

**MINUTES OF THE COMMON COUNCIL  
REGULAR MEETING  
JUNE 15, 2021**

A meeting of the Common Council of the City of Oneida, NY was held on the fifteenth day of June, 2021 at 6:30 p.m. at the Common Council Chambers, 109 N. Main, Oneida, NY 13421.

The meeting was called to order by Mayor Helen Acker

<b>Attendees</b>	<b>Present</b>	<b>Absent</b>	<b>Arrived Late</b>
Mayor Acker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Earl	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/> _____
Councilor Coulthart	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Kinville	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor DuBois	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Simchik	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

**SUPERVISORS:**

Matt Roberts	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mary Cavanagh	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Joe Ostrander	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Joe Magliocca	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**ALSO PRESENT:**

City Attorney Nadine Bell, City Clerk Sandy LaPera, City Engineer Jeff Rowe, Comptroller Lee Ann Wells, Police Chief John Little, Codes Director Bob Burnett, Public Safety Commissioner Kevin Salerno, Fire Chief Dennis Fields

Call to Order/Pledge of Allegiance/Roll Call

**PUBLIC COMMENT**

VINCENT BAILEY

Mr. Bailey stated that he is the owner of property located at 103 Madison Street, the corner of Main and Madison Streets, that houses the Chinese Restaurant and the Blend. He advised that the building had previously been struck by a car in November and that the Blend had recently experienced a fire. He advised of work that he had done under the recommendation of his engineer so that there would be no disruption to the Chinese Restaurant. He expressed issues that he was having with Codes, and the Mayor stated that she would arrange a meeting with Mr. Bailey and the Codes Director to discuss his concerns.

## MARGARET MILMAN- BARRIS

Mrs. Milman-Barris stated that she was worried about the large amount of taxpayer money that was being spent on the transport and disposal of biosolids from the City, as well as the leachate from the landfill. She cited the expense from both the City and County, and that she feels there has not been a good explanation as to why it is not being allowed. She also cited the expense related to Agenda item No. 7, including potential fines, should the City not meet certain milestones that Council would be voting on this evening. She wanted to urge the Council to make sure the milestones are met so that the City does not have to spend additional funds.

## **OLD BUSINESS**

Mayor Acker read a prepared statement, which is attached to the minutes, to address the claims and comments that have been made regarding the issue raised by Mrs. Milman-Barris.

Councilor Coulthart stated that he did not receive a copy of the Intermunicipal Agreement until he formally requested it, and that in terms of him voting the way he did-it is his opinion that an agreement implies that there are 2 sides to an arrangement, and he feels that if the other party is not living up to their obligation, they should not be afforded compensation. This was the basis of his voting and reason for his rationale.

## **SUPERVISOR'S REPORT**

Supervisor Roberts reported that the County is open for business and started taking walk-ins from Madison County, and noted that the Oneida County DMV in Rome is still shut down. He stated that sales tax in the City of Oneida is very strong and hopefully will continue. He did note though that people are spending less in retail now that things are opening back up and traveling more, so there might be a slight downfall in the coming months.

Councilor Coulthart questioned Supervisor Roberts about the last Board of Supervisors' meeting where host monies pertaining to the Land Claim were discussed and how the money would be calculated and dispersed from the County. Councilor Coulthart asked how Supervisor Roberts would be voting on this issue. Supervisor Roberts advised that it had to do with two things- the loss of land and taxes associated with that, and the other with Casinos. He noted that the contention was more on the Casino side, and that this was tabled. He also stated that he was one of the members who seconded the motion to table it. They are going to benchmark other communities that have Casinos in general. Based on this, they will make their recommendation. He advised that he will vote on what is correct, based on precedent and benchmarking other communities.

\*Approval of Minutes of the Regular Meeting of June 1, 2021

\*Approval of Warrant No. 12

Moved by Councilor DuBois

Seconded by Councilor Simchik

**RESOLVED**, that the minutes of the regular meeting of June 1, 2021 are hereby approved as presented.

Ayes: 4  
Nays: 0  
Absent: 2 (Earl/Laureti)

**MOTION CARRIED**

Moved by Councilor DuBois  
Seconded by Councilor Kinville

**RESOLVED**, that Warrant No. 12, checks and ACH payments in the amount of \$231,045.01 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: 2 (Earl/Laureti)

**MOTION CARRIED**

**DISCUSSION:**

Councilor Coulthart commented that he would be voting yes to the approval of the warrant, as there was not a payment for biosolids to the County included.

**MONTHLY REPORTS**

**RESOLUTION 21-104**

Moved by Councilor Simchik  
Seconded by Councilor Kinville

**RESOLVED**, that Monthly Reports from the City Clerk, City Engineer, Comptroller, Fire Department, Planning Department and Police Department are hereby received and placed on file.

Ayes: 4  
Nays: 0  
Absent: 2 (Earl/Laureti)

**MOTION CARRIED**

**DISCUSSION:**

Councilor Coulthart questioned why there was not a report from the Recreation Department. Mayor Acker advised that it was due to illness.

Councilor Coulthart applauded Chief Little for 9 of his officers attending Critical Communications Skills

training and for sponsoring and participating in several community events, such as the upcoming “Cops and Bobbers.”

Councilor Coulthart also asked about the progress with the DPW garage, and Councilor Simchik advised that it has been put on hold for now and is listed as an ongoing project with no change in status. City Engineer, Jeff Rowe, stated that when he is ready to proceed, it will be brought before Council.

Councilor Coulthart questioned the roof replacement project at the Recreation Center, and the Mayor advised that the contract had just come in earlier in the day. Comptroller Wells advised that this project had been bonded for and previously approved.

### LIQUOR LICENSE

#### **RESOLUTION 21-105**

Moved by Councilor Simchik  
Seconded by Councilor Kinville

**RESOLVED**, that the Standardized Notice Form for providing 30-Day Advanced Notice to a Local Municipality or Community Board for the filing of a new application for an On-Premises Alcoholic Beverage License by Cheryl Whitmeyer, DBA Frogs, 1079 Lake Rd., Oneida, NY 13421 be hereby received and placed on file.

Ayes: 4  
Nays: 0  
Absent: 2 (Earl/Laureti)  
**MOTION CARRIED**

#### **DISCUSSION:**

Councilor Simchik stated that he drove by and noticed that this was being worked on and what a great job they were doing. All agreed that it was nice to see more business coming to Oneida

### PROPOSED ACTION: GLENMORE WATER TREATMENT PLANT CLEAR WELL IMPROVEMENTS PROJECT

#### **RESOLUTION 21-106**

Moved by Councilor Kinville  
Seconded by Councilor DuBois

**RESOLUTION DETERMINING THAT THE PROPOSED GLENMORE WATER TREATMENT PLANT  
CLEAR WELL IMPROVEMENTS PROJECT IS A TYPE 1 ACTION AND WILL NOT HAVE A  
SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT**

**WHEREAS**, the City of Oneida (City) is proposing the Glenmore Water Treatment Plant Clear Well Improvements Project (Project), located in the Town of Annsville, Oneida County, New York; and

**WHEREAS**, the Project has been classified as a "Type I Action" as defined by the State Environmental Quality Review Act (SEQRA) in 6 NYCRR Part 617.4; and

**WHEREAS**, the City of Oneida City Council sent a letter and Part 1 of a Full Environmental Assessment Form (FEAF) to other potentially "Interested Agencies" and "Involved Agencies" (as these terms are defined in the SEQRA Regulations found at 6 NYCRR Part 617.2), indicating the City's desire to serve as the "Lead Agency" (as this quoted term is defined in the SEQRA Regulations) and to complete a coordinated review of the Project (in accordance with 6 NYCRR Part 617.6); and

**WHEREAS**, responses from Interested and Involved Agencies were requested, and each of the potentially Interested and Involved Agencies has agreed to, or raised no objections to, the City of Oneida City Council serving as Lead Agency for the Project; and

**WHEREAS**, pursuant to the SEQRA/SERP Regulations, the City of Oneida City Council has considered the significance of the potential environmental impacts of the Project by (a) using the criteria specified in Section 617.7 of the SEQRA Regulations, and (b) examining the FEAF for the Project, including the facts and conclusions in Parts 1, 2 and 3 of the FEAF, together with other available supporting information, to identify the relevant areas of environmental concern:

**NOW, THEREFORE, BE IT**

**RESOLVED** that, the City of Oneida City Council hereby establishes itself as Lead Agency for the Project; and

**BE IT FURTHER RESOLVED**, that based upon an examination of the FEAF and other available supporting information, and considering both the magnitude and importance of each relevant area of environmental concern, and based further upon the City's knowledge of the area surrounding the Project, the City of Oneida City Council makes the determination that the Project will not have a significant adverse environmental impact and that the Project will not require the preparation of a Draft Environmental Impact Statement; and

**BE IT FURTHER RESOLVED**, that as a consequence of such findings and declaration, and in compliance with the requirements of SEQRA/SERP, the City of Oneida City Council, as Lead Agency, hereby directs the City of Oneida Mayor to sign the FEAF Part 3 – Determination of Significance indicating that a Negative Declaration has been issued for the Project; this Resolution shall take effect immediately and will be properly noticed.

The question of the adoption of the foregoing resolution was duly put to a vote, and upon roll call, the vote was as follows:

Carrie Earl, Councilor	Absent
Steve Laureti, Councilor	Absent
James Coulthart, Councilor	Yes
Michelle Kinville, Councilor	Yes
Brandee DuBois, Councilor	Yes
Thomas Simchik, Councilor	Yes

The foregoing resolution was thereupon declared duly adopted.

#### **DISCUSSION:**

City Engineer Rowe explained that this is related to the Second Clear Well Project at the Water Treatment Plant and not the Wastewater Treatment Plant.

The Mayor commented that when she and Councilor Coulthart toured the facility, she was very impressed with how clean it was and that the employees take a lot of pride in their work. Councilor Coulthart agreed.

#### **ORGANIZATIONAL RESOLUTION**

##### **RESOLUTION 21-107**

Moved by Councilor Coulthart

Seconded by Councilor DuBois

**RESOLVED**, that the Organizational Resolution for the year 2021 consisting of the following is hereby approved:

1. Regular meetings for the City of Oneida for the year 2021 shall be held in Council Chambers, Oneida Municipal Building, 109 North Main Street, Oneida, New York at 6:30 p.m. on the first and third Tuesday of each month, and if any of said Tuesdays shall fall on a holiday, then in such event, the Common Council shall agree on a date to reschedule.
2. The Oneida Dispatch is hereby designated as the official newspaper in the City of Oneida.
3. The City of Oneida funds for the year 2021 shall be kept and retained in the following banks:
  - NBT Bank, Oneida, NY: Special capital accounts and other current

accounts

- Community Bank, Oneida, NY: Special reserve accounts and other current accounts

4. There shall be one bond which covers all employees, and the limit is \$350,000 worth of coverage per loss.

Ayes: 4

Nays: 0

Absent: 2 (Earl/Laureti)

**MOTION CARRIED**

**DISCUSSION:**

City Attorney Bell advised that this was an oversight in January due to the pandemic and was being done now for protocol.

**ORDER OF SUCCESSION FOR COUNCILORS**

**RESOLUTION 21-108**

Moved by Councilor Kinville

Seconded by Councilor DuBois

**RESOLVED**, that the order of succession of the members of the Common Council pursuant to Section 3.0 (2.10) of the City Charter shall be as follows:

Mayor Helen Acker  
Deputy Mayor Thomas Simchik  
Councilor James Coulthart  
Councilor Brandee Dubois  
Councilor Carrie Earl  
Councilor Michelle Kinville  
Councilor Steve Laureti

Ayes: 4

Nays: 0

Absent: 2 (Earl/Laureti)

**MOTION CARRIED**

**DISCUSSION:**

City Attorney Bell noted that this Resolution was being done for the same reason as the previous one. She also noted that the order is established by Charter.

**BUDGET TRANSFERS/AMENDMENTS**

**RESOLUTION 21-109**

Moved by Councilor Kinville  
Seconded by Councilor Simchik

**2021 Budget Adjustments**

**RESOLVED**, to approve the following 2021 Budget Amendment/Transfers

	From	To
\$ 1,716.75	001.0017.1523.0000 Police Revenue	001.3120.0300.0000 Police Materials & Supplies

***To re-allocate funds received from bike auction to fund material expenses***

\$ 1,100.00	001.0001.0912.0000 General Fund Balance	001.8597.0200.0000 Community Environment Equipment
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***To allocate funds to repair city owned sign in business park damaged by wind***

\$ 29,902.94	003.0003.0912.0000 Sewer Fund Balance	003.8110.0412.0000 Madison County Landfill
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***To allocate funds to pay for biosolids disposal for May 2021***

\$ 50,000.00	003.0003.0912.0000 Sewer Fund Balance	003.8110.0490.0000 Sewer permits & fines
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***To allocate funds to pay DEC for fine and partner in environmental rehab***

\$ 3,000.00	001.0001.0912.0000 General Fund Balance	001.4068.0400.0000 Mosquito Program Expenses
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***To allocate funds to pay for legal notices, licensing and misc. products needed***

Ayes: 4  
Nays: 0  
Absent: 2 (Earl/Laureti)

**MOTION CARRIED**



**DISCUSSION:**

Councilor Coulthart advised that although he still objects to the payment for biosolids to the County, he would vote in favor in order to not hold up progress.

**CONSENT ORDER WITH NYSDEC-WASTEWATER TREATMENT PLANT**

**RESOLUTION 21-110**

Moved by Councilor Simchik  
Seconded by Councilor DuBois

**RESOLVED**, that the Mayor is authorized on the City of Oneida's behalf to: (a) execute the pending administrative Consent Order with the New York State Department of Environmental Conservation (NYSDEC) regarding certain alleged permit violations associated with the operation of the City's Wastewater Treatment Plant (NYSDEC Case #R7-20201105-51), in substantially the form presented at this meeting; and (b) undertake or authorize the undertaking by City employees of all actions necessary to comply with the terms, provisions and requirements of the Consent Order, including arrangements for the City's payment of civil penalties, and funding of an Environmental Benefit Project to be designated by NYSDEC in the near future.

Ayes: 4  
Nays: 0  
Absent: 2 (Earl/Laureti)  
**MOTION CARRIED**

**NEW BUSINESS:**           None

Motion to adjourn by Councilor Kinville  
The regular meeting is hereby adjourned at 7:12 p.m.

**CITY OF ONEIDA**

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Sandra LaPera, City Clerk

## STATEMENT

Mayor Helen B. Acker

June 15, 2021

I'd like to address some erroneous and misguided claims and comments that have been recently made to the public about me and the WWTP verbally and on social media by Mrs. Barris.

When the City suffered the upset at the plant on Sept. 29, 2020, it was the DEC who ordered us to immediately stop accepting the leachate from the Madison County Landfill. We, the City, did not decide on our own to take this action.

We had to temporarily halt acceptance of the leachate until we could get a handle on the situation and find ways to remedy it so it does not occur in the future. To do this, we hired an independent outside firm to investigate the incident. Investigations do not happen overnight, and we limited our public discussion of details in order to protect the investigation's integrity. I stated this many, many times at Council meetings and to anyone in the public who asked. Everyone is entitled to their own opinions, but much of what was stated on social media was based on poor assumptions and just incorrect.

We also contracted with Barton & Loguidice (B & L) Engineering to help us get through this situation, improve our WWTP procedures and get it moving back in the right direction. We had a change in staffing, as our Chief Operator was out on medical leave. He has since retired. Since we made these and other operational changes, our plant is steadily improving its efficiency, although it remains a very antiquated system that cannot serve the City over the long term. Hence, our new WWTP currently being built. We are getting very good feedback from DEC monitors now, and they are very happy with the turn of events. I was able to establish a good relationship with the DEC and good communication from our staff to the DEC. For some unknown reason, this was not done by prior administrations, as was pointed out to me by the DEC.

Again, though we limited our public comments during the investigation, the entire Common Council was kept up to date on the situation during Executive Sessions. They knew what was going on.

The DEC's order to halt acceptance of the leachate from the County triggered our exercise of Paragraph 3, Section F of the Landfill Intermunicipal Wastewater Service Agreement, which I will read to you:

- The City may curtail the pumping of leachate into the System upon a written determination by the City Engineer that continued acceptance of leachate will reasonably endanger compliance with the WWTP SPDES permit. In the event that leachate pumping is curtailed, City shall pay the prevailing landfill tipping fee for biosolids disposal at the landfill for the duration of such curtailment. The parties acknowledge that this provision may cause both parties to incur damages. The parties agree to mitigate such damages to the extent practicable.
- Except as provided in paragraph 3 (f) above, the CITY may dispose of the following quantities of WWTP Biosolids and solid waste generated by the WWTP at the County landfill without paying the prevailing tipping fee, Biosolids: not to exceed 1,500 tons per month and not to

exceed 5,000 tons in any calendar year (January 1<sup>st</sup> thru December 31<sup>st</sup>), WWTP solid waste: not to exceed 3 tons per month and not to exceed 30 tons per calendar year (January 1<sup>st</sup> thru December 31<sup>st</sup>).

At our Common Council Meeting on Tuesday, May 4, 2021, I stated that the City had received the report of Ramboll's investigation into the WWTP upset that day, but we had not had the time to review it. I stated that I would share the findings with the Common Council at the next meeting on May 18, 2021. I did so during Executive Session. I also stated that a copy of the Landfill Intermunicipal Wastewater Service Agreement would be provided to Councilor Coulthart showing the City's obligation to pay for disposal of the solids we were sending to the County because of that Agreement's requirements. I sent the Agreement the next day on May 5<sup>th</sup> at 3:11 p.m. to Councilor Coulthart and the rest of the Council. Despite the Agreement's clear language, to date, Councilor Coulthart refuses to approve payment for the solids' disposal. Fortunately, the rest of the Council understands our obligation to pay, and we do so.

So, what have we learned from the investigation? In summary, the upset was caused by a combination of three factors: (1) the Madison County Landfill repeatedly exceeded its permit limits for discharges to the WWTP; (2) HP Hood repeatedly exceeded its permit limits as well; and (3) the WWTP was not functioning optimally to allow it to handle the exceedances from the Landfill and Hood.

With all this being said, we are working with both the Madison County Landfill and HP Hood to stay within permit limits and prevent future exceedances. The County was supposed to have installed a computerized monitoring system in 2014 that would give real-time data to the WWTP regarding what was coming through the Landfill's discharge pipe. That system was finally installed late last year and is in operation. Both the County and HP Hood are reviewing their permit limits on flow amounts and timing and taking action to better comply. As for the City, I stated earlier that we had worked in consultation with B & L Engineering on making many changes to the plant, from equipment to personnel, in an effort to improve efficiency and keep things running while the new WWTP is being built.

To resume acceptance of leachate from the County, we first had to show DEC we had an acceptable plan of WWTP operation and a good handle on all the aspects of the WWTP as it stands now. Once DEC was satisfied, the decision to accept the leachate falls to the City Engineer, along with the WWTP Chief Operator. It is not up to the Mayor or the Council. They, the City Engineer and the Chief Operator, are the professionals who understand the procedures and what can and cannot be done, what material we can and cannot accept, and when we can accept it.

On Thursday, June 3, 2021, we reached out to the Madison County Landfill to advise them we were ready, willing and able to resume accepting their Landfill leachate for treatment. As of today, they have not yet begun sending leachate to us.

The September 2020 upset and other longstanding problems at the WWTP prompted the DEC to pursue administrative penalties against the City. A Consent Order was proposed and negotiated as follows:

The DEC originally sought \$386,000 in fines. I was able to negotiate that down to \$150,000, with \$100,000 of that suspended as long as the City continues to comply with its state permit responsibilities. Of the remaining \$50,000 payable penalty, \$10,000 goes to the coffers of NYS in Albany. The remaining \$40,000 will go to fund a local EBP-Environmental Benefit Project chosen by the DEC. While the project choice is solely up to the DEC, I am pushing for a project that primarily benefits Oneida Creek, which is sorely in need of attention. Again, it is not up to me, but solely up to the DEC, but I am pushing for Oneida Creek.

The reason that I can share all of this with you tonight is that the investigation and findings are done, the Consent Order negotiations with the DEC have been concluded, and the Oneida Common Council has Resolution No. 7 on its Agenda tonight, which authorizes me, as Mayor, to execute the Consent Order with NYSDEC and keep the City moving forward toward its goal of building a new, state-of-the-art WWTP that will benefit our citizens, industries and our environment for many years to come.

I thank you for your patience and the time to listen to my statement, and I appreciate the opportunity to clear up any misconceptions about the situation that may have resulted from the erroneous and misleading information being spread by others.

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Helen B. Acker, Mayor