

MINUTES OF THE COMMON COUNCIL  
APRIL 15, 2014

A meeting of the Common Council of the City of Oneida, NY was held on the fifteenth day of April, 2014 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  
Fire Chief Kevin Salerno  
Police Chief David Meeker  
Public Safety Commissioner Michael Kaiser  
Madison Co. Supervisor John Reinhardt

PRESENTATION

*Climate Smart Community – Greenhouse Gas Inventory*

Amanda Sopchak of the Central New York Regional Planning and Development Board introduced the SUNY College of Environmental Science and Forestry students who shared with the Council their present greenhouse gas inventory findings. They discussed the greenhouse effect, climate changes and the reasoning. The mission is to inventory green house gas emissions in terms of MTCO<sub>2e</sub> (metric tons of CO<sub>2</sub> equivalent) created by the activities of the Oneida community and municipal operations. A power-point explaining how the inventory is compiled and displayed graphs depicting the MTCO<sub>2e</sub> emissions for 2010 and 2013, as well as, the forecasted 2020 emissions was explained. The next step in the Climate Smart Communities Program is to draft a Climate Action Plan.

OLD BUSINESS

*Proposed Local Law to amend Chapter 17 relative to the number animals kept in the inside district*

Councilor Zogby inquired as to where we stand with the proposed Local Law to regulate the keeping of animals within the City of Oneida, as he thought it would be on this meeting's agenda. Mayor Smith said the City Attorney is reviewing the suggestions received from Mr. Shapiro, and noted it would behoove the Council to have another discussion relative to changing the language or limiting the numbers in the proposed local law. The Mayor said possibly at the next meeting the Council would have something to vote on.

*Bonding for the Fish Creek Crossing Project*

Councilor Zogby said at the previous meeting financing for the water line had been discussed, and the vote was such that the City will go to bond and pay \$900K in interest. Councilor Zogby said he was of the opinion that we didn't have the opportunity to listen to different types of financing. He said that for whatever reason, the Council was only presented with a couple of options. In speaking with many residents, taxpayers and public officials from other municipalities, Councilor Zogby said it has come to his attention that there are numerous other ways to look at this to make the best decision for the City. Councilor Zogby said he is not convinced that when we were presented with that option, we just voted on it and left it without a whole lot of conversation. Councilor Zogby asked the Mayor to instruct the Comptroller not to go to bid for this yet to give the Council an opportunity to make an informed decision on the various kinds of financing available. The Mayor asked Councilor Zogby if he would be able to put that information together for the Council, and he stated he would with the help of the Comptroller. The Comptroller said they have gone to bid and the BAN (Bond Anticipation Note) for this project was received today at 4.5% for one year. BAN's can be renewed for a one year period up to five years, and then the City would have to go to bond. The Comptroller said that although the Council's Resolution was to bond for 15 years for the project, there is still time to discuss this. The Mayor said he encourages a lively debate if it is done with respect. If we don't have differences of opinion, we do not get to the truth of what we are dealing with often times. The Mayor said the bonding issue could be discussed further.

*Mayor's comments Public Speaking at Council meetings*

The Mayor said in an effort to have structure to our process at Council meetings, if a member of the public would like to speak at a Council meeting, they should first ask the Mayor's permission, and then come to the podium; address the Council, state your name and where you are from. Comments will be limited to five minutes. It may be modified, in the interest of time, should the Council chambers be full with many residents who would like to speak.

Moved by Councilor Acker  
Seconded by Councilor Simchik

**RESOLVED**, that the minutes of the special meeting of March 31, 2014 and regular meeting of April 1, 2014 are hereby approved as presented.

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

Moved by Councilor Chamberlain  
Seconded by Councilor Simchik

**RESOLVED**, that Warrant No. 8, checks and ACH payments in the amount of \$295,629.20 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 (E. Smith)  
**MOTION CARRIED**

Moved by Councilor Simchik  
Seconded by Councilor Bowe

**RESOLVED**, that Check No. 50563 in the amount of \$65.80 (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 (E. Smith)

Abstain: 1 (Acker)

MOTION CARRIED

A RESOLUTION AUTHORIZING A PUBLIC HEARING WITH RESPECT TO THE ISSUANCE OF OBLIGATIONS BY THE SHERRILL-KENWOOD WATER DISTRICT, NEW YORK, FOR THE CONSTRUCTION AND REPLACEMENT OF CERTAIN WATER SYSTEM IMPROVEMENTS, IN SHERRILL, NEW YORK AND ONEIDA, NEW YORK, AT A MAXIMUM ESTIMATED COST OF \$800,000 AND FIXING THE DATE, TIME AND PLACE OF SUCH PUBLIC HEARING.

RESOLUTION 14-101

Moved by Councilor Zogby  
Seconded by Councilor Acker

**WHEREAS**, the Common Council of the City of Oneida, Madison County, New York (the “City”), has been advised that the Sherrill-Kenwood Water District (the “Water District”), needs to construct a new pump station at 664 East Hamilton Avenue, in Sherrill, New York, to replace one at said site and to replace the water distribution lines at the Kenwood Avenue Creek Crossings in Oneida, New York and in Sherrill, New York, at a maximum estimated cost of \$800,000, and to authorize the issuance of \$490,000 bonds of said Water District, together with \$310,000 current funds, to pay the cost thereof; **and**

**WHEREAS**, said capital improvement, as proposed, has been determined to be a Type II Action pursuant to the regulations of the New York State Department of Environmental Conservation promulgated pursuant to the State Environmental Quality Review Act, which regulations state that Type II Actions will not have a significant effect on the environment; **and**

**WHEREAS**, the bonds and any bond anticipation notes issued in anticipation thereof by said Water District will constitute debt solely of the Water District; **and**

**WHEREAS**, Section 102.00 of the Local Finance Law requires that bonds or notes which are to be issued by a “district corporation” as defined therein, require the consent of the governmental unit or units within the same geographical area of the district corporation, even if said unit(s) will not be issuing such bonds and notes, after a public hearing following reasonable public notice, in order for such bonds or notes to be issued by the district corporation pursuant to the provisions of the Local Finance Law; **and**

**WHEREAS**, the Water District is a “district corporation” as defined in Section 102.00 of the Local Finance Law; **and**

**WHEREAS**, the issuance of the debt by the Water District will not constitute a debt obligation of the City; **and**

**WHEREAS**, the Common Council has been presented with a petition by the Water District for consent of the City to the issuance of said debt by the Water District and a Certificate of the City Comptroller, in connection therewith; **and**

**WHEREAS**, the Common Council now desires to authorize a public hearing in compliance with the provisions of Section 102.00 of the Local Finance Law as aforesaid; **now** therefore be it,

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

**Section 1.** A public hearing is hereby authorized to be held upon the matter described in the preambles hereof, at which all persons interested in such matter, concerning the same, shall be entitled to be heard and, thereafter, the Common Council shall take such action thereon as is required or authorized by law at Sherrill City Hall on April 28, 2014 at 7:15 o'clock P.M..

**Section 2.** The City Clerk is hereby delegated the power and authority to publish the form of the Notice of such public hearing, including the date, time and place of such public hearing, substantially in the form attached hereto as Exhibit A. The City Clerk is hereby authorized and directed to cause a copy of such Notice to be published once in the official newspaper of said City designated for this purpose, such newspaper being a newspaper having general circulation in and available to the residents of said City, not more than twenty (20) days, nor less than ten (10) days prior to the date set for said public hearing. The City Clerk is further directed to post such notice on the official signboard and website of the City within said time period.

**Section 3.** This resolution shall take effect immediately.

Councilor Zogby – Yes  
Councilor Bowe – Yes  
Councilor Smith – Absent  
Councilor Acker – Yes  
Councilor Chamberlain – Yes  
Councilor Simchik – Yes

**MOTION CARRIED**

Mike Holmes, City Clerk/Comptroller for the City of Sherrill and Secretary for the Sherrill Kenwood Water District, said certain Oneida residents are supplied water through the Sherrill Kenwood Water District. The district is planning to make improvements to a pump station and other instruments up on Betsinger Road. The SKWD is chartered by the State of New as a special district and local finance law specifically spells out that because the water district is housed within the corporate municipalities of Oneida and Sherrill, they have to get Council's consent for bonding resolutions. Mr. Holmes said there will be no obligation on the City of Oneida and no impact on the City's Constitutional Debt Limit; this is all procedural under finance law for the district to bond for the upgrades. The Mayor said the City will have a quorum in attendance at the joint public hearing at Sherrill City Hall on April 28<sup>th</sup>. Mr. Holmes thanked the Comptroller, City Clerk and City Attorney for their help on this. In response to a question from the Mayor, Mr. Holmes said they will use the "estimated useful life of the project" to determine the bonding amount, which is standard procedure. The useful life for their project is 15 years, but could be paid off sooner.

**FARMERS MARKET**

RESOLUTION 14-102

Moved by Councilor Acker  
Seconded by Councilor Bowe

**RESOLVED**, that the Oneida's Downtown Association (ODA) be hereby authorized to hold the annual Farmer's Market in Clinch Park on Oneida Street behind Thompson's Appliance and Furniture Store on Thursdays beginning June 5, 2014 and ending October 30, 2014.

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

The City Clerk said the farmer's market usually starts setting up by 8:00 a.m. and ends around 2:00 p.m. or so. As the season progresses when more fresh vegetables are available, they usually stay later in the afternoon.

### **MONTHLY REPORTS**

#### RESOLUTION 14-103

Moved by Councilor Acker  
Seconded by Councilor Chamberlain

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

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

Councilor Acker noted that the fines and penalties for parking tickets were up for March. In response to a question from Councilor Acker, Police Chief Meeker said 40 registered sex offenders live in Oneida. Public Safety Commissioner Mike Kaiser said a link to the sex offender's website can be found on the Police Departments portion of the City website.

Councilor Zogby said the Easter Egg Hunt at Allen Park is this Saturday at 11:00 a.m.

### **CNY WATER WORKS SUMMER MEETING & PRODUCT DISPLAY**

#### RESOLUTION 14-104

Moved by Councilor Chamberlain  
Seconded by Councilor Acker

**RESOLVED**, that the Water Department employees and Water Board Commissioners are hereby authorized to attend the Central New York Water Works Summer Meeting and Product Display held at Hinerwadel's Grove, 5300 W. Taft Rd., Syracuse, NY on June 4, 2014 with the expenses to be paid by the Water Department.

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

**ADVERTISE FOR BIDS –HYDRANTS, PIPES & MATERIALS**

RESOLUTION 14-105

Moved by Councilor Simchik  
Seconded by Councilor Chamberlain

**RESOLVED**, to authorize the Purchasing Agent to advertise for bids for hydrants, pipes and materials for the Water Department.

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

**CELLULAR PHONE FOR WWTP CHIEF OPERATOR**

RESOLUTION 14-106

Motioned by Councilor Chamberlain  
Seconded by Councilor Acker

**RESOLVED**, to approve the issuance of a cellular telephone to the Waste Water Treatment Plant for use by the Chief Operator.

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

City Engineer John Rauscher said the DPW and Water Supervisors both have City issued phones. The Treatment Plant Supervisor should have a City issued phone for work communications and pump alert notifications that are currently sent to his personal phone.

**ADVERTISE FOR BIDS – TRACKED EXCAVATOR**

RESOLUTION 14-107

Moved by Councilor Simchik  
Seconded by Councilor Chamberlain

**RESOLVED**, to authorize the Purchasing Agent to advertise for a Tracked Excavator for the Water Department.

Ayes: 5

Nays: 0  
Absent: 1 (E. Smith)  
**MOTION CARRIED**

**LOCAL LAW NO. 4 OF 2014 TO ESTABLISH A  
PUBLIC NUISANCE ABATEMENT PROGRAM IN THE CITY OF ONEIDA**

RESOLUTION 14-108

Moved by Councilor Simchik  
Seconded by Councilor Zogby

**RESOLVED**, that Local Law No. 4 of 2014 to establish a Public Nuisance Abatement Program be hereby adopted as follows:

**A LOCAL LAW TO ESTABLISH A PUBLIC NUISANCE  
ABATEMENT PROGRAM IN THE CITY OF ONEIDA**

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

SECTION 1.

The Code of the City of Oneida is hereby amended to include a new Chapter 122, titled "Public Nuisance Abatement," which shall read as follows:

"CHAPTER 122. PUBLIC NUISANCE ABATEMENT.

§ 122-1 PURPOSE.

It is hereby declared to be the policy of the City of Oneida to provide for the proper use of real property to prevent illegal, unhealthful, hazardous or dangerous conditions. By this Chapter, the Common Council of the City of Oneida seeks to establish a procedure for the City of Oneida to effectively abate those dangers which constitute a nuisance to public safety, health, life and property, and to assess the cost of abatement against those individuals who knowingly conduct, maintain, allow or permit the existence of a public nuisance and the real properties on which such activity occurs.

§ 122-2 DEFINITIONS.

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed:

**PREMISES.** Real property or a building or structure, or any part thereof.

**PUBLIC NUISANCE.** Includes, but shall not be limited to:

Any building, structure or real property used for the illegal use, possession or distribution of a controlled substance or marijuana, as defined by the State Penal Law.

Any building, structure or real property used for prostitution as defined by the State Penal Law.

Any building, structure or real property used for indecent or obscene performances and/or promotion of obscene material as defined by the State Penal Law and this Code.

Any building, structure or real property used for illegal gambling activity as defined by the State Penal Law.

Any building, structure or real property used for the commission of illegal possession, use or sale of firearms or weapons as defined by the State Penal Law.

Any building, structure or real property used for the illegal sale, manufacture or consumption of alcohol beverages as defined by the State Alcohol Beverage Control Law.

Any building, structure or real property wherein there exists or has occurred a criminal nuisance, as defined by the State Penal Law.

Any building, structure or real property used for loitering, as defined by the State Penal Law.

Any building, structure or real property wherein an occupant, guest or business invitee commits criminal activities involving assault, gang assault, harassment or disorderly conduct as said criminal activities are defined by the State Penal Law.

**OWNER.** The owner(s) or landlord(s) of a building, structure or real property, including his or her agent.

**TENANT.** The Lessee or occupant of a building, structure or real property. For purposes of this Chapter, the term "Tenant" shall include an occupant of one (1) or more rooms in a rooming house or a residence, not including a transient occupant, of one (1) or more rooms in a hotel for thirty (30) consecutive days or longer.

**ILLEGAL DRUG ACTIVITY.** The use or possession of a controlled substance or marijuana, as defined by the State Penal Law.

**CRIMINAL CONVICTION.** The entry of a plea of guilty or a verdict of guilty for one (1) or more counts as set forth in an accusatory instrument.

#### §122-3 NUISANCE FORBIDDEN.

No owner, operator, manager or tenant of premises shall knowingly conduct, maintain, permit or allow the existence of a public nuisance at the premises.

#### §122-4 PRESUMPTION OF A PUBLIC NUISANCE.

The following shall constitute a presumption of a public nuisance:

Notice by first-class mail or personal service, from the City of Oneida, of the activities entailing a public nuisance to the owner, operator, manager or tenant of premises shall be *prima facie* evidence of knowledge of a public nuisance.

The existence of two (2) or more criminal convictions for any of the activities set forth in the definition of a public nuisance in §122-2 at any premises within the two (2) year period prior to the commencement of a civil action and/or administrative hearing shall be *prima facie* evidence of the existence of a public nuisance.

The existence of two (2) or more incidents of the following activities at any premises within the one (1) year period prior to the commencement of a civil action and/or administrative hearing shall be *prima facie* evidence of the existence of a public nuisance:

Service of a Search Warrant on the premises where controlled substances, marijuana and/or weapons are seized.

Finding of illegal controlled substances or illegal firearms or weapons on the premises.

Investigative purchases of illegal controlled substances on the premises by Law Enforcement Agencies or their agents.

#### §122-5 SUMMONS AND COMPLAINT FOR CIVIL ACTION.

At the direction of the Common Council of the City of Oneida, the City Attorney may bring and maintain a civil action in the name of the City to abate a public nuisance and shall commence a civil action by filing a summons and complaint in the manner required by the New York State Civil Practice Laws and Rules.

The summons and complaint shall name as defendant(s) at least one (1) of the owners of some portion of or of some interest in the property, as set forth in the last filed tax roll, and shall describe the owner's premises by tax map number and/or street address.

The summons and complaint may also name as defendant any owner, operator, manager or tenant of the premises.

The complaint shall allege the facts constituting the public nuisance.

The complaint shall be accompanied by an Affidavit, to affirm that the owner or his agent had notice of the public nuisance and an opportunity to abate the public nuisance.

Because the public nuisance is conducted, maintained, permitted or allowed in the City of Oneida, the venue of such action shall be in Madison County.

In rem jurisdiction over the premises shall be completed by affixing the summons to the premises and by mailing the summons and complaint by certified or registered mail, return receipt requested to the person in whose name the real property is recorded as determined by the last filed tax rolls.

Defendant(s), other than the record property owner of the premises, shall be served with the summons and complaint in the manner required by the New York State Civil Practice Laws and Rules.

With respect to any action commenced or to be commenced, the City Attorney may file a Notice of Pendency pursuant to the New York State Civil Practice Laws and Rules.

§122-6 CIVIL PENALTY.

If, upon the trial of an action for a public nuisance or upon a motion for summary judgment, a finding is made that defendant(s) have conducted, maintained, permitted or allowed a public nuisance, a penalty may be awarded in an amount not to exceed \$1,000.00 for each day it is found that the defendant(s) conducted, maintained, permitted or allowed the public nuisance after notice to abate had been given by the City.

§122-7 PERMANENT INJUNCTION.

If, upon the trial of a civil action for a public nuisance or upon a motion for summary judgment, a finding is made that defendant(s) have conducted, maintained, permitted or allowed a public nuisance, a permanent injunction may be granted.

A permanent injunction may prohibit defendant(s) from conducting, maintaining, permitting or allowing the public nuisance.

A permanent injunction may authorize agents of the City to remove and correct any condition(s) in violation of this Code. The judgment may further order that the cost of removing and correcting the violation(s), plus a charge of 50% as compensation to the City for administration and supervision expenses, be charged against defendant(s) and awarded to the City. The judgment may further order that the cost of removing and correcting the violation(s), plus the charge of 50% as compensation to the City for administration and supervision expenses, shall constitute a lien against the real property and shall be collected in the same manner as provided by law for the collection of real property taxes within the City.

A judgment ordering a permanent injunction may direct the closing of the premises by the Oneida City Police Department, to the extent necessary to abate the public nuisance.

A judgment awarding a permanent injunction shall provide for all costs and disbursements allowed by the New York State Civil Practice Laws and Rules and for the actual costs, expenses and disbursements of the City in investigating, bringing and maintaining the action.

§122-8 CLOSING OF PREMISES.

If the judgment of a civil action directs the closing of the premises, the Oneida City Police Department shall serve the judgment upon defendant(s) in the manner required by New York State Civil Practice Laws and Rules and shall post a copy of the judgment upon one (1) or more of the doors at entrances of the premises or in a conspicuous place on the premises.

In addition, the Oneida City Police Department shall affix upon one (1) or more of the doors at entrances of the premises or in a conspicuous place on the premises, a printed notice stating "Closed by Court Order" in block lettering of sufficient size to be observed by anyone intending to enter the premises.

Mutilation or removal of the posted judgment or notice, while it remains enforced, will be considered a separate violation and shall be punishable pursuant to Section 55.10(3)(a) of the State Penal Law.

The Oneida City Police Department may then command all persons present in the premises to vacate the property. After the premises are vacated, the Oneida City Police Department may

secure the premises.

The closing directed by the judgment shall be for a period as the Court may direct but in no event shall the closing period exceed one (1) year from the posting of the judgment.

A closing by the Oneida City Police Department shall not constitute an act of possession, ownership or control by the City.

#### §122-9 PRELIMINARY INJUNCTION.

Upon a motion or order to show cause from the City Attorney and pending an action for a permanent injunction, a preliminary injunction enjoining the public nuisance may be granted for any of the relief obtained by a permanent injunction.

#### §122-10 TEMPORARY RESTRAINING ORDER.

Pending a motion or order to show for a preliminary injunction, a temporary restraining order or temporary closing order may be granted, without notice to defendant(s), for any of the relief obtainable by a permanent injunction.

#### §122-11 ADMINISTRATIVE HEARING.

As an alternative or in addition to commencing a civil action, whenever there is *prima facie* evidence of a public nuisance at any premises within the City, the City Attorney may, at the direction of the City of Oneida Common Council, initiate an administrative hearing in accordance with the following procedure:

A notice of the hearing shall be served on all owners of the premises as determined by the last filed tax roll and may also be served on any known operator, manager and/or tenant of the premises. The notice shall be served in the manner required by the New York State Civil Practice Laws and Rules.

The notice shall allege the facts constituting the public nuisance and shall contain a time and place for a hearing to be held before a panel.

The hearing panel shall consist of a member to be appointed by the Code Enforcement Officer, a member to be appointed by the Chief of Police and a member to be appointed by the Fire Chief. Each appointing authority shall be authorized to appoint his/herself or any member of his/her staff to the hearing panel.

At the time and place designated in the notice, the City Attorney shall present all relevant evidence and/or witnesses demonstrating the existence of a public nuisance at the premises and as to appropriate remedies. The owner, operator, manager and/or tenant of the premises shall have the right to examine such evidence and shall cross-examine any witnesses presented. The owner, operator, manager and/or tenant of the premises may present any relevant evidence and/or witnesses as a defense. The City Attorney shall have the right to examine such evidence and cross-examine any witnesses presented by the owner, operator, manager and/or tenant of the premises.

Within five (5) business days of the hearing, the panel shall provide a finding of fact to the Mayor. The finding of fact shall state whether there is *prima facie* evidence of the existence of a

public nuisance at the premises. The panel shall further provide a written recommendation of remedies to abate the public nuisance.

§122-12 ADMINISTRATIVE REMEDIES.

To abate a public nuisance, the Mayor, upon receipt of a finding of fact and recommendation from the panel, shall have the power:

To issue a Decision and Order suspending the Certificate of Occupancy for the premises for a period not to exceed one (1) year;

To issue a Decision and Order directing the closing of the premises by the Oneida City Police Department, to the extent necessary to abate the public nuisance, pursuant to the procedures set forth in § 122-8.

In conjunction with, or in lieu of, the foregoing powers, to issue a Decision and Order for various measures to be taken by the owner, operator, manager and/or tenant of the premises, to the extent necessary to abate the existing public nuisance and to ensure the prevention of future public nuisance actions from occurring at or near the premises, which shall include, but shall not be limited to:

Requiring the owner, operator, manager and/or tenant to modify and improve the premises to deter further and future public nuisance activity; and/or

Directing subsequent purchaser(s) to comply with the provisions of any Orders of Suspension for the Certificate of Occupancy, unless or until the subsequent purchaser appears before the hearing panel with an appropriate plan to avoid further incidents of public nuisance for the panel to review and make recommendations.

The Decision and Order shall be served upon the owner, operator, manager and/or tenant of the premises in a manner similar to that described in § 122-11(A) herein.

Nothing within this section shall limit the authority of the Mayor to take such other and further actions deemed necessary to abate any existing public nuisances to the extent necessary to ensure the protection of the health, safety and welfare of the general public.

§122-13 SEVERABILITY.

If any clause, sentence, paragraph, word, section or part of this Chapter shall be adjudged by any Court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not effect, impair or invalidate the remainder thereof, but shall be confined to in its operation to the clause, sentence, paragraph, word, section or part thereof, directly involved in the controversy in which said judgment shall have been rendered.”

SECTION 2. EFFECTIVE DATE

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

Councilor Zogby –  
Councilor Bowe –  
Councilor Smith –

Councilor Acker –  
Councilor Chamberlain –  
Councilor Simchik –  
MOTION \_\_\_\_\_

Moved by Councilor Chamberlain  
Seconded by Councilor Acker  
Ayes: 5  
Nays: 0  
Absent: 1 (E. Smith)  
**MOTION TABLED**

Councilor Chamberlain immediately requested this item be tabled for further discussion. Councilor Acker said she received several emails from landlords who would like more time for discussion. Councilor Bowe said advances have been made since the meeting with Rome officials, and we know the local law may need modifications as we move along, but said if we can start off better and make fewer changes, it seems to make sense.

The Mayor said he is pessimistic as to what the agenda is going to be for the next conversation, but he is not averse to having it. The Mayor said he wants to move forward and will continue to press the Council to pass this local law, as he believes this is in the best interest of our City. The Mayor said passing this law is not the end of the conversations with the landlords; it will be the beginning of conversations to jointly work forward for the best interests of this community. The City Clerk reminded the Mayor and Council that should the proposed local law be modified, Council will not be able to vote on it at the next meeting. It would have to be received and filed with another public hearing scheduled. Councilor Acker seconded the motion to table.

After a brief discussion, the Council scheduled a special meeting for 6:30 p.m. on Tuesday, April 22, 2014 to discuss the proposed Local Laws that are pending relative to Public Nuisance Abatement, amending Chapter 17 relative to the number of animals kept in the inside district and amending Chapter 57 to include the regulation of bows.

### **SCADA & SUPPORTIVE SYSTEMS PROFESSIONAL MAINTENANCE PROPOSAL**

#### RESOLUTION 14-109

Moved by Councilor Acker  
Seconded by Councilor Simchik

**RESOLVED**, to authorize the Mayor to sign the annual Professional Maintenance Proposal with LSDI, 5858 Molloy Road, Suite 166A, Syracuse, NY 13211 for SCADA (Supervisory Control and Data Acquisition) & Supportive Systems Professional Maintenance Services at the WWTP in the programmed amount of \$14,400.

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

### **NEW BUSINESS**

### *Higinbotham Park Basketball Court*

Justin Bender, Sherman Street, Oneida stated he is representing 162 people and local businesses who signed a petition to stop the basketball court at Higinbotham Park from being removed. He said the players sweep the court in the fall and shovel the court in the winter to play basketball and requests the court stay put. He said if you take out the Higinbotham basketball court, the crime rate will go up. He said all the other courts are on the outskirts of the City. It has always been a staple to meet at Higinbotham since his boys live on Madison Street. Mr. Bender said that when Mr. Matzke was Mayor he had 1,600 signatures to keep the court in place at Higinbotham Park. He said he has businesses that surround the perimeter of the park on board to keep the hoops intact. Mr. Bender asked what the issue was relative to why it is being removed.

The Mayor said this is a pet project of his. We have some serious issues to deal with in this community, one being the perception of how our City is viewed, along with the quality of life in our community. The Mayor said he has spent some time over by the park and when basketball is being played there; the language is offensive and unacceptable. The Mayor said he has heard for years that seniors from the high rise will not go to that park because of the element that gathers there; they feel neither comfortable nor safe. There are parks that are just passive parks and others are for activities. While it may be a slight inconvenience to go to another park, such as Sconodoa, it is only two blocks down the road. There are other alternatives for basketball within the City. The Mayor said he has been given a responsibility to try to lead this City to a brighter better future, and said he is going to follow the dictates of his conscience to get it there. The Mayor said it is a tough balancing act and not everything we do makes everyone happy. The Mayor said he will look at possibly placing the basketball courts in the Recreation Center parking lot.

Mr. Bender said he understands that change is good, but said he has 162 reasons why we can do something else besides ripping that court out. He again mentioned the possibility of criminal behavior if the court is removed. Mr. Bender said there is nothing for single mothers around here or anything for children. The Mayor said there are programs at the Recreation Center every day for single mothers with small children. Mr. Bender said because the other parks are located on the edges of the City, he believes the crime rate will go up 10% if the court is removed at Higinbotham.

Bob Britton stated he resides in Munnsville, but owns property in Oneida and has a post office box in Oneida. Mr. Britton said he would rather see kids playing at that basketball court than running though the City tearing it up. He said he realizes the language is appalling, but said there has to be a way to fix it without taking basketball out. He said he would rather see people playing basketball in the park, than out causing a ruckus in the City.

Joe Magliocca, Grand Street, Oneida, said he found out on Facebook that the basketball court was being removed. Mr. Magliocca said it bothers him that after decades of being involved with parks and on the Recreation Commission, he did not know of this plan. Mr. Magliocca said with all due respect, he does not feel any elected official, no matter how well intentioned, should have the authority to solely direct any City Department to destroy or dismantle a component of a City park when there is not an existing and immediate hazard to the public for its continued use. Mr. Magliocca quoted the Recreation Department's responsibilities according to the City Charter. He said to his knowledge, as well as the Recreation Director's knowledge, there has been no recent police action directed to the court or use of that park. He said there wasn't any "lively debate" relative to the removal of the basketball court. He said Higinbotham Park is far and away the most used park in the City and is amongst the lowest for vandalism of all the City's neighborhood parks. The problem is a small percentage of users of that court. Mr. Magliocca said the City should partner with Madison County Social Services to help control that percentage of the downtown population they serve who are disruptive. Any downtown revitalization has to include pedestrian areas and places for recreation.

Councilor Bowe said this is a counter to our nuisance abatement. We are worried about people who are multiple offenders, and here we are removing a source of energy release. Councilor Bowe said he realizes the Mayor has a plan for downtown, but was surprised this is being done so quickly, noting that Public works has more to do than tear something down. Councilor Bowe said he knows what the Mayor's vision is.

Councilor Chamberlain said this is park is within his Ward, and he spoke with five or six surrounding businesses at length, who said they were in favor of removing the basketball court. He said he is more concerned to hear that if the court is removed, the crime rate will go up. Councilor Chamberlain said he finds that offensive. To say that if they can't play ball at Higinbotham and don't want to walk to another park, they will rob cars, a bank or a house instead; that is not being realistic. The Mayor said that may not be realistic, but it makes a statement about their values to this community.

Councilor Acker said she agrees with and supports the Mayor. She said it is unfortunate that we have people out there who would rebel against this; it shows their lack of values and morals. She said it is very offensive to walk past the park hearing the swearing that goes on, and there are little children around listening to that foul language. We have to move forward, we cannot keep doing the same old thing. It is a shame if they can't walk a short distance to another park, and the Mayor said there are four or five other alternatives for basketball in the City. The Mayor said if Oneida is to be successful as a city, we have to be able to embrace change.

Councilor Zogby concurs that perhaps the best use would be that of a reflective park and said another site in the downtown area could be utilized for a basketball court. The Parks and Recreation Department could provide input on any alternatives.

Joe Magliocca, Oneida said he would look through the downtown area to see where the baskets could possibly be relocated. He said when we speak of unacceptable behavior and language; we can't separate appearance from that. He said people have the habit of telling someone what they want to hear, and he is sure that the same people that signed the petition are the same ones who spoke to Councilor Chamberlain. Mr. Magliocca said every park has problems, citing Pop Warner and Vet's Field area residents as an example. He said removing the court is not a step in the right direction.

Mayor Smith said he hears regularly from numerous downtown businesses that unless we can clean up the behavior that is going on in our streets, nothing is going to work. The Mayor said he spoke to two different business owners who said when people come to Oneida and get a flavor of what our downtown is, they will never come back again. If that is the reality of Oneida going forward, then our future does not look good. The Mayor said he will reach out to the Recreation Commission for some alternatives. The Mayor said he will continue to be passionate about his vision for Oneida and verbalized that passion.

## **EXECUTIVE SESSION**

### RESOLUTION 14-110

Motioned by Councilor Acker  
Seconded by Councilor Zogby

**RESOLVED**, that the meeting is hereby adjourned to Executive Session at 8:14 p.m. for the purpose of discussing current litigation.

Ayes: 5

Nays: 0  
Absent: 1 (E. Smith)  
MOTION CARRIED

**PRESENT:** Mayor, Councilors, City Clerk, City Attorney

Discussion was held relating to current litigation.

Motioned by Councilor Bowe  
Seconded by Councilor Simchik

**RESOLVED**, that Executive Session is hereby adjourned to the regular meeting at 8:47 p.m.

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

### **WAIVE RULE TO ACCEPT AGENDA ITEMS**

#### RESOLUTION 14-111

Moved by Councilor Bowe  
Seconded by Councilor Acker

**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 (E. Smith)  
MOTION CARRIED

### **TERMINATION OF LEGAL SERVICES**

#### RESOLUTION 14-112

Motioned by Councilor Bowe  
Seconded by Councilor Acker

**RESOLVED**, that the City of Oneida Common Council hereby desires to discontinue its involvement in City of Oneida, New York v. S.M.R., Secretary of the United States Department of the Interior; Michael L. Connor, Deputy Secretary of the United States Department of the Interior; Elizabeth J. Klein, Associate Deputy Secretary of the United States Department of the Interior; Franklin Keel, Regional Director of the Eastern Office of the Bureau of Indian Affairs, Civil Action No. 08-CV-648 (LEK/GJD), and hereby directs its legal counsel, Hiscock & Barclay, LLP, to prepare and file any and all the documents necessary to discontinue same; **and be it further**

**RESOLVED**, that upon the discontinuance of the aforementioned matter, representation of the City of Oneida by Hiscock & Barclay, LLP Attorneys at Law, One Park Place, 300 South State

Street, Syracuse NY 13202 is hereby terminated subject to the termination clause of the Retainer Agreement for Legal Services by and between the City of Oneida and Hiscock & Barclay, LLP dated April 3, 2008, **and be it further**

**RESOLVED**, that written notice of said termination shall be timely provided to Judith M. Sayles, Attorney at Law, Hiscock & Barclay, LLP, in accordance with the terms of such Retainer Agreement.

Councilor Zogby – No

Councilor Bowe – Yes

Councilor Smith – Absent

Councilor Acker – Yes

Councilor Chamberlain – Yes

Councilor Simchik – No

**MOTION CARRIED**

Motion to adjourn by Councilor Bowe

The meeting is hereby adjourned at 8:53 p.m.

CITY OF ONEIDA

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Susan Pulverenti, City Clerk