

**MINUTES OF THE COMMON COUNCIL
MAY 20, 2014**

A meeting of the Common Council of the City of Oneida, NY was held on the twentieth day of May, 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 Michael Bowe, Erwin Smith, Helen Acker, James Chamberlain and Thomas Simchik

ABSENT: Councilor Brahim Zogby

ALSO PRESENT: City Attorney Nadine Bell
City Clerk Susan Pulverenti
City Engineer Jon Rauscher
Civil Service Officer Peg Margo
Comptroller Linda Pease
Director of Parks and Recreation Lucas Griff
Fire Chief Kevin Salerno
Police Chief Dave Meeker
Public Safety Commissioner Michael Kaiser
Madison County Supervisor John Reinhardt

PUBLIC HEARING
PROPOSED LOCAL LAW TO ESTABLISH A PUBLIC NUISANCE ABATEMENT PROGRAM

RESOLUTION 14-125

Moved by Councilor Bowe
Seconded by Councilor Smith

RESOLVED, that the Public Hearing on the proposed Local Law to establish a Public Nuisance Abatement Program be hereby OPENED at 6:33 p.m.

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

MOTION CARRIED

APPEARANCES

Linda Foglino, resident of Oneida Castle and owner of a business in downtown Oneida, said there are disorderly residents in the buildings. The landlords try to keep it under control. These tenants seem to think they can move anyone into the buildings regardless of their problems, jail, etc. She said the landlords inherit these problems and how does the City expect the landlords to control the tenant's behavior. She said she was told that the landlords could be fined \$1,000 per day if it continues. Ms. Foglino said it is not easy to evict when you rent to two people and end up with nine living there.

Mayor Smith said these concerns have been reviewed at length a number of times with the landlords. He

asked Ms. Foglino to please read the proposed Local Law as much of what she is speaking to is not as she would assume.

Peter Hedglon, Oneida, Attorney, said the group of landlords who retained him has decided not to continue the fight, as they concluded that the Council is not interested in what they had to say. Mr. Hedglon urged the Council to reject the revised proposed Public Nuisance Abatement Program, as it is bad legislation in his opinion. He said this program, as written, applies to every building, structure or real property in the City used for specific crimes or where any violations of the City Code have occurred, and he outlined various code violations. He said there are code violations that occur on City property such as curfew violations, littering or loitering and asked if City property will be considered a public nuisance. Mr. Hedglon said the program, as written, does not require property owners be given notice of the nuisance, with time allowed to abate that nuisance, before enforcement action is taken by the City. He said notice is required before civil action, but none is required for the administrative enforcement process. He questioned the impartiality of the Fire Chief and Codes Enforcement Officer and/or their staff being on the panel conducting administrative hearings and said this could be a civil rights violation. Attorney Hedglon outlined the reasons why he feels this proposed Local Law is inconsistent.

City Attorney Nadine Bell said she wanted to clarify the notification process. Attorney Hedglon made the comment that this proposed Local Law has a notification process for civil action, but not for administrative actions. The City Attorney said that is not correct; and she stated that under Section 122-4 subsection B, the notice process is described. Attorney Hedglon said the City could enforce against a presumption for which there was no public notice because of the way this law is written.

Tom Buckle, Managing Attorney with Legal Services of Central New York, said their organization represents clients for free for civil matters. He said he is against this Nuisance Abatement Law. He said that he has represented some of the poorest, highest crime ridden and most nuisance ridden areas of Onondaga County. Overuse of the criminal law to attack what really should be the social bond of citizenship is counterproductive. Attorney Button said the purpose of this law is to provide for the "proper" use of real property, but said everyone has a different view of what the "proper" use of real property is. He shared the story of Joe Bruno and the Dishonest Services Law. He said the proposed law can trigger the loss of a home or apartment for victims of domestic violence, and there is also the question of whether the law would be applied equally across the board. Attorney Button said there are problems with vagueness in this proposed law. He asked the Council to consider that there is no substitute for being in the neighborhoods and working with people to improve the social bonds and strengthen citizenship, because no criminal law will ever strengthen those types of bonds if you put the work into it.

Milton James, resident of Oneida Castle and owner of seven rental properties in Oneida, stated several weeks ago Mayor Fusco from Rome came to the City Council meeting and it sounded like everything would be great, but he has done some research and the landlord group in Rome said the City is going against the landlords now. Mr. James said he is not saying that it will happen here, but it's possible. He said he heard that the second and third year law college students in Syracuse were studying this proposed law, and they said the City would be breaking about fifteen laws and the landlords would be breaking five laws with the passage of this law. In 2010, the City adopted the \$30.00 fee for apartment inspection, and in Syracuse that law was fought and found to be unconstitutional under the 4th Amendment. Mr. James said he spoke with Bob Comis, Sherrill City Manager, and Mr. Comis told him he would not pass this law in Sherrill as written, and that he would rewrite it so both the landlords and City would benefit. Mr. James said he has spoken with Terry Karst who owns a bar here in the City, and Terry said if he calls the police to have an unruly customer removed and it constitutes a public nuisance; he would be putting himself out of business. Mr. James asked if the Council was comparing a one unit property with a fourteen unit property and said he thinks it should be two times per tenant. He requested a notice in writing to avoid the fine. He said the tenant should be fined, and if he is not fined, he just moves to

another apartment and leaves the landlord in trouble. He asked that the law be tweaked. He said the Fire Department can put the tenant out on the spot if the property is dirty, etc., and asked if the City could help when there is a problem with drugs and things like that.

Fred Cianfrocco, Oneida, said he, his father and brother own apartments in Oneida, and he knows most landlords. He said he doesn't understand, if you do the crime, you do the time. He said everyone wants to pass the buck onto someone else and said to stop passing the buck. He said these people are not going to get the fines, so all they have to do is move to another apartment and then another landlord will be stuck in a similar situation. Mr. Cianfrocco said the Town of Vernon has a law similar to Rome's and he gave a copy to the Mayor. He said landlords are running a business, and the City is not saying the same thing to other businesses like Walmart or the car dealers. He said to stop taking advantage of the small people. Mr. Cianfrocco stated that the Mayor promised the landlords that they would get together and talk about this, but claimed that never happened. Mr. Cianfrocco said we just need to arrest the people who are bad, adding there are too many laws already.

Jim Clarey, Oneida, owner of six apartments in Oneida, said he never dreamed it would come to this stage where the landlords are penalized because of getting the wrong tenants. He provided a scenario where he had a young man whose grandfather stood behind vouching for him and saying that he would pay the rent if his grandson didn't, so he decided to cut this kid a break. The next thing they know, he brings his girlfriend in to live with him, and the police are called multiple times because of squabbles with his girlfriend and fights with his neighbors. He stated that his wife wanted him to take all the doors off the apartment to get rid of him. Mr. Clarey said he is worried about calling the police when there is a problem and then being penalized for it. He said he pays his taxes and is a good landlord, and questioned why the City wants to punish the landlord.

Councilor Acker said she agreed with Attorney Button with respect to domestic violence, noting the City Attorney had brought that to the attention of the Council. Every landlord that is here is a good landlord, but there are many others in the City who are not good landlords, and they are the problems. Fred Cianfrocco said the reference that other landlords are bad goes back to the City. He said the City is not guarding against this, and the Police Department does not want to get involved. Councilor Acker said she is a landlord also and has called the Police Department, and she has never had an issue where the Police don't respond when called.

Deb Clarey, Oneida, landlord, said we are trying to protect our buildings and we want the City's help, but why should we be afraid to call the police in fear of repercussion of a \$1,000 fine or retaliation on the landlord. There are advocacies for victims of violence, HUD, housing authority, elderly etc. and we need support. She said landlords are trying to protect their own properties, as well as other tenants in the building, and there are a lot of uncaring people. She said that tenants know every law on the book and try to maneuver the laws to benefit them and asked where the landlord's protection was. She said that when she calls the Police Department she expects help. She said she doesn't abuse the City and doesn't expect to get a fine for calling, noting they are the ones who pay taxes. She said the landlords should be protected, and the current laws protect the tenant over the landlord. She questioned what the City was doing about the different venues that bring crime and drugs into the City.

Police Chief Meeker said when this law first came about he envisioned that it would address some of the problems with tenants, landlords and the neighboring properties. He said he does not want anyone to feel as though they cannot call the police. Just as in a domestic dispute, he does not want them to feel that they cannot call the police, adding if there is some confusion, then maybe it should be relooked at. If a landlord is taking action to correct a situation, then they are not at fault. If you have someone that is causing problems and you are taking action by calling one, two or twenty times, then you are taking action. He said the Police are looking for someone who isn't taking any action. The Chief used as an

example where the landlord has been notified that there are drugs at a property or disorderly conduct and the landlord won't take any action; that is who this law is aimed towards. It is not for those landlords who are working to make ends meet and taking care of these types of issues. It is for the problem properties.

Susan Sharlette, Oneida, asked if someone alleges drugs are going on, are the police supposed to investigate that or does that turn a landlord into a police officer to evict someone based on an allegation. She said the proposed law looks like it will affect every citizen.

Mayor Smith said that this is the third public hearing on this proposed law. He said there were allegations that he has not met with the landlords, but he has met three times with the landlords, with some of those meetings in excess of 1 to 2 hours. The Mayor of Rome came to our special meeting to explain their law at the specific request of the landlords. Rome has had this law in place for 17 years and almost every question that is being asked here tonight was asked and answered at that special meeting. The Mayor invited anyone who doesn't understand the law to please call him and he would be happy to explain it. The Mayor thanked everyone for their comments and said he will take tonight's comments into consideration and decide if any modifications will be made. If so, a fourth public hearing will be scheduled and if not, the proposed Local Law will be put on the agenda to be voted on.

Moved by Councilor Acker
Seconded by Councilor Smith

RESOLVED, that the Public Hearing on the proposed Local Law to establish a Public Nuisance Abatement Program be hereby CLOSED at 7:16 p.m.

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

MOTION CARRIED

OLD BUSINESS - None

Moved by Councilor Acker
Seconded by Councilor Smith

RESOLVED, that the minutes of the regular meeting of May 6, 2014 are hereby approved as presented.

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

MOTION CARRIED

Moved by Councilor Smith
Seconded by Councilor Bowe

RESOLVED, that Warrant No. 10, checks and ACH payments in the amount of \$205,696.79 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 (Zogby)
MOTION CARRIED

Moved by Councilor Smith
Seconded by Councilor Bowe

RESOLVED, that Check No. 50720 in the amount of \$127.62 (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
Abstain: 1 (Acker)
Absent: 1 (Zogby)
MOTION CARRIED

MONTHLY REPORTS

RESOLUTION 14-126

Moved by Councilor Simchik
Seconded by Councilor Acker

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 (Zogby)
MOTION CARRIED

The Mayor said that sales tax collections are behind projections by about \$17K.

ON-PREMISES ALCOHOLIC BEVERAGE LICENSE NOTIFICATION

RESOLUTION 14-127

Moved by Councilor Chamberlain
Seconded by Councilor Simchik

RESOLVED, that the 30-Day Advanced Notice to a Local Municipality of an application to be filed with the NYS Liquor Authority for an On-Premises Alcoholic Beverage License from George R. Lighthall, Club O at the Olcott, 416 W. Railroad Street, Oneida NY 13421 be hereby received and placed on file.

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

ADVERTISE FOR BIDS – TREE AND STUMP REMOVAL AND TREE TRIMMING

RESOLUTION 14-128

Moved by Councilor Bowe
Seconded by Councilor Smith

RESOLVED, that the Purchasing Agent is hereby authorized to advertise for bids for 2014-2015 Tree and Stump Removal and Tree Trimming.

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

MOTION CARRIED

City Engineer Jon Rauscher said he keeps a spreadsheet listing calls from residents relative to trees. The DPW will do what they can do; however, when more support is needed, the contractor is utilized. Councilor Acker asked if the trees in the woods at Carinci Park would be cleaned up. The City Engineer said the DPW usually does not clean up unused portions of the parks; this is for streets, power lines, etc. Recreation Director Luke Griff said that he piggybacks off of the DPW bid for the parks. He has a separate budget item for tree work in the parks and said that if he had to clean-up fallen trees and brush in the woods, it would eat up more than three-quarters of his budget.

Joe Magliocca, Oneida, said that Mt. Hope is 64 acres and Duross Conservancy is 18 acres. They are both City parks and there are thousands of trees with downed branches, but they do not block the trails or create hazardous conditions on the trails, and we leave them where they are. The portion of Carinci Park that you are speaking of is a one-half to one acre section with no formal use, no recreation equipment and no established trails through it. Councilor Acker said that people do use the woods.

Vicki Arnold, Oneida, said the kids have made trails through the woods at Carinci Park. She said huge trees that have been uprooted are leaning into dead trees, and there are huge piles of brush. She said when there are baseball games at the park, the kids go out into the woods, and she considers it a safety hazard and wants the children protected.

EXTEND WAIVER OF PERMIT FEES IN FLOOD ZONE

RESOLUTION 14-129

Moved by Councilor Acker
Seconded by Councilor Smith

WHEREAS, on June 28, 2013 the City of Oneida experienced a major flooding event and property owners located within the flooded area required building permits, demolition permits and/or flood development applications to repair their homes as a result of said flooding, **and**

WHEREAS, per Resolution 13-199 approved at the July 16, 2013 Common Council meeting property owners in the designated Flood Emergency Evacuation Area were granted a waiver for building permit fees, demolition permits fees of \$50.00 and/or the flood development application fee until December 31, 2013, **and**

WHEREAS, per Resolution 13-301 the Common Council extended the above waiver for building permit fees, demolition permits fees of \$50.00 and/or the flood development application fee of \$25.00 for those property owners in the designated Flood Emergency Evacuation Area until May 31, 2014, **and**

WHEREAS, property owners in the designated Flood Emergency Evacuation Area are continuing to rebuild their homes, **now therefore be it**

RESOLVED, that the building permit fees, demolition permits fees of \$50.00 and/or the flood development application fee of \$25.00 for those property owners in the designated Flood Emergency Evacuation Area are hereby waived until August 30, 2014 to complete the necessary repairs to their properties caused by the flooding event of June 28, 2013.

Ayes: 5

Nays: 0

Absent: 1 (Zogby)

MOTION CARRIED

AUTHORIZE MEDICARE PART B REIMBURSEMENT PAYMENTS TO RETIREES

RESOLUTION 14-130

Moved by Councilor Acker

Seconded by Councilor Bowe

RESOLVED, that the City Comptroller be, and hereby is authorized and directed, throughout the period from July 1, 2014 to December 31, 2014, to make payments to all eligible retired City employees for reimbursement of the cost of Medicare Part B coverage in accordance with the provisions regarding such reimbursement as set forth in the current contracts of CSEA, Inc., Local 1000 AFSCME and Oneida Paid Firefighters Association Local 2692.

Ayes: 4

Nays: 0

Abstain: 1 (Smith)

Absent: 1 (Zogby)

MOTION CARRIED

The Mayor said negotiations are ongoing with three unions, and currently one union does not have this in their contract. The Mayor said this was approved to continue beginning January 1st for six months at the December 17, 2013 Council meeting, and this Resolution approves continuing the payments another six months.

**CONSOLIDATED LOCAL STREET AND HIGHWAY IMPROVEMENT PROGRAM
(CHIPS) FOR STREET PAVING**

RESOLUTION 14-131

Moved by Councilor Bowe

Seconded by Councilor Acker

RESOLVED, to authorize City Engineer to expend funds up to the amount of \$293,177.37 for

street paving with funding through the NYS Consolidated Local Street and Highway Improvement Program (CHIPS).

Ayes: 5

Nays: 0

Absent: 1 (Zogby)

MOTION CARRIED

ORDINANCE AMENDMENTS

RESOLUTION 14-132

Moved by Councilor Acker

Seconded by Councilor Smith

RESOLVED, that the proposed Ordinance amendments to Chapter 26 Bicycles and Skateboards; Chapter 139 Sewers; Chapter 151 Streets, Sidewalks and Public Places; Chapter 155 Subdivision of Land; Chapter 169 Taxicabs; and Chapter 180 Article V. Off Road Recreational Vehicles are hereby received and placed and file, **and be it further**

RESOLVED, that Public Hearings on the aforementioned proposed Ordinance Amendments be hereby scheduled for June 3, 2014 at 6:30 p.m. in the Common Council Chambers, 109 N. Main St., Oneida NY.

Ayes: 5

Nays: 0

Absent: 1 (Zogby)

MOTION CARRIED

ANNUAL FINANCIAL REPORT

RESOLUTION 14-133

Moved by Councilor Acker

Seconded by Councilor Bowe

RESOLVED, that the Annual Financial Report Update Document for the City of Oneida, County of Madison, for the fiscal year ended December 31, 2013 is hereby received and placed on file.

Ayes: 5

Nays: 0

Absent: 1 (Zogby)

MOTION CARRIED

APPROVAL OF APPLICATION SUBMISSION FOR THE TRANSPORTATION ALTERNATIVES PROGRAM GRANT

RESOLUTION 14-134

Moved by Councilor Smith

Seconded by Councilor Chamberlain

WHEREAS, the mission of the City of Oneida Recreation Department is “To provide quality, leisure activities, services and facilities to individuals of all ages that are affordable and accessible to all”, **and**

WHEREAS, the City of Oneida Recreation Department is responsible for providing the proper maintenance and operation of public parks, playgrounds and other recreational facilities operated by the City of Oneida, **and**

WHEREAS, the City of Oneida endorsed the Oneida Rail Trail Project on August 6, 2013, Common Council Resolution 13-206, **and**

WHEREAS, the City of Oneida recognizes that the Transportation Alternatives Program (TAP) reimbursement funding is an 80/20 reimbursement program, and if awarded, the City of Oneida will administer all aspects of the program. All contractors will be hired and paid by the City of Oneida. Reimbursement forms will be submitted by the City of Oneida periodically and the City of Oneida will be reimbursed, **now therefore be it**

RESOLVED, to authorize the Mayor to file an application, as the sponsor, through the US Department of Transportation, Federal Highway Administration, Transportation Alternatives Program (TAP), in an amount not to exceed \$895,000 and if awarded, to enter into an agreement and receive the reimbursement program for the purpose of developing the Oneida Rail Trail.

Ayes: 5

Nays: 0

Absent: 1 (Zogby)

MOTION CARRIED

The Recreation Director said this is a Transportation Alternatives Program (TAP) 80/20 Grant to develop the Rail Trail through the City center connecting to Carinci Park. The City Engineer displayed a conceptual streetscape design displaying infrastructure improvements including signage, crosswalk improvements, new ornamental lights, a bike lane, striping improvements, bike racks and a pedestrian plaza, with the idea being to enhance the area for pedestrian and cycling users on both the east and west sides of Oneida Street. This would be a nice continuation of the trails into the City center. The City Engineer said they will look for potential feedback from residents and business owners. The City Engineer said they are hoping this becomes sort of a catalyst for downtown development. The cost estimate is \$895K with an 80/20 split using in-kind services to cover the 20%.

Jamie Hart from Madison County Planning Department said this grant application is essentially the same application as for phase one, with this being the second phase. The Department of Transportation (DOT) estimates that it takes two years from receipt of the grant to start of construction. The concept is exciting, because the Oneida Rail Trail will potentially bring income to the entire downtown. This will be the face of the Oneida Rail Trail downtown and will be the gateway from the Erie Canal Trail coming into the heart of Oneida.

The Mayor said he is indebted to the County Planning Department for all the work they do for the City.

MAYORS VETO OF RESOLUTION 14-113

RESOLUTION 14-135

Moved by Councilor Bowe
Seconded by Councilor Smith

WHEREAS, that a **VETO** (attached hereto) by Mayor Alden M. Smith of Common Council Resolution 14-113 approved at the regular meeting of the Common Council on May 20, 2014 pertaining to an increase in the hourly wage for two part-time seasonal employees at the Recreation Department and a budget transfer to cover the associated costs be hereby received, **and be it further**

RESOLVED, that the Common Council of the City of Oneida does hereby **OVERRIDE** the Mayor's **VETO** of Resolution 14-113 approved by the Common Council at their regular meeting on May 20, 2014 pertaining to an increase in the hourly wage for two part-time seasonal employees at the Recreation Department and a budget transfer to cover the associated costs

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

MOTION CARRIED

The Mayor said if the Council has read his comments on this, they will understand what his position is. He said he wants to speak emphatically to the point that this is not about the individuals who are in those positions at the present time. The Mayor said this is something he feels very strongly about.

NEW BUSINESS

Commending Police, Fire and DPW

Councilor Smith commended the Police Department for the quick arrests of the suspected arsonists responsible for the fire Saturday afternoon behind Lowes at the old Agway building. He commended the Fire Chief for his department's handling of the fire. Lowe's roof also caught on fire from the embers and mutual aid was there to assist. Councilor Acker concurred that the teamwork was very good. She thanked Pepi's Pizza, Tim Horton's and Dunkin Donuts for their food donations. Councilor Smith said the DPW responded immediately when called and were also given kudos for their efforts.

Memorial Day Festivities

The Mayor reminded the Council that the Memorial Day festivities begin at 6:30 p.m. at Triangle Park on Friday evening. Mayor Smith said he will be performing the National Anthem this year and he is looking forward to doing that.

School Budget Vote

Councilor Acker said that voting on the school budget is open until 9:00 p.m. She noted that today's turnout has been very low.

Mayor's Comments on Public Nuisance Abatement Program

Mayor Smith said this is the third public hearing the Council has had on the proposed Public Nuisance Abatement Program. It is a little disappointing to be answering the same questions we answered three meetings ago, which leads one to wonder if people have actually read the proposed law. The Mayor said he will do the best he can to see Oneida elevate itself, and if that means that he wrangles a few on the way, so be it. He said he did not take this chair to win a popularity contest. The Mayor said he will advocate for what he believes is in the best interest of the City, and if he can rally enough support, then that is what he is going to do, regardless of whether some might not understand the intent of those things. We have a right to safe streets and not be exposed to what has become common place in this community. Mayor Smith said our police responded to 71 incidents last week alone, a number of them serious, and thinking that “bonding” will fix these problems is extremely naive.

Motion to adjourn by Councilor Smith

The meeting is hereby adjourned at 7:56 p.m.

CITY OF ONEIDA

Susan Pulverenti, City Clerk