transition of Mayor*

Councilor Zogby said that he would like to see a smooth transition into office for the new Mayor, as in a previous year the incoming Mayor found no documents in the office. Mayor Smith said regardless of the political atmosphere between himself and an incoming Mayor or what the level of personal relationship might be; he will have a smooth transition, as he will not be taking anything out of the office that doesn't belong to him. Mayor Smith said there should be an orientation plan for new Councilors coming into office. Councilor Zogby would like to see this codified in some manner. Councilor Bowe said everything is backed up on the system anyway, and Department Heads should be backing up their computers each day.

#### *Ward Redistricting*

Councilor Acker reminded everyone of the election in two weeks and to look at the Proposition for Ward Redistricting, as it hasn't been done in over 35 years.

#### *Annual Recreation Department Halloween Party*

Recreation Director Luke Griff said the annual Halloween Party is this Saturday, October 24<sup>th</sup>. They are bringing back the popular "Trunk or Treat" whereby you can bring your car, open the trunk, decorate it for Halloween and pass out candy to all the trick or treaters.

#### *Comments on Website and Fire Department Tee Shirts for Cancer Awareness*

Kelly Lewin, Oneida, said that the website is looking good. Commissioner Kaiser thanked Councilor Bowe for wearing the pink tee shirt in support of cancer awareness and said the Fire Department is selling the shirts for \$20 each with all proceeds going to the Cancer Society.

#### *Fire Department Inspections of Rental Properties*

Milt James, Oneida Castle, questioned the legality of the Fire Department's inspections and inspection fees for rental properties. Councilor Zogby said he received the letter and forwarded it to the Mayor, Council, Fire Chief and City Attorney. He said our legal counsel will be looking into the matter. Kelly Cohn, Oneida, said that she co-authored some of the information and said she spoke with Thomas Julio from NYS, who will be contacting the City Attorney. Mayor Smith said this is not the first time this issue has been raised; however, the Council will do their due diligence once again, and if justified will continue with inspections; if not we will cease and desist.

## **EXECUTIVE SESSION**

### **RESOLUTION 15-235**

Moved by Councilor Acker  
Seconded by Councilor Simchik

**RESOLVED**, that the meeting is hereby adjourned to Executive Session at 7:22 p.m. for the purpose of discussing collective negotiations pursuant to Article 14 of the Civil Service Law and a personnel issue.

Ayes: 6  
Nays: 0

### **MOTION CARRIED**

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

1. Discussion regarding collective negotiations pursuant to Article 14 of the Civil Service Law.
2. Discussion regarding a personnel issue.

Moved by Councilor Acker  
Seconded by Councilor Bowe

**RESOLVED**, that Executive Session is hereby adjourned to the regular meeting at 8:10 p.m.

Ayes: 6  
Nays: 0

### **MOTION CARRIED**

Motion to adjourn by Councilor Smith

The regular meeting is hereby adjourned at 8:11 p.m.

CITY OF ONEIDA

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Susan Pulverenti, City Clerk