

**MINUTES OF THE COMMON COUNCIL
MARCH 20, 2018**

A meeting of the Common Council of the City of Oneida, NY was held on the twentieth day of March, 2018 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 Deputy Mayor James Chamberlain

PRESENT: Councilors Michael Bowe, James Coulthart, Helen Acker, James Chamberlain and Thomas Simchik

ABSENT: Mayor Leo Matzke
Councilor Al Cohen

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
Fire Fighter Travis Krol
Police Chief Paul Thompson
Recreation Director Luke Griff
Supervisor John Reinhardt
Supervisor Joe Magliocca
Supervisor Mary Cavanaugh

PUBLIC HEARING

RESOLUTION 18-70

Moved by Councilor Bowe
Seconded by Councilor Acker

RESOLVED, that the Public Hearing in accordance with Article II of Chapter 34 of the City of Oneida Code on the property located at 409 Genesee Street (Tax Map No. 38.70-1-2) be hereby opened at 6:36 p.m.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

APPEARANCES

City Attorney Nadine Bell explained that the City of Oneida Assistant Fire Marshal had previously provided the notice of unsafe or collapsed structures to the Council and requested the Public Hearing be held today. Attorney Bell asked if the property owner or a representative on behalf the property owner was present this evening and received no response from the audience. Attorney Bell said the Assistant Fire Marshal was unable to attend, and the Fire Marshal who was to attend in his place is ill today. However, there is a representative from the Fire Department in attendance. The City Attorney said the Council can adjourn the hearing because the property owner is not in attendance or they can proceed with the Public Hearing. Councilor Acker said the Council should proceed, and the Council agreed.

The City Attorney said that she issued a Notice of Unsafe Building/Collapsed Structure on February 21, 2018 and filed said notice with the Madison County Clerk on March 6, 2018. She said a title search was conducted and all interested parties were served in accordance with Chapter 34 of the City Code.

The City Attorney swore in Fire Fighter Krol who stated that he is a Codes Officer for the Fire Department. The City Attorney said we are talking about the property located at 409 Genesee Street, Tax Map. No. 38.70-1-2. Attorney Bell asked Fire Fighter Krol if he was a representative of the Fire Department, and if the Fire Marshall had inspected the property and identified the items in Exhibit A of the notice as the violations, to which Fire Fighter Krol responded yes.

Attorney Bell said the violations in the Fire Marshal's report indicate that the roof is in poor condition, it leaks and is not water tight. The ceiling has fallen to the floor, there is mold throughout the interior of the building, and a section of the northern wall approximately 8 feet by 10 feet has completely collapsed and is open to the weather. Attorney Bell asked Fire Fighter Krol if this was accurate, and he responded yes.

Attorney Bell said that the Fire Marshal's report noted that the property is in violation of the International Property Maintenance Code 108.1.5(3) which regulates the structural integrity, and Fire Fighter Krol said yes it is. Attorney Bell said the property is in violation of Property Maintenance Code (PMC) Section 108.1.5(7) "Dangerous structure or premises", PMC Section 302.1 "Sanitation", PMC Section 302.3 "Sidewalks and Driveways", PMC Section 304.1 "General" and PMC Section 304.1.1(7) "Exteriors walls that are not anchored to supporting and supported elements or are not free of holes/cracks/breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects". Attorney Bell asked Fire Fighter Krol is if this was correct, and he responded yes.

Attorney Bell said that the regulation of the International Fire Code Section 110 "Unsafe Buildings" (updated October 2016) pursuant to the Fire Code, states the property is an unsafe building that constitutes a clear and inimical threat to human life, safety or health and that the building is partially collapsed and presents a danger to the public. Fire Fighter Krol said yes that is correct. Lastly, the City Attorney said in light of all these violations, it is the Fire Marshal's opinion that this constitutes an unsafe building and represents a collapsed structure as in Chapter 34 of the City of Oneida Code. Fire Fighter Krol said yes that is correct.

Attorney Bell said that notices of violation have been sent to the property owner via regular mail and certified mail, and Fire Fighter Krol said that is correct. Attorney Bell said that beginning in May 2016 to as recently as January 2018, there has been communication with the property owner back and forth, but nothing has been done, and Fire Fighter Krol said that there have been six separate communications. Attorney Bell said that in light of this, has the Fire Marshal recommended demolition, and Fire Fighter Krol said yes. Attorney Bell asked Fire Fighter Krol if there has been a recommendation for when this should be accomplished by, and he said that he is unsure.

Councilor Chamberlain inquired about the communications. Attorney Bell said it explains in the notice that on May 18, 2016, a Notice of Violation was issued and sent via US Mail and Certified Mail to the property owner of the violation. On June 23, 2016, a Final Order to Remedy was issued and sent via US Mail and Certified Mail. On June 28, 2016, the Fire Marshall spoke with Francis Stinziano, the Attorney representing the property owner, and on June 28, 2016, an e-mail correspondence was received from Attorney Stinziano requesting an extension of time until June of 2017. On December 27, 2017, a Final Order to Remedy was re-issued and sent via US Mail and Certified Mail. On January 16, 2018, the Fire Marshal received a phone call from Attorney Stinziano stating that they had another prospective buyer, and the Fire Marshal advised him that an extension would be granted until February 6, 2018. City Attorney Bell said that to-date, the Fire Marshal has not received any notifications or purchase offers from the property owner or his attorney. Councilor Bowe asked if the property owner has the right to hire

a structural engineer to assess the property. Attorney Bell said the purpose of this public hearing is to give the property owner the right to contest the Report of Unsafe Structures, which was received by the property owner. Attorney Bell said the Council has the right to decide on remediation or demolition of building. Fire Fighter Krol said that confirmations of the delivery of certified mail have been received by the City and the City Attorney. The Council discussed their options with the City Attorney per the City Code.

The City Attorney asked once again if any representatives were present for the 409 Genesee Street property and no one in the audience responded. Fire Fighter Krol said that a placard has been placed on the building denoting that it is hazardous to firefighters.

CLOSE PUBLIC HEARING

RESOLUTION 18-71

Moved by Councilor Bowe
Seconded by Councilor Acker

RESOLVED, that the Public Hearing on the property located at 409 Genesee Street (Tax Map No. 38.70-1-2) pursuant with Article II of Chapter 34 of the City of Oneida Code be hereby closed at 6:35 p.m.

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

MOTION CARRIED

DECLARE THE PROPERTY AT 409 GENESEE STREET A PUBLIC NUISANCE IN ACCORDANCE WITH ONEIDA CITY CODE CHAPTER 34 AND ORDER CORRECTIVE ACTION

RESOLUTION 18-72

Seconded by Councilor Acker
Moved by Councilor Bowe

WHEREAS, in accordance with Article III of Chapter 34 of the Oneida City Code, as amended, a public hearing was conducted commencing on March 20, 2018, for purposes of receiving and considering evidence presented by the office of the City of Oneida Fire Marshal to determine whether real property located at 409 Genesee Street, Tax Map No. 38.70-1-2, in the City of Oneida (“Property”) is a public nuisance; **and**

WHEREAS, the City Attorney confirmed issuance of the Notice of Unsafe Building/Collapsed Structure, dated February 21, 2018, such Notice having been duly filed in accordance with Section 34-11 of the Oneida City Code with the Madison County Clerk’s Office on March 6, 2018, Index No. 2018-1208, and served upon all interested parties in accordance with Chapter 34; **and**

WHEREAS, in addition, notice of the due process hearing was posted in the Municipal Building, published in the official newspaper and on the City of Oneida website; **and**

WHEREAS, the Firefighter Krol, on behalf of the Fire Marshal, presented the report of the Assistant Fire Marshal, dated January 5, 2018, documenting the unsafe condition of the Property and informed the Common Council of the efforts made by the City to obtain voluntary compliance; **and**

WHEREAS, Firefighter Krol testified to his Department having inspected the Property and observed extensive damage and decay to the commercial building situated upon the Property; **and**

WHEREAS, Firefighter Krol determined that the condition of the Property violated Sections 108.1.5(3), 108.1.5(7), 302.1, 302.3, 304.1 and 304.1.1(7) of the International Property Maintenance Code, as well as Section 110 of the International Fire Code and Sections 34-9 and 34-10 of the Oneida City Code; **and**

WHEREAS, Firefighter Krol confirmed the efforts of his Department to contact the property owner and secure compliance; **and**

WHEREAS, Firefighter Krol opined that the Property, in its current condition, presents a danger to the health, safety and welfare of the public; **and**

WHEREAS, the Common Council closed the public hearing on March 20, 2018; **and**

WHEREAS, Firefighter Krol provided the Common Council with a report, dated January 5, 2018, recommending appropriate remedial action; **and**

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

RESOLVED, that the Common Council, having duly considered the documentary evidence, as well as the oral testimony presented by Firefighter Krol, hereby declares the property located at 409 Genesee Street, Tax Map No. 38.70-1-2, in the City of Oneida, to be a public nuisance, in accordance with Chapter 34 of the Oneida City Code; **and**

BE IT FURTHER RESOLVED, that the Common Council, having duly declared the Property to be a public nuisance, hereby orders the owner or persons with an interest in such Property to undertake the following corrective action in accordance with the recommendations of the Assistant Fire Marshal:

- Within 30 days of the date of this Declaration and Order, the property owner shall submit to the Fire Marshal's Office a plan to either remediate the Property or demolish the structure; and
- The structure shall thereafter either be rehabilitated or demolished on or before June 1, 2018; and

BE IT FURTHER RESOLVED, that in the event corrective action does not occur within the time provided, the Common Council hereby authorizes the Assistant Fire Marshal to undertake any and all such measures as are necessary to effectuate the remedial action ordered by the Common Council, and shall assess the cost of same against the Property; **and**

BE IT FURTHER RESOLVED, that the cost of such remedial action, if undertaken by the City, shall thereupon become a lien against the Property and shall be collectible in the same manner as taxes levied thereon; **and**

BE IT FURTHER RESOLVED, that notice of the Common Council's declaration and order shall either be served personally or by certified mail, to the last known address as shown by the records of the City Assessor's office.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

OLD BUSINESS

Kallet Civic Center

Councilor Acker provided an update on the events going on at the Kallet Civic Center. She said that she attended the free Bruce Springsteen Tribute Band, which is part of the Winter Warm-Up Series, and there was a decent turn out. She added that a couple more free concerts will be held at the Kallet, one on April 7th by the Paul Case Band and another on April 20th with the Dave Matthews Tribute Band. She said that there are many wonderful events at the Kallet, and she is curious to find out why our residents are not attending these events. Councilor Acker said that there are more people attending from out of the area than from here in Oneida. She said that there is a Kallet survey on-line for people to provide their comments to the Kallet. Councilor Bowe said that the Robin Williams comedy show was the previous week and that paid ticket event was well received and very good. Councilor Acker added that the Kallet Board is working hard to provide all these events, and Councilor Chamberlain said that you don't know what you are missing until you attend. Councilor Acker said that Michele Stewart will soon have a weekly column called the "Kallet Corner" in Sunday's Oneida Dispatch.

Councilor Acker said that on April 6th and 7th, "Footloose" directed by Brett Bogardus, will be presented at the Oneida High School.

SUPERVISORS REPORT - None

Moved by Councilor Acker

Seconded by Councilor Coulthart

RESOLVED, that the minutes of the regular meeting of March 6, 2018 are hereby approved as presented.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

Moved by Councilor Simchik

Seconded by Councilor Coulthart

RESOLVED, that Warrant No. 6, checks and ACH payments in the amount of \$364,456.70 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 (Cohen)

MOTION CARRIED

Moved by Councilor Simchik

Seconded by Councilor Coulthart

RESOLVED, that checks in the amount of \$17,079.15 (City Attorney) as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 4

Nays: 0

Absent: 1 (Cohen)

Abstain: 1 (Bowe)

MOTION CARRIED

EXECUTIVE SESSION

RESOLUTION 18-73

Moved by Councilor Acker

Seconded by Councilor Bowe

RESOLVED, that the meeting is hereby adjourned to Executive Session at 7:16 p.m. to seek the advice from the City Attorney.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

PRESENT: Councilors, City Clerk, City Attorney

1. Advice of Counsel was received.

Moved by Councilor Acker

Seconded by Councilor Bowe

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 7:27 p.m.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

MONTHLY REPORTS

RESOLUTION 18-74

Motioned by Councilor Acker

Seconded by Councilor Coulthart

RESOLVED, that the monthly reports from the Chamberlain, City Clerk, Comptroller, Fire Department, Housing Codes Enforcement, Police Department and Recreation Department be hereby received and placed on file.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

TOW SERVICE AGREEMENT

RESOLUTION 18-75

Motioned by Councilor Simchik

Seconded by Councilor Bowe

RESOLVED, to authorize the Mayor to sign a Tow Service Agreement with Rocker's Automotive Rescue, Inc. 1110 Middle Road, Oneida NY for addition to the City's Towing Rotation List.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

Police Chief Thompson said that this would be the fourth towing company on the rotation list.

WATER SUPPLY AGREEMENT – VILLAGE OF VERNON

RESOLUTION 18-76

Motioned by Councilor Acker

Seconded by Councilor Coulthart

RESOLVED, to authorize the Mayor to sign the 2017-2024 Village of Vernon Supply Agreement per the recommendation of the Water Board.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION CARRIED

A RESOLUTION AUTHORIZING THE CONSTRUCTION PHASE OF THE ONEIDA RAIL TRAIL PROJECT IN AND FOR THE CITY OF ONEIDA, MADISON COUNTY, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$1,234,000, AND AUTHORIZING THE ISSUANCE OF \$200,000 BONDS OF SAID CITY TO PAY COSTS THEREOF - TABLED

RESOLUTION 18-77

Motioned by Councilor Acker

Seconded by Councilor Simchik

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

Section 1. The construction phase of the Oneida Rail Trail Project, in and for the City of Oneida, Madison County, New York, is hereby authorized at a maximum estimated cost of \$1,234,000.

Section 2. The plan for the financing of such maximum estimated cost is by the application of grant funds and the issuance of \$200,000 bonds of said City hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law; provided, however, that the amount of bonds to be issued shall be reduced to the extent of additional grants received in connection therewith.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid specific object or purpose is fifteen years, pursuant to subdivision 19(c) 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:

- 1) Such obligations are authorized for an object or purpose for which said City is 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 such publication, or
- 3) 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 (Cohen)

MOTION TABLED

Councilor Bowe said that this item is being tabled until the Council can check with the Comptroller and then a special meeting will be scheduled as soon as the information received. He said the Council does not want to wait two weeks. Councilor Bowe said that the Council has a question about the amount of the bonds. Supervisor Magliocca said that there is a lot to get in line for this project, noting there is a meeting scheduled with C&S and all the parties involved next week. Councilor Acker said that the Council understands the time frames involved. Councilor Bowe said that the City can only bond once, and the Council wants to be certain of the amount.

CANVASS AND APPROVE BIDS - CAPITAL PROJECT 18-09
ONEIDA RAIL TRAIL CONSTRUCTION PHASE I & II - TABLED

RESOLUTION 18-78

Moved by Councilor Acker

Seconded by Councilor Simchik

RESOLVED, that the lowest bid meeting specifications for Capital Project 18-09 Oneida Rail Trail Phase I & II received from CCI Companies, Inc. PO Box 186, Canastota NY 13032 in the amount of \$1,221,455.00 be hereby approved, **and be it further**

RESOLVED, to authorize the Recreation Director to proceed with Capital Project 18-09 Oneida Rail Trail Phase I & II and further authorize the expenditure of funds up to the programmed amount, **and be it further**

RESOLVED, to authorize the Mayor to sign any and all documents related to Capital Project 18-09 Oneida Rail Trail Phase I & II.

Ayes: 5

Nays: 0

Absent: 1 (Cohen)

MOTION TABLED

Councilor Bowe reiterated that as soon as the Council receives the information from the Comptroller, the Council will schedule the special meeting.

BUDGET TRANSFERS

RESOLUTION 18-79

Moved by Councilor Acker
Seconded by Councilor Coulthart

RESOLVED, to approve the following budget transfers:

<u>AMOUNT</u>	<u>FROM</u>	<u>TO</u>
\$2,400.00	001.1990.0400 Contingency	001.5110.0314 Road Materials
<i>(To cover funds used to purchase salt)</i>		
\$12,000.00	001.1990.0400 Contingency	001.3410.0101 Fire Salaries
<i>(To cover contractual requirements)</i>		

Ayes: 4
Nays: 1 (Simchik)
Absent: 1 (Cohen)

MOTION CARRIED

NEW BUSINESS

Annual Easter Egg Hunt

Recreation Director Luke Griff said that the annual Easter Egg Hunt will be held inside the Kallet Civic Center this year because of the weather. It will be held on March 31st, but will start a little earlier. The children must be pre-registered with only 100 children for each of the three sessions being allowed. Councilor Acker asked if any help was needed, and Director Griff said that help is always welcome.

Oneida Rail Trail

Supervisor Joe Magliocca said that they have a meeting scheduled with C&S Companies relating to the Rail Trail. C&S is concerned about who will be handling the construction inspection. Supervisor Magliocca said that he will be looking into what the County can do to help with this project. Councilor Bowe said that there should be estimates prepared for that task.

Executive Session

Deputy Mayor Chamberlain said that the Council needs to go into Executive Session relating to a personnel issue, and there may be action taken after the session.

EXECUTIVE SESSION

RESOLUTION 18-80

Moved by Councilor Bowe
Seconded by Councilor Acker

RESOLVED, that the meeting is hereby adjourned to Executive Session at 7:35 p.m. for the purpose of discussing personnel issues.

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

MOTION CARRIED

PRESENT: Mayor, Councilors, City Clerk, City Attorney

1. Discussion of personnel issues.

Moved by Councilor Acker
Seconded by Councilor Bowe

RESOLVED, that Executive Session is hereby adjourned to the regular meeting at 8:33 p.m.

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

MOTION CARRIED

Motion to adjourn by Councilor Bowe

The regular meeting is hereby adjourned at 8:33 p.m.

CITY OF ONEIDA, NEW YORK

Susan Pulverenti, City Clerk