

**MINUTES OF THE COMMON COUNCIL
SEPTEMBER 15, 2015**

A meeting of the Common Council of the City of Oneida, NY was held on the fifteenth day of September, 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, James Chamberlain, and Thomas Simchik

ABSENT: Councilor Helen Acker

ALSO PRESENT: City Attorney Nadine Bell
City Chamberlain Nancy Andrews
City Clerk Susan Pulverenti
City Engineer Jon Rauscher
Director of Parks and Recreation Luke Griff
Fire Chief Kevin Salerno
Public Safety Commissioner Mike Kaiser

PUBLIC HEARING

RESOLUTION 15-219

Moved by Councilor Smith
Seconded by Councilor Chamberlain

RESOLVED, that the Public Hearing on the proposed Local Law amending Article 1, Section 1.6 of the City Charter to amend the Ward Boundaries be hereby opened at 6:30 p.m.

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

MOTION CARRIED

APPEARANCES: None

Moved by Councilor Smith
Seconded by Councilor Zogby

RESOLVED, that the Public Hearing on the proposed Local Law amending Article 1, Section 1.6 of the City Charter to amend the Ward Boundaries be hereby closed at 6:31 p.m.

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

MOTION CARRIED

Discussion ensued about redistricting of the City Ward boundaries.

Councilor Bowe said the City hasn't changed the Ward boundaries in over 30 years. He said that the Oneida County Planning Department presented this to the Council, and he noted that the group who prepared the maps were surprised that it was accepted on the first try. Councilor Bowe said we shifted over 9,000 people, and he thinks this is a very drastic change even though it hasn't been done in thirty years. He said he feels that he didn't have enough time to study this. In response to a question, the Mayor said the Council was presented with the redistricting maps and voted to approve 5 to 1. The Mayor said tonight we had a public hearing, and Council will decide on adopting the Resolution. If adopted it then it will be on the ballot at the November election for approval by the voters. The Mayor said people are being shifted around with the purpose being to even out the number of people living in the various Wards to try to achieve a less than 10% variation amongst the Wards. There were significant discrepancies in the size of the Wards. Councilor Simchik said that it is based on census data, and Oneida County uses the census blocks to determine the same percentage in each Ward with the necessary software. Councilor Simchik said it is purely based on population, and it is illegal to use political affiliation. The City Clerk said information will be available on the City website when the Council adopts the Local Law. A page will be developed for the City website that will be clearly marked for easy access to see any information, including maps, relating to the changing of the Ward Boundaries.

In response to a question, the City Attorney said when a Local Law is being passed or considered, the law is introduced (as it was at the previous meeting), what is being considered is published announcing a public hearing (tonight), and then at the public hearing the public has the right to speak. There is no obligation for any municipal government to put forth a presentation on what a Local Law is for. She said the Resolution provides all the information contained therein of what the Local Law means. The obligation is only to allow the public to speak at a public hearing. Councilor Bowe said Ward 4 needed about 441 people, and we have accomplished that, but have shifted 9,000 people to do so. Joe Magliocca said they had to move whole street centerlines, and that is why it is not so cut and dry. He said the reason why more people may have had to be moved around is because of use of the centerlines in the streets.

Councilor Zogby, in response to a question, said that the City Charter requires that the Ward populations be revisited after each census. He said the Councilors from Wards 1 and 2 represent 40% of the population, and the rest of the Council is 60%. Councilor Zogby said this is basically creating new wards from the old wards. The only criteria was only to keep the sitting Councilors in their current wards. He said that we have no idea what the demographics of those Wards is politically. Councilor Zogby said this hasn't been done in about 40 years. He said the Councilors are representing people, and Oneida County had to start somewhere with this mapping project. The public will have a chance to weigh in at the election. The Mayor said we cannot base the redistricting on the unknown, such as houses being lost from the buyout in Ward 4 or the new housing development in Ward 5.

Councilor Simchik said that Oneida County Planning started with a blank slate and the Councilors current addresses. They were asked, if possible, to leave each Councilor in the same Ward they are currently in. Councilor Simchik said this project was set in motion about a year ago. We are required by our Charter and State Law to do so after each census, and it has not been done in many years. Mayor Smith said the Council had the opportunity to have the County go back and come forward with another submission; however, a majority of the Council chose not to do so. The Mayor said the Oneida County Planning Department was chosen not only because they had the required software, but because they had a great deal of experience in doing this, as they have done Oneida County and the Cities of Utica, Herkimer, and Rome amongst others.

OLD BUSINESS

2013 Releived Water Bill – 128 N. Main Street

Councilor Simchik questioned the August 20, 2013 due process hearing for water/sewer bills regarding the property at 128 N. Main Street. He said that because of a problem with the difference between the words “abstain and recuse”, the Resolution was considered to have failed per the City Attorney. Mike Musacchio came in on August 21, 2013 to pay the bill as per the Resolution the night before, however, the City Chamberlain said the check was never cashed and returned to him at the PO Box listed on the check. Mayor Smith said the Resolution was determined to be voted down and Mr. Musacchio never brought this to the Council again until June 16, 2015, because the property is being sold. The City Clerk said on June 16, 2015, after listening to Mr. Musacchio, the Council passed a Resolution dispensing the matter with no further action to be taken. Councilor Zogby said the decision was made because he told us the water bill had been paid, and we discovered it had not been paid. Councilor Zogby said he told Mr. Musacchio that it had nothing to do with the City; it was between Mr. Musacchio and the property owner. The City was trying to collect the money it was owed for past-due water bills. The City Chamberlain said the 2014 water bills were relieved onto the taxes.

Proposed Solar Project

Councilor Zogby questioned if there was anything new to report on the solar project. The Mayor stated that under advice of Counsel given to the Common Council during Executive Session at the last meeting; this will not be discussed. The Mayor said to Councilor Zogby that he was entitled to any current information; however, the public is not at this time. City Attorney Nadine Bell said it is recommended that you do not discuss current litigation, as we have a date that is returnable in court scheduled for October 9, 2015, and that she has given the Council advice to not discuss this issue.

E-mail List on the City Website

Jill Christian Lynch stated she signed up for the emails and received a water discoloration notice. She suggested that agendas, minutes, etc. be emailed to people to provide more information to the public.

Public Hearings

Jill Christian Lynch asked what triggers Public Hearings. The City Attorney said with regard to Common Council meetings, there is no legal right for members of the public to participate as you have been allowed to do. The only time that government is required to allow citizenry to contribute is when there is a public hearing. Public hearings are required when there is a Local Law or if there is something required by statute that requires a public hearing. The City Attorney gave the example of a resolution to approve a contract. It doesn't require a public hearing, and the public has no right to say it is a good agreement or bad agreement. The Water hearings are due process hearings, and those are different. The City Attorney said when you are taking away someone's property rights, such as water, they are entitled to due process (a hearing) to not have their water turned off because of no payment. Attorney Bell cited examples of different communities who only allow the public to talk for a couple minutes after all the business has been discussed at the end of a meeting, adding that many do not allow the public to speak at all. Madison County allots a few minutes at the end of meetings to allow the public to speak. The Mayor said he chose to engage the people at every meeting and listen to them, even when he was under no requirement to do so.

Moved by Councilor Smith
Seconded by Councilor Simchik

RESOLVED, that the regular meeting minutes of September 1, 2015 be hereby approved as presented.

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

MOTION CARRIED

Moved by Councilor Simchik
Seconded by Councilor Bowe

RESOLVED, that Warrant No. 18 checks and ACH payments in the amount of \$430,691.60, as audited by the Voucher Committee, is hereby approved for payment in the usual manner at the discretion of the Comptroller.

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

MOTION CARRIED

Moved by Councilor Simchik
Seconded by Councilor Bowe

RESOLVED, that Check No. 53786 (Oneida Office Supply) in the amount of \$170.77, 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 (Acker)

MOTION CARRIED

BOND RESOLUTION DATED SEPTEMBER 15, 2015 – *MOTION TABLED*

A RESOLUTION AUTHORIZING DEMOLITION CLEANUP FOR 120 PHELPS STREET IN AND FOR THE CITY OF ONEIDA, MADISON COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$165,000, AND AUTHORIZING THE ISSUANCE OF \$165,000 BONDS OF SAID CITY TO PAY THE COST THEREOF

RESOLUTION 15-220

Moved by Councilor Smith
Seconded by Councilor Zogby

BE IT RESOLVED by the affirmative vote of not less than three-fifths of the total voting strength of the Common Council of the City of Oneida, Madison County, New York, as follows:

- Section 1. Demolition cleanup for 120 Phelps Street in and for the City of Oneida, Madison County, New York, including incidental costs related thereto, is hereby authorized at a maximum estimated cost of \$165,000.
- Section 2. The plan for the financing of such maximum estimated cost is by the issuance of \$165,000 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

- Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is five years, pursuant to subdivision 12-a of paragraph a of Section 11.00 of the Local Finance Law.
- Section 4. The faith and credit of said City of Oneida, Madison County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. To the extent not paid from other sources, there shall annually be levied on all the taxable real property of said City, a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.
- Section 5. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the City Comptroller, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said City Comptroller, consistent with the provisions of the Local Finance Law.
- Section 6. All other matters except as provided herein relating to the 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, including the consolidation with other issues, and also the ability to issue bonds with substantially level or declining annual debt service, shall be determined by the City Comptroller, the chief fiscal officer of such City. 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 the City Comptroller shall determine consistent with the provisions of the Local Finance Law.
- Section 7. The validity of such bonds and bond anticipation notes may be contested only if:
Such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or
- 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 such publication, or
- Such obligations are authorized in violation of the provisions of the Constitution.
- Section 8. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150-2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 9. This resolution, which takes effect immediately upon the final passage thereof, shall be published in summary form in the official newspaper of said City for such purpose, together with a notice of the City Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION TABLED

City Engineer Jon Rauscher said the notice to proceed will go out tomorrow, and in 20 days the cleanup will begin.

Councilor Zogby said he would like to take funds from the City's Revolving Loan Fund to pay for this rather than to bond for the money. The City Attorney said she was uncertain about the legality of doing so. After a discussion, the Council decided to table the Resolution to get more information on funding sources from the Comptroller and Planning Director. The original motion to open discussion was moved by Councilor Simchik and seconded by Councilor Bowe.

MONTHLY REPORTS

RESOLUTION 15-221

Moved by Councilor Smith

Seconded by Councilor Chamberlain

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: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

Councilor Zogby congratulated the Recreation Director on the rentals being up 105% and how well the parks have been maintained this year. Councilor Simchik thanked Lowe's for the work they did at Higinbotham Park, noting it looks very nice. Councilor Smith commended the Police and Fire Departments noting that August was a very busy month. The Mayor said there were two house fires, and the Police Department was averaging 100 calls per weekend, which involved arrests for the Police Department.

AMEND CAPITAL PROJECT 15-1 KALLET AND ARMORY CAPITAL IMPROVEMENTS

RESOLUTION 15-222

Moved by Councilor Simchik

Seconded by Councilor Zogby

RESOLVED, to that Capital Project 15-1 Kallet and Armory Capital Improvements be hereby amended to increase the budget for asbestos work done on the Kallet Civic Center Boiler by

Barton &Loguidice PC, 290 Elwood Davis Rd., Syracuse, NY 13220 (\$1,200); MidAtlantic Environmental Inc., 42 Genesee Street, New Hartford NY 13413 (\$3,500); and A2Z Construction of CNY, 1502 Brewer Road, Oneida NY (\$650) for a total amount of \$5,350.00.

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

EXTEND EMPLOYMENT DATES FOR REC MAINTENANCE WORKER SEASONAL

RESOLUTION 15-223

Moved by Councilor Chamberlain

Seconded by Councilor Simchik

WHEREAS, a Rec Maintenance Worker Seasonal employee is scheduled to be released from City employment on August 14, 2015, and

WHEREAS, the Recreation Department will be short-staffed, due to the injury of another seasonal worker, leaving only one Rec Maintenance Worker Seasonal after August 14, 2015, now therefore be it

RESOLVED, that the position of Rec Maintenance Worker Seasonal, \$9.00/hr. for 40 hours a week, be hereby extended from September 16, 2015 through Friday, September 25, 2015.

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

ADOPT LOCAL LAW TO AMEND THE CITY CHARTER – WARD BOUNDARIES

RESOLUTION 15-224

Moved by Councilor Smith

Seconded by Councilor Simchik

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled “A Local Law Amending Article I, Section 1.6 of the Oneida City Charter to Amend the Ward Boundaries of the City of Oneida,” was presented and introduced at a meeting of the City of Oneida Common Council held on September 1, 2015; **and**

WHEREAS, a public hearing was held on such proposed local law on the 15th day of September, 2015 by the Common Council of the City of Oneida and proof of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard; **and**

WHEREAS, at its September 1, 2015 meeting, the Council determined that the enactment of the proposed local law is an Unlisted action for purposes of SEQRA and, having declared itself Lead Agency, issued a negative declaration; **and**

WHEREAS, this local law is subject to a mandatory referendum; **and**

WHEREAS, it is in the public's interest to enact said Proposed Local Law.

NOW, THEREFORE, it is

RESOLVED, that the Common Council of the City of Oneida, Madison County, State of New York, pursuant to the Authority vested in it by law does hereby enact a Local Law amending Article I, Section 1.6 of the Oneida City Charter to amend the Ward Boundaries of the City of Oneida as follows:

“SECTION 1. PURPOSE.

In accordance with Section 1.6 of the Oneida City Charter, the City of Oneida is divided into six (6) wards. The boundaries of the six (6) wards were most recently established by Local Law No. 3 of 1979. Due to the redistribution of population within City boundaries, the population of each ward varies significantly. The Common Council of the City of Oneida has determined that it would be desirable to amend the boundaries of the six (6) wards so as to provide more equitable representation to the constituents of each ward. The purpose of this Local Law is to effectuate such change, effective January 1, 2016. Said change would be subject to a mandatory referendum. Therefore, an additional purpose of this local law is to place on the November 3, 2015 general election ballot, a referendum item which allows the electors of the City of Oneida to decide if they wish to change the boundaries of the City of Oneida's six (6) wards.

SECTION 2. AUTHORITY.

Pursuant to Municipal Home Rule Law Section 10(1)(i), cities are permitted to adopt and amend local laws not inconsistent with the provisions of the Constitution or not inconsistent with any general law relating to its property, affairs or government.

SECTION 3. AMENDMENT OF SECTION 1.6 OF THE CITY CHARTER AND ADOPTION OF OFFICIAL WARD MAP.

So that Section 1.6 of the Oneida City Charter, titled “Ward boundaries,” shall be amended so as to read, in its entirety, as follows:

“Section 1.6. Ward Boundaries.

A. Division by Wards.

The City of Oneida shall be divided into six (6) wards.

B. Official Ward Map.

The map of the City of Oneida's six (6) ward boundaries adopted by the Common Council pursuant to Local Law No. 2 of 2015 shall be the official map of the six (6) ward boundaries of the City of Oneida. A copy of the official ward map is filed and available for inspection in the City Clerk's office.”

SECTION 4. MANDATORY REFERENDUM.

Pursuant to Municipal Home Rule Law Section 23(2)(h), this local law shall be submitted for approval to the electors of the City of Oneida at the next general City election to be held on November 3, 2015.

SECTION 5. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the Department of State after approval by a majority of the electors voting thereon in accordance with the requirements of Section 27 of the Municipal Home Rule Law;”

and it is further

RESOLVED, that a proposition will be put before the voters at the General Election to be held on November 3, 2015, and the Clerk of said City is hereby authorized and directed to cause to be published in the City of Oneida’s official newspaper the official ward map prepared by the Herkimer-Oneida County Planning Department, dated August 19, 2015, and to be included in the Notice of the Election the following proposition which shall read as follows:

“Shall Section 1.6 of the Oneida City Charter be amended to provide new boundaries for the City of Oneida’s six (6) wards, as enumerated and set forth on the official ward map, prepared by the Herkimer-Oneida County Planning Department, dated August 19, 2015, filed with the Oneida City Clerk?”

- Councilor Zogby - Yes
- Councilor Bowe - No
- Councilor Smith - Yes
- Councilor Acker - Absent
- Councilor Chamberlain - Yes
- Councilor Simchik - Yes

MOTION CARRIED

The City Attorney said this needs to be to the County by September 28, 2015 to be placed on the ballot.

BUDGET TRANSFERS

RESOLUTION 15-225

Moved by Councilor Simchik
Seconded by Councilor Bowe

RESOLVED, to approve the following budget transfers:

	FROM	BALANCE	TO	BALANCE
\$3,826.34	001.1990.0400 (Contingency)	\$17,384.54	001.1364.0408 (School Tax 2015-2016)	\$3,826.34

(2015-2016 School Tax Bills on Madison and Lake Street Property Acquired)

\$79,048.24	001.9011.0807	\$1,469.27	001.1355.0101	\$30,092.63
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(Police/Fire Retirement)		(Assessor Salaries)	
	\$3,975.07	001.1620.0101 (Building Salaries)	\$25,542.82
	\$957.45	001.1315.0101 (Comptroller Salaries)	\$41,123.64
	\$716.43	001.1325.0101 (Chamberlain Salaries)	\$16,725.85
	\$1,274.30	001.1680.0101 (Technology Salaries)	\$7,647.75
	\$45,821.72	001.5110.0101 (DPW Salaries)	\$246,186.40
	\$2,414.98	001.5110.0102 (DPW Overtime)	\$6,813.05
	\$3,025.96	001.3620.0101 (Codes Salaries)	\$18,291.61
	\$46.04	001.3620.0102 (Codes Overtime)	\$689.10
	\$1,913.84	001.5010.0101 (DPW Admin)	\$40,534.14
	\$1,562.53	001.3410.0101 (Fire Salaries)	\$483,515.26
	\$1,950.89	001.8020.0101 (Planning Salaries)	\$31,613.10
	\$6,254.84	001.3120.0101 (Police Salaries)	\$621,968.63
	\$11.05	001.3120.0102 (Police Overtime)	\$17,610.65
	\$2,036.41	001.7140.0101 (Recreation Salaries)	\$27,576.12
	\$4,552.71	001.9030.0801 (Social Security FICA)	\$166,010.06
	\$1,064.75	001.9035.0802 (Medicare)	\$42,979.14

(Cover the cost of the retro-pay for CSEA employees due to settlement of contract for 2014-2015 and increases for the remainder of 2015)

\$1,075	001-7140-0403-2036	\$0	001-7140-0403-2018	\$3,075
	(Recreation Adult Kickball)		(Recreation Youth Flag Football)	

(Flag Football program expansion)

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

WAIVE RULE TO ACCEPT AGENDA ITEMS

RESOLUTION 15-226

Moved by Councilor Bowe

Seconded by Councilor Chamberlain

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

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

LETTER OF UNDERSTANDING OF SERVICES FOR YEAR ENDED 2014 SINGLE AUDIT

RESOLUTION 15-227

Moved by Councilor Smith

Seconded by Councilor Bowe

WHEREAS, on December 14, 2014, the Mayor was authorized to sign the Engagement Letter from D’Arcangelo & Co., LLP, 200 E. Garden St. PO Box 4300, Rome NY 13442-4300 for the year ended December 31, 2014 Audit of the City’s financial statements in an amount not to exceed \$19,500, **and**

WHEREAS, a single audit is necessary to meet the requirements of OMB Circular A-133, which consists of tests of transactions and other applicable procedures described in the OMB Circular A-133 Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City’s major programs, **and**

WHEREAS, as the estimated fee for D’Arcangelo & Co., LLP to prepare said single audit to meet the requirements of the OMB Circular A-133 is \$1,500, **now therefore be it**

RESOLVED, to authorize the Mayor to sign the Letter of Understanding of Services from D’Arcangelo & Co., LLP, 200 E. Garden St. PO Box 4300, Rome NY 13442-4300 and further

authorize payment in an amount not to exceed \$1,500 for said single audit to meet the requirements of OMB Circular A-133 for the year ended December 31, 2014.

Ayes: 5

Nays: 0

Absent: 1 (Acker)

MOTION CARRIED

NEW BUSINESS

Special Meeting of the Common Council

Mayor Smith said he would like to call a Special Meeting in Executive Session at 6:00 p.m. on Wednesday, September 23, 2015 to discuss current litigation. The Council and City Attorney all agreed they would be available, and as long as Attorney Buchan is available for that evening, the meeting will be noticed.

Motion to adjourn by Councilor Smith

The meeting is hereby adjourned at 7:37 p.m.

CITY OF ONEIDA

Susan Pulverenti, City Clerk