

**MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
NOVEMBER 16, 2021**

A meeting of the Common Council of the City of Oneida, NY was held on the sixteenth day of November, 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

<u>Attendees</u>	Present	Absent	Arrived Late
Mayor Acker	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Earl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" 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	<input checked="" type="checkbox"/>	Fire Chief Dennis Fields	<input type="checkbox"/>
City Clerk Sandy LaPera	<input checked="" type="checkbox"/>	Parks & Rec Director Luke Griff	<input checked="" type="checkbox"/>
City Engineer Jeff Rowe	<input checked="" type="checkbox"/>	Police Chief John Little	<input checked="" type="checkbox"/>
Codes Director Bob Burnett	<input checked="" type="checkbox"/>	Public Safety Com. Kevin Salerno	<input checked="" type="checkbox"/>
Comptroller Lee Ann Wells	<input checked="" type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

PROCLAMATION: Zonta Says No to Violence Against Women Day

Proclamation

City of Oneida - Office of the Mayor

WHEREAS, the crime of violence against women and girls continues to be the most pervasive human rights violation and a global epidemic; is due to systemic use of physical, emotional, verbal, sexual, psychological and economic control and/or abuse; does not know any national nor cultural barriers and affects millions of women and girls of all races and socioeconomic backgrounds, in peacetime and conflict; violates an individual's privacy, dignity, security, and humanity, **and**

WHEREAS, according to UN Women, "As COVID-19 cases continue to strain health services, essential services, such as domestic violence shelters and helplines, have reached capacity [and] more needs to be done to prioritize addressing violence against women in COVID-19 response and recovery efforts", **and**

WHEREAS, the World Health Organization estimates that one in three (35% of) women worldwide have experienced physical and/or sexual violence, **and**

WHEREAS, more than 650 million women alive today were married as children and 12 million girls are married before the age of 18 each year, **and**

WHEREAS, Zonta International is a leading global organization of professionals with more than 28,000 members in 62 countries working together to make gender equality a worldwide reality for women and girls and has contributed to help achieve a world free of violence against women and girls for more than 100 years, **and now therefore**

I, **Helen B. Acker, Mayor** do hereby proclaim November 25, 2021 as;

Zonta Says NO to Violence Against Women Day

in the City of Oneida and encourage all residents to prevent gender-based violence by educating the community on its harm, to advocate for survivors of gender-based violence and to act in service on their behalf.

IN WITNESS WHEREOF, I have hereunto set my hand and affix the official seal of the City of Oneida on this 16th day of November, 2021.

Mayor Helen B. Acker

PUBLIC HEARING-CITY OF ONEIDA 2022 MAYOR'S BUDGET

RESOLUTION 21-205

Moved by Councilor Earl
Seconded by Councilor Kinville

RESOLVED, that the Public Hearing for the 2022 City of Oneida Mayor's Budget is hereby opened at 6:36pm.

Ayes: 6
Nays: 0

MOTION CARRIED

APPEARANCES

JIM COULTHART 544 Broadway, Oneida

Mr. Coulthart advised that he was speaking as a private citizen and wanted to point out that the City received \$1.17M in Federal money to compensate for revenue lost due to the Covid pandemic. He wanted to make the point that it was a Democratic Congress that brought this forth, and wondered if this would have been the case should the opposition been in control. He also brought up Bail Reform and the indication that Council members felt that it was the No. 1 problem in the City; however, it was only referenced in the Police Department Budget meeting. He addressed the tax limit and noted that a 0% increase in taxes means that the \$1.17M that will be distributed over the next few years for projects will have to come from somewhere, advising that Council will have to work harder in 2023 to come up with the money, as well as the increase in Sewer fees and valuation because of land lost in the flats.

CLOSE PUBLIC HEARING-CITY OF ONEIDA 2022 MAYOR'S BUDGET

RESOLUTION 21-206

Moved by Councilor Kinville
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing for the 2022 City of Oneida Mayor's Budget is hereby closed at 6:40pm.

Ayes: 6
Nays: 0

MOTION CARRIED

PUBLIC COMMENT

LARRY KRANBUHL 440 Williams St., Oneida

Mr. Kranbuhl stated that he is having issues with a neighbor who has been feeding wildlife and that it is becoming a nuisance. He noted that he has spoken to his Councilman and the DEC; however, nothing can be done because there is no regulation. He asked Council to address this issue and come up with a law or ordinance to prevent this from happening.

DEE SCHAEFER Allen Park Place, Oneida

Dee Schaefer spoke against approving Local Law No. 12-opting out of licensing and establishing retail cannabis dispensaries and on-site consumption establishments and in support of Connell's Green Haus. She stated that the last time she addressed Council, she brought up alcohol consumption and sales in the City of Oneida and how, in her opinion, if the City is going to prohibit the sale of Cannabis, were they also going to consider prohibiting the sale of alcohol? She referenced that Cannabis is prohibited where smoking is and would not be allowed in parks, playgrounds, schools etc. and that it is also up to landlords and property owners whether or not they want Cannabis to be in their building, as per NYS Regulations for Cannabis consumption. She stated that she would rather use Cannabis as opposed to Opioids which are highly addictive for her pain issues. She advised that she would rather see the purchase take place safely rather than on the streets and that she would rather spend her money in her hometown rather than in other municipalities.

TODD PEVELER 508 Tilden Street, Oneida

Mr. Peveler advised that he was out of town and unable to attend the last meeting where Cannabis was discussed. He stated that he was confused, as a taxpayer, how with the loss of revenue from the houses no longer on the tax roll in the flats, the City would pass up the revenue from something that is legal based on what could possibly happen, noting that this was not about selling.

JACOB CORNELL 264 Genesee Street, Oneida

Mr. Cornell pointed out that Morrisville and Norwich opted out of on-site consumption lounges, which would be the Cannabis bars or lounges where people could use the product and then drive home. He suggested that if this was the concern, the City should opt out of on-site consumption establishments, but opt in to establishing retail Cannabis Dispensaries. He stated that marijuana dispensaries are prohibited from using Cannabis on the property. He stated that they just want to do this in a business, professional way and not be seen as any different than a liquor store.

HEATHER RYERSON 333 Stone St., Oneida

Ms. Ryerson offered her support for opting in to having dispensaries. She spoke not as a business owner, but as a resident. She noted drug dealings that have been taking place next to her residence and her desire to cut down on Black Market sales and allow responsible business owners to supply the product. She stated that she wants to support business in the City and that she strongly opposes opting out, stressing the City should act upon this now rather than going to Referendum and wasting time.

OLD BUSINESS: None

SUPERVISOR'S REPORT: None

Moved by Councilor Earl
Seconded by Councilor Kinville

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

Ayes: 6
Nays: 0

MOTION CARRIED

Moved by Councilor Kinville
Seconded by Councilor Coulthart

RESOLVED, that the minutes of the Special Meetings of November 3, 2021 and November 4, 2021 are hereby approved as presented.

Ayes: 6
Nays: 0

MOTION CARRIED

Moved by Councilor Earl
Seconded by Councilor Coulthart

RESOLVED, that Warrant No. 22, checks and ACH payments in the amount of \$3,750,054.66 as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

Ayes: 6

Nays: 0

MOTION CARRIED

MONTHLY REPORTS

RESOLUTION 21-207

Moved by Councilor Coulthart

Seconded by Councilor Simchik

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

Ayes: 6

Nays: 0

MOTION CARRIED

ADOPT LOCAL LAW NO. 11-IMPOSING A TWLEVE (12) MONTH MORATORIUM ON BOARDING HOUSE AND/OR ROOMING HOUSE USES WITHIN THE CITY OF ONEIDA

RESOLUTION 21-208

Moved by Councilor Kinville

Seconded by Councilor Earl

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled "A Local Law Imposing a Twelve (12) Month Moratorium on Boardinghouse and/or Rooming House Uses Within the City of Oneida," was presented and introduced at a regular meeting of the Common Council of the City of Oneida held on October 19, 2021; **and**

WHEREAS, a public hearing was held on such proposed local law on November 1, 2021 by the Common Council of the City of Oneida and proofs of publication of notices of such public hearings, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Common Council of the City of Oneida in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; **and**

WHEREAS, the enactment of the Proposed Local Law has previously been determined to be a Type II action for purposes of environmental review pursuant to the State Environmental Quality Review

Act (SEQRA) and that this action will have no significant effect on the environment, thus concluding the SEQR review process; **and**

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

NOW, THEREFORE, it is

RESOLVED that the Common Council of the City of Oneida, Madison County, New York, does hereby enact Local Law No. 11 as follows:

CITY OF ONEIDA

LOCAL LAW NO. 11 OF 2021

“A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM ON BOARDINGHOUSE AND/OR ROOMING HOUSE USES WITHIN THE CITY OF ONEIDA

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

SECTION 1. INTENT.

It is the intent of the Common Council of the City of Oneida to impose a twelve (12) month moratorium on the use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any new boardinghouse and/or rooming house use within the City of Oneida, pending the development and adoption of a local law designed to regulate and govern such uses. This Local Law is enacted under the authority of Section 10 of the New York Municipal Home Rule Law.

SECTION 2. LEGISLATIVE PURPOSE.

Pursuant to the statutory powers vested in the City of Oneida to regulate and control land use, and to protect the health, safety and welfare of its residents, the Common Council of the City of Oneida hereby declares a temporary moratorium on the use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any new boardinghouse and/ or rooming house use within the City of Oneida, pending the development and adoption of a local law designed to regulate and govern such uses. The Common Council has become aware of the need to fully review and analyze the current state of boardinghouse and rooming house uses and the potential impact of such uses within the City. Noise, parking, visual impacts, and impacts on neighborhood character are issues common to boardinghouses and rooming house uses. It is specifically acknowledged that while boardinghouses and rooming houses are often converted single family houses located in residential neighborhoods, boardinghouses and rooming houses may be located in commercial districts. It is the concern of the Common Council that although such boardinghouse and rooming house uses may provide housing and economic benefits to some individuals and businesses in the area, they may also have a negative impact on the quality of life for the citizens and residential districts, as well as commercial activity in the City.

The Common Council of the City of Oneida desires to address, in a careful manner, the issues raised by such uses on a comprehensive basis, rather than on an ad hoc basis, with the goal of adopting appropriate zoning or other land use laws or by amending its current laws to properly regulate the same. With the enactment of this Local Law, the Common Council will commence the process of considering various options relating to this issue. The Common Council finds and determines that it needs this period of time to study the entire issue, and draft proposed amendments to the local Zoning Regulations, make appropriate changes to the draft of any proposed Zoning change, schedule and hold the required public hearings on such changes, perform an appropriate environmental review for such changes and comply with applicable provisions of law regarding the adoption of a Zoning modification.

Unless reasonable measures are taken for an interim period to protect the public interest pending the completion of necessary surveys, studies, meetings and required public hearings, building and land development may occur within the City that may thereby:

- (1) Preclude or otherwise undermine consideration and implementation of appropriate and salutary planning measures, including the amendment of the Zoning Regulations, environmental review procedures, and other development regulations;
- (2) Permit significant variations in neighborhoods where the City may wish to implement changes in the existing Zoning Regulations and such variations may impede or destroy the integrity of changes which may be proposed; and
- (3) Create conditions, or worsen existing conditions, which the Common Council hereby finds to be detrimental to the public health, safety, and general welfare.

It is the finding of the Common Council that the completion of a review of the Zoning Regulations and Zoning Map is necessary to determine how to best regulate boardinghouse and rooming house uses without adversely impacting residential and commercial district and the community character in general, and that the completion of such review as envisioned by this Local Law is necessary to protect the future health, safety, and welfare of present and future residents of the City of Oneida.

SECTION 3. DEFINITIONS.

For purposes of this Local Law, the terms used herein shall have the following meanings:

BOARDING HOUSE – This term includes the use of any land, facility, dwelling unit, or structure for temporary occupancy purposes by two or more individuals not constituting a family or functional family unit who normally pay based on a share of total expenses of the facility, dwelling unit, or structure. The term does not include a motel, hotel, inn, or bed-and-breakfast.

DWELLING UNITY – A building or portion thereof containing cooking area(s), bathroom, dining, sleeping, and related facilities necessary and/or incidental to human habitation, designed and intended as a self-contained household unit for a single individual or family.

FAMILY – One person residing in a dwelling unit; two or more persons related by blood, marriage or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit; or two or more persons not necessarily related by blood, marriage or adoption occupying a single dwelling unit as a single housekeeping unit and constituting a “functional family unit” as defined herein, which in either event shall be distinguished from two or more persons occupying a dwelling unit and simply sharing rent, utility expenses and other similar expenses of occupying the dwelling unit, and also to be distinguished from occupying a boardinghouse or rooming house.

FUNCTIONAL FAMILY UNIT – A group of two or more persons not necessarily related by blood, marriage, or adoption, living, sleeping, cooking, and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

- A. A functional family unit is distinguished from two or more persons occupying a boardinghouse or rooming house.
- B. For a group of two or more unrelated persons to operate as a functional family, they must regularly share the common dwelling areas, including dining areas, cooking areas, and social spaces, and they must do so with a measure of stability characteristic of the Family Residential District.
- C. Such stability is presumed present if at least four (4) of the following conditions are met:
 - (1) The presence of one or two adults residing in the unit with either or both acting as a head of household.
 - (2) The presence of one or more minor children regularly residing in the household as dependent(s) of one or more adult occupant(s) of the household.
 - (3) Sharing of expenses for food, rent or ownership costs, utilities, and other household expenses.
 - (4) Common use or ownership of furniture, appliances and other household furnishings and supplies among the members of the household.
 - (5) Employment of members of the household in the region, or active pursuit of such employment.
 - (6) Use of the address of the dwelling by adult members of the functional family for purposes of voter registration, or driver's license, or motor vehicle registration, or state or federal income tax filings.
 - (7) A showing that all members of the household have been living together as a single housekeeping unit for a year or more, whether in the current dwelling unit or in one or more other dwelling units.
 - (8) Any other factor that, in the judgment of Department of Codes Enforcement, reasonably demonstrates that the group of persons are occupying the dwelling unit as a single unit in a manner consistent with the purposes of zoning and use restrictions in the Family Residential District.
- D. A group of individuals living in the same dwelling unit shall be presumed not to be a functional family unit, as defined in this section, if such dwelling unit contains no head of household.

ROOMING HOUSE – A dwelling unit in which individuals pay by the room, with or without meals, for temporary, seasonal, or ongoing occupancy. The term does not include a motel, hotel, inn, or bed-and-breakfast.

SECTION 4. MORATORIUM.

- A. Unless permitted pursuant to Section 5 hereafter, from and after the date of this Local Law, no application for a permit, zoning permit, zoning variance, conditional use permit, building permit,

operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval of any nature shall be accepted, processed, entertained, approved, approved conditionally, or issued by any board, employee, official agent of the City of Oneida, for the use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any land, building or structure within the City of Oneida for any new boardinghouse and/or rooming house use, as defined above.

B. This moratorium shall be in effect for a period of twelve (12) months from the effective date of this Local Law and shall expire on the earlier of: (i) the date twelve (12) months from said effective date of this Local Law, unless renewed; or (ii) the enactment by the Common Council of a resolution indicating the Common Council is satisfied that the need for the moratorium no longer exists.

C. This moratorium shall apply to all zoning districts and all real property within the City.

D. Under no circumstances shall the failure of the Common Council of the City of Oneida, the Oneida City Planning Commission/ Zoning Board of Appeals, or the Department of Code Enforcement for the City of Oneida, to take any action upon any application for a permit, zoning permit, conditional use permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. RELIEF FROM PROVISIONS OF THIS LOCAL LAW.

A. The Common Council of the City of Oneida reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

B. Application for relief shall be filed in triplicate with the Department of Code Enforcement together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorney's fees, incurred by the City, shall be reimbursed to the City by the Applicant. The Common Council shall apply Use Variance criteria as set forth in the New York State General City Law, Section 81-b (3) in reviewing any application for relief.

C. The Common Council of the City of Oneida may refer any applications for relief herein to the City of Oneida Planning Commission/ Zoning Board of Appeals for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Common Council after determining whether the requested relief is compatible with any contemplated amendments to the City of Oneida Zoning Regulations. Unless completely satisfied that the proposed relief is compatible, the Common Council shall deny the application.

D. The Common Council shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Department of Code Enforcement and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 6. PENALTIES.

Any individual, partnership, firm or corporation that shall use, establish, create, advertise, construct, reconstruct, relocate, operate, enlarge, or modify any site to be used for a boardinghouse and/ or rooming house use in violation of the provisions of this Local Law, shall be subject to:

A. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

B. A civil action inclusive of injunctive relief in favor of the City to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this Local Law.

SECTION 7. ENFORCEMENT.

This Local Law shall be enforced by the City of Oneida Department of Code Enforcement or such other zoning enforcement individual(s) as designated by the Common Council. It shall be the duty of the enforcement individual(s) to advise the Common Council of all matters pertaining to the enforcement of this Local Law.

SECTION 8. VALIDITY AND SEVERABILITY.

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or affect any other section of this Local Law.

SECTION 9. EFFECTIVE DATE.

This Local Law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State and shall remain in force and effect for a period of twelve (12) months from the date of passage.”

Councilor Earl: YES

Councilor Laureti: YES

Councilor Coulthart: YES

Councilor Kinville: YES

Councilor DuBois: YES

Councilor Simchik: YES

MOTION CARRIED

**ADOPT LOCAL LAW NO. 12-PURSUANT TO CANNABIS LAW §131 OPTING OUT OF LICENSING
AND ESTABLISHING RETAIL CANNABIS DISPENSARIES AND ON-SITE CONSUMPTION
ESTABLISHMENTS WITHIN THE CITY OF ONEIDA**

RESOLUTION 21-209

Moved by Councilor Earl

Seconded by Councilor Kinville

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled “A Local Law Pursuant to Cannabis Law §131 Opting Out of Licensing and Establishing Retail Cannabis Dispensaries and On-Site Consumption Establishments Within the City of Oneida” was

presented and introduced at a Regular Meeting of the Common Council of the City of Oneida held on October 19 2021; and

WHEREAS, a public hearing was held on such proposed local law on November 1, 2021 by the Common Council of the City of Oneida and proofs of publication of notice of such public hearing, as required by law, having been submitted and filed, and all persons desiring to be heard in connection with said proposed local law having been heard, and said proposed local law having been in the possession of the members of the Common Council of the City of Oneida in its final form in the manner required by Section 20 of the Municipal Home Rule of the State of New York; and

WHEREAS, the enactment of the Proposed Local Law has previously been determined to be an unlisted action for purposes of environmental review under SEQRA, an environmental impact statement (EIS) was not required, and a negative declaration was issued on October 19, 2021 pursuant to the State Environmental Quality Review Act (SEQR) determining that this action will have no significant effect on the environment thus concluding the SEQR review process; and

WHEREAS, the enactment of the Proposed Local Law was subject to a permissive referendum pursuant to Municipal Home Rule Law §24 as set forth in Cannabis Law §131; and

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

NOW, THEREFORE, it is

RESOLVED that the Common Council of the City of Oneida, Madison County, New York, does hereby enact Local Law No. 12-2021 as follows:

**“A LOCAL LAW PURSUANT TO CANNABIS LAW §131
OPTING OUT OF LICENSING AND ESTABLISHING RETAIL
CANNABIS DISPENSARIES AND ON-SITE CONSUMPTION
ESTABLISHMENTS WITHIN THE CITY OF ONEIDA**

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

SECTION 1. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10 and Cannabis Law §131.

SECTION 2. INTENT.

It is the intent of the Common Council of the City of Oneida to opt the City of Oneida out from hosting retail cannabis dispensaries and on-site cannabis consumption establishments within its boundaries.

**SECTION 3. LOCAL CANNABIS RETAIL DISPENSARY AND ON-SITE CONSUMPTION
ESTABLISHMENT OPT-OUT.**

The Common Council of the City of Oneida, County of Madison, hereby opts-out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments from locating and operating within the boundaries of the City of Oneida.

SECTION 4. VALIDITY & SEVERABILITY.

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the New York State Department of State. Pursuant to Cannabis Law §131, this local law is subject to a permissive referendum and thus may not be filed with the Secretary of State until the applicable time period has elapsed to file a petition or a referendum has been conducted approving this local law.”

Councilor Earl:	<u>NO</u>	Based on a tally of constituents in her ward
Councilor Laureti:	<u>YES</u>	
Councilor Coulthart:	<u>NO</u>	
Councilor Kinville:	<u>YES</u>	
Councilor DuBois:	<u>YES</u>	
Councilor Simchik:	<u>YES</u>	

MOTION CARRIED

DISCUSSION: Councilor Coulthart asked for clarification on the wording of the law prior to voting-if voting in favor of this Local Law was voting to opt out, and the Mayor advised that if Council votes yes to this, they are agreeing to opting out. Councilor Earl proposed that this law be split, allowing licensing and establishing retail Cannabis dispensaries but opting out of on-site consumption establishments, stating that she had reached out to her constituents who are in favor of opting in. She stated that there is confusion about the way this has been presented and that many feels this is about whether or not it is legal. Councilor Coulthart agreed.

City Attorney Bell explained that there are 2 uses: On-site consumption establishments and retail dispensaries, stating that if the City wants to opt out of either one, they have to do it by December 31, 2021. If the City opts out, they can opt back in later, noting that you cannot opt out of the on-site consumption establishments after the fact. Councilor Earl and Councilor Coulthart advised that going forward, we would still have it in the City and would lose tax dollars. The Mayor felt that this might happen anyway

Attorney Bell advised that if the City separates them, which can be done, because the City has the time frame, a Local Law would have to be introduced at the first meeting in December and the Public Hearing would have to be held the second meeting and could be voted on the same night or voted on at the last meeting (Closeout Meeting) on December 30. She stated that if the City does separate them and chooses to regulate where retail dispensaries are permitted, the law is limited in what you are to regulate, such as

zoning districts and hours of operation. The City does not have the right to regulate anything else with the use, which is all done by the Office of Cannabis Management. She further explained that that Local Law would not be subject to any deadline and if separated, could be adopted in January or any time. Councilor DuBois inquired as to if they did not separate them now, can they separate them after? Attorney Bell explained that if Council voted this down, but was of the persuasion that the City wants to separate them, nothing would have to happen with the Retail Dispensaries by December 31st, explaining that there is no “opting in”. If you do not opt out, you are automatically opting in.

In response to a question from Councilor DuBois pertaining to opting in at a later time, Attorney Bell advised that if the City opts out now, they can always opt in later and separate the 2 at that time. She further explained that with regard to Local Law, the way the Charter is written, Resolutions pass by a majority of those present not based on the number of Council, with the exception of Local Laws and Ordinances, which are still by a majority of the number of Councilors. There was discussion among Council about whether or not to pass this now or wait until more information is acquired. Councilor DuBois advised that she would not be present in December to vote and that she was not opposed to the separation but wanted more time. Penalties, fines and licensing were discussed and City Attorney Bell stated that the Council had 2 options: 1.) to revise the Local Law that has been presented to strike the reference to retail dispensaries or vote this down or 2.) introduce the Local Law that is only for on-site consumption. City Attorney Bell stated that If opting out, there is no deadline or urgency to opt in by the end of the year, noting that as it was only 3-4 weeks ago that the Governor appointed people to the Cannabis Control Board and no regulations have been set at this time. The Mayor advised that this changes all the time. Attorney Bell discussed filing regulations, whereby normally when a Local Law is filed with the State that is passed by a legislative body, it is not effective until it is filed with the Secretary of State. The Office of Cannabis Control Board has just imposed a new rule that is unique to the opt out laws, they have to also file them with their office or it is not effective (2 filings). Jacob Cornell advised that this could take years and take a long time to opt back in, advising that he knows of businesses now selling illegally.

BOARD REAPPOINTMENTS

RESOLUTION 21-210

Moved by Councilor Earl

Seconded by Councilor Michelle

RESOLVED, to approve the following reappointments to the Traffic Safety Board for a three (3) year term:

- Kathy Malinowski
- Don White

Ayes: 6

Nays: 0

MOTION CARRIED

**INTRODUCE LOCAL LAW NO. 13 OF 2021- IMPOSING A TWELVE (12) MONTH MORATORIUM ON
CONSTRUCTION AND OPERATION OF WIND ENERGY FACILITES, WIND TURBINES, AND
SMALL WIND ENERGY SYSTEMS WITHIN THE CITY OF ONEIDA**

RESOLUTION 21-211

Moved by Councilor Earl

Seconded by Councilor Kinville

WHEREAS, a proposed Local Law has been introduced relating to the imposition of a twelve (12) month moratorium on the use, establishment, creation, construction, reconstruction, relocation, enlargement, modification, advertisement and/ or operation of any new Wind Energy Deriving Towers, Wind Energy Conversion Systems, Small Wind Energy Systems, Wind Turbines and Transmission Facilities use within the City of Oneida, and

WHEREAS, the proposed Local Law has been introduced and will be considered for enactment pursuant to the provisions of the Municipal Home Rule Law and General City Law; and

WHEREAS, this proposed moratorium will enable the City to undertake a comprehensive review and analysis to address the issues involved with Wind Energy Facility, Wind Turbine, and Small Wind Energy System uses; and

WHEREAS, the City recognizes the potential benefits and desirability of a Wind Energy Facility, Wind Turbine, and Small Wind Energy System use, but determines that time and research is necessary to determine how to properly regulate such uses; and

WHEREAS, the Common Council has deemed this moratorium urgent and immediately necessary in order to preserve status quo while this issue is examined by the City; and

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of local laws in the City of Oneida, such that there are no other involved agencies within the meaning of the New York State Environmental Quality Review Act (SEQRA) with respect to the proposed enactment of said Local Law

NOW, THEREFORE, it is

RESOLVED AND DETERMINED that there are no other involved agencies, the Common Council shall act as lead agency, and that the enactment of this proposed Local Law is a Type II action under SEQRA, thus concluding the environmental review process; and be it further

RESOLVED that the Common Council shall conduct a public hearing as to the enactment of proposed Local Law at the Oneida City Hall located at 109 North Main Street, in the City of Oneida on December 7, 2021, at 6:30 p.m., or as soon thereafter as the matter can be heard, at which time all persons interested in the subject shall be heard; and it is further

RESOLVED that notice of said public hearing shall be provided at least five (5) days prior to the date

of said public hearing in a newspaper of general circulation within the City of Oneida; and be it further

RESOLVED that pending action on this local law, the City shall neither accept nor process any application pertaining to Wind Energy Facility, Wind Turbine, and Small Wind Energy System uses.

Ayes: 6

Nays: 0

MOTION CARRIED

**CITY OF ONEIDA
PROPOSED LOCAL LAW OF 2021**

**A LOCAL LAW IMPOSING A TWELVE (12) MONTH MORATORIUM ON THE CONSTRUCTION AND
OPERATION OF WIND ENERGY FACILITIES, WIND TURBINES, AND SMALL WIND ENERGY SYSTEMS
WITHIN
THE CITY OF ONEIDA**

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

SECTION 1. INTENT

It is the intent of this local law to prevent serious detrimental health, adverse environmental impacts and incompatible planning effects that could be posed by the creation, erection and operation of wind energy deriving tower facilities, wind energy conversion systems and electrical transmission facilities. It is further the intent of this local law to regulate a land use which could threaten the residents of the City of Oneida by allowing degradation of its environmental features, aesthetics, and agricultural resources.

Therefore, it is hereby the declared intent of the City of Oneida Common Council to enact regulations prohibiting the construction and operation of wind energy facilities, wind turbines and small wind energy systems within the limits of the City for the purpose of securing and promoting the public health, comfort, convenience, safety and the general welfare of the City and its inhabitants.

SECTION 2. STATEMENT OF PURPOSE

It is the purpose of this local law to enable the Common Council and the residents of the City of Oneida sufficient time to draft and enact specific land use policies in the adopted City of Oneida Comprehensive Plan; and to adopt a local law regulating the creation, location, size, number, construction and use of wind energy deriving towers, wind energy conversion systems, small wind energy systems, wind turbines and electric transmission facilities within the City of Oneida.

SECTION 3. DEFINITIONS

For purposes of this Local Law, the terms used herein shall have the following meanings:

ELECTRICAL TRANSMISSION FACILITY - Any structure or equipment, other than a wind energy deriving tower, related to the use and purpose of deriving energy from a wind energy deriving

tower or wind energy conversion system.

NACELLE - The portion of the wind energy deriving tower that connects the rotor to the support tower and houses the generator, gearbox, drive train and braking system.

SMALL WIND ENERGY SYSTEM - A wind energy conversion system consisting of a wind turbine, a tower and associated control or conversion electronics, which has a rated capacity of not more than 250 kW and which is intended to primarily reduce on-site consumption of a public utility electricity provider.

TOWER FACILITY - A wind energy deriving structure, wind energy conversion system or transmission facilities located on a parcel, lot, or site.

WIND ENERGY CONVERSION SYSTEM - A system of components which converts the kinetic energy of the wind into electrical or mechanical power, and which comprises all necessary components, including energy storage, power conditioning, control systems, transmission systems (where appropriate) and structural support systems, to provide electricity or mechanical power for agricultural, residential, commercial, industrial, utility or governmental use.

WIND ENERGY DERIVING TOWER - Any Tower Facility, pole, or other structure, whether attached to a building, guyed or freestanding, designed to be used for the support of a rotor that consists of blades and hub as well as a Nacelle and generator for producing electricity.

WIND ENERGY FACILITY - An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

WIND TURBINE - A Wind Energy Conversion System that converts wind energy into electricity through the use of a Wind Turbine Generator, and includes the Nacelle, rotor, Tower and pad transformer, if any.

SECTION 4. MORATORIUM

- A. The Common Council hereby enacts a moratorium which shall prohibit all City Boards and Staff from conducting the review, approval or creation of any new Wind Energy Deriving Towers, Wind Energy Conversion Systems, Small Wind Energy Systems, Wind Turbines and Transmission Facilities anywhere in the City of Oneida.
- B. This moratorium shall be in effect for a period not to exceed one (1) year from the effective date of this Local Law and shall expire on the earlier of: (i) the date one year from the effective date, unless renewed; or (ii) the enactment by the Common Council of a resolution adopting new policy for said Wind Energy Conversion System by amending the City of Oneida Comprehensive Plan and the adoption of a local law which provides the criteria and standards for regulating Wind Energy Conversion Systems in the City of Oneida.
- C. This moratorium shall apply to all zoning districts and real property within the City of Oneida, Madison County, New York.

- D. Under no circumstances shall the failure of the Common Council of the City of Oneida, the Oneida City Planning Commission/ Zoning Board of Appeals, or the Department of Code Enforcement for the City of Oneida, to take any action upon any application for a permit, zoning permit, conditional use permit, zoning variance, building permit, operating permit, site plan approval, subdivision approval, certificate of occupancy, certificate of compliance, temporary certificate, or other City-level approval constitute an approval by default or an approval by virtue of expiration of time to respond to such application.

SECTION 5. RELIEF FROM PROVISIONS OF THIS LOCAL LAW

E. The Common Council of the City of Oneida reserves to itself the power to vary or adapt the strict application of the requirements of this Local Law in the case of unusual hardship which would deprive the owner of all reasonable use of the lands involved.

F. Application for relief shall be filed in triplicate with the Department of Code Enforcement together with a filing fee of \$250.00. The application shall specifically identify the property involved, recite the circumstances pursuant to which the relief is sought and the reasons for which the relief is claimed. Any costs, including expert consulting fees or attorney's fees, incurred by the City, shall be reimbursed to the City by the Applicant. The Common Council shall apply Use Variance criteria as set forth in the New York State General City Law, Section 81-b (3) in reviewing any application for relief.

G. The Common Council of the City of Oneida may refer any applications for relief herein to the City of Oneida Planning Commission/ Zoning Board of Appeals for its advice and recommendations, but all decisions on granting or denying such relief shall be made solely by the Common Council after determining whether the requested relief is compatible with any contemplated amendments to the City of Oneida Zoning Regulations. Unless completely satisfied that the proposed relief is compatible, the Common Council shall deny the application.

H. The Common Council shall conduct a public hearing on any request for relief within forty-five (45) days of receipt by the Department of Code Enforcement and shall issue its final decision on requests for relief within thirty (30) days from the date of the public hearing.

SECTION 6. PENALTIES

Any individual, partnership, firm or corporation that shall use, establish, create, advertise, construct, reconstruct, relocate, operate, enlarge, or modify any site to be used for a Wind Energy Deriving Towers Wind Energy Conversion System, Small Wind Energy System, Wind Turbine and Transmission Facility use in violation of the provisions of this Local Law, shall be subject to:

C. A fine not to exceed One Thousand and 00/100 Dollars (\$1,000.00) or imprisonment for a term not to exceed fifteen (15) days, or both. Each day a violation continues shall be considered a new violation.

D. A civil action inclusive of injunctive relief in favor of the City to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any constructions, improvements, or related items or byproducts which may have taken place in violation of this Local Law.

SECTION 7. ENFORCEMENT

This Local Law shall be enforced by the City of Oneida Department of Code Enforcement or such other zoning enforcement individual(s) as designated by the Common Council. It shall be the duty of the enforcement individual(s) to advise the Common Council of all matters pertaining to the enforcement of this Local Law.

SECTION 8. VALIDITY AND SEVERABILITY

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force, or affect any other section of this Local Law.

SECTION 9. EFFECTIVE DATE

This Local Law shall take effect immediately upon passage and thereafter shall be filed with the New York State Department of State and shall remain in force and effect for a period of twelve (12) months from the date of passage.

BUDGET TRANSFERS/AMENDMENTS

RESOLUTION 21-212

Moved by Councilor Kinville
Seconded by Councilor Earl

RESOLVED, to approve the following 2021 Budget Transfers/Amendments:

	<u>To</u>	<u>From</u>
\$ 22,000.00	001.3410.0102.0000 Fire Overtime	001.0022.2680.0000 Insurance Recovery
<i>To re-allocate funds received from workers compensation to cover overtime costs for November & December 2021</i>		
\$ 12,000.00	001.1640.0401.0000 Central Gasoline	001.0001.0912.0000 General Fund Balance
\$ 12,000.00	001.1640.0402.0000 Central Diesel	001.0001.0912.0000 General Fund Balance
<i>To allocate funds to pay for gasoline and diesel expenses through 2021</i>		
\$ 12,000.00	001.1420.0411.0000 Labor Services and Negotiations	001.0001.0912.0000 General Fund Balance

To allocate funds to pay for legal services through 2021

\$ 3,500.00	001.1410.0101.0000	001.0001.0912.0000
	Clerk Salaries	General Fund Balance

To allocate additional funds to salary line-was exhausted on a retirement payout

\$ 15.42	001.5132.0200.0000	001.5132.0304.0000
	Garage Equipment	Central Garage Major Repairs

To allocate funds to cover garage equipment

\$ 1,200.00	001.9010.0806.0000	001.9011.0807.0000
	ERS Retirement	Police & Fire Retirement

To re-allocate funds to annual retirement invoice

Ayes: 6

Nays: 0

MOTION CARRIED

SALARY SCHEDULE

RESOLUTION 21-213

Moved by Councilor Kinville

Seconded by Councilor Earl

RESOLVED, to authorize the Comptroller to increase the 2021 Salary Schedule for the Motor Equipment Operator positions from 8 to 9 employees.

Ayes: 6

Nays: 0

MOTION CARRIED

APPROVE BIDS

RESOLUTION 21-214

Moved by Councilor Kinville

Seconded by Councilor Coulthart

RESOLVED, that the lowest bid meeting specifications for hydrants in the amount of \$20,643.30 from Ferguson Waterworks, 612 Pierce Rd., Clifton Park, NY 12065 is hereby approved.

RESOLVED, that the lowest bid meeting specifications for ductile iron pipe, fittings, valves and misc. in the amount of \$102,620.55 from Core and Main, 2220 State Route 5, Utica, NY 13502 is hereby approved.

Ayes: 6

Nays: 0

MOTION CARRIED

AGREEMENT-HP HOOD

RESOLUTION 21-215

Moved by Councilor Earl

Seconded by Councilor Kinville

RESOLVED, to authorize the Mayor to sign the 2020-2024 Annual Hydrant Agreement with HP Hood.

Ayes: 6

Nays: 0

MOTION CARRIED

SALE OF PROPERTY

RESOLUTION 21-216

Moved by Councilor Coulthart

Seconded by Councilor Kinville

WHEREAS, the City of Oneida is the owner of real property consisting of 4.95 acres located on Lowes Drive, known as Tax Map. No. 37.-1-62.23 ("Property"); **and**

WHEREAS, the Property is currently unimproved and, while zoned for commercial use, is subject to a Declaration of Easements, Covenants, and Restrictions, which, although intended to protect "the value and desirability" of the Property, significantly limits and impacts the uses permitted to be conducted upon same; **and**

WHEREAS, in 2015 the City of Oneida retained a brokerage firm and actively marketed the Property for sale, to no avail; **and**

WHEREAS, Wanderers’ Rest Humane Association, Inc. (“Wanderers’ Rest”), a non-profit, 501c (3) organization, has approached the City with a request to acquire the Property for purposes of locating a compassionate care shelter facility for dogs and cats in furtherance of its commitment to adopt and re-home animals at the highest rate possible, and provide public education programs to encourage and promote responsible pet ownership and humane treatment of animals; **and**

WHEREAS, in furtherance of such request, Wanderers’ Rest has obtained the necessary waiver and consent from Lowes Home Centers, Inc. to allow the proposed shelter facility to be situated upon the Property; **and**

WHEREAS, it is the desire of the City of Oneida Common Council to sell the Property to Wanderers’ Rest, pursuant to and in accordance with the terms and provisions of the Oneida City Charter, the New York State Constitution and the laws of the State of New York.

NOW, THEREFORE, BE IT

RESOLVED, the City of Oneida Common Council does hereby approve the sale of real property located on Lowes Drive, known as Tax Map No. 37.-1-62.23, to Wanderers’ Rest Humane Association, Inc. contingent upon the receipt of an appraisal prepared by a duly licensed appraiser and in exchange for proper monetary consideration, pursuant to and in accordance with the terms and provisions of the Oneida City Charter, the New York State Constitution and the laws of the State of New York.

Ayes: 6

Nays: 0

MOTION CARRIED

DISCUSSION: The Mayor advised that this has been ongoing for a while for Wanderer’s Rest to come into Oneida and that the City has contracted with a commercial appraiser to get the information that is needed.

City Attorney Bell explained that this pertains to property near Lowes that the City acquired through the tax sale process in 2014. When the property was acquired the City retained a broker and actively marketed it. There was one entity that was interested at the time and had put in a purchase offer; however, the property was bound by covenants that are imposed, with a list of uses that are not allowed. If the City were to deviate from that list, they would need permission from Lowes. She stated that although the Humane Shelter is not permitted, the former administration under Mayor Matzke was able to secure permission from Lowes for this to be allowed.

Attorney Bell further explained that she has had numerous conversations with the attorney for Wanderer’s Rest. She stated that the urgency to have this Resolution done now is because Wanderer’s Rest has the opportunity to receive a substantial grant (\$425,000), which they will lose if they can’t demonstrate to the State that they have an agreement to acquire the property. This is “subject to” and “conditioned upon” only to demonstrate to the State that we are willing to sell the property to them, but not give it to them, as the City cannot legally do that. Attorney Bell, in response to a question from Councilor Laureti, stated that this is just to satisfy the requirement of the State, and the Council will have the chance to review the appraisal and sale price prior to the transaction going through.

BUDGET DISCUSSION

NEW BUSINESS:

Motion to adjourn by Councilor Kinville

The regular meeting is hereby adjourned at 9:50 p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk