

**MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
OCTOBER 4, 2022**

A meeting of the Common Council of the City of Oneida, NY was held on the fourth day of October, 2022 at 6:30 pm at the City of Oneida Common Council Chambers, 109 N. Main Street, 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 Szczerba	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Laureti	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Rossi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Kinville	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Pagano	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____
Councilor Simchik	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> _____

Also Present

City Attorney Nadine Bell	<input checked="" type="checkbox"/>	Fire Chief Dennis Fields	<input checked="" type="checkbox"/>
City Clerk Sandy LaPera	<input checked="" type="checkbox"/>	Police Chief John Little	<input checked="" type="checkbox"/>
City Engineer Jeff Rowe	<input checked="" type="checkbox"/>	Public Safety Com. Kevin Salerno	<input type="checkbox"/>
Codes Director Bob Burnett	<input checked="" type="checkbox"/>	Recreation Director Luke Griff	<input checked="" type="checkbox"/>
Comptroller Lee Ann Wells	<input checked="" type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

PUBLIC HEARING: A proposed Local Law overriding the tax levy limit established in General Municipal Law §3-C in the City of Oneida

PUBLIC COMMENT: Police Chief John Little thanked all who made Fall Fest such a great event this year, noting that an incredible amount of work went into it. He acknowledged PBA President, Mike Burgess, who did a lot of the lead planning, Parks and Recreation Director, Luke Griff, and Recreation Coordinator, Justin Acker, and their department who did a great deal of work on this, the City Clerk, Sandy LaPera, and Deputy City Clerk, Andrea Hitchings, the Fire Chief, Dennis Fields, for setting up the EMS and coordinating with other Fire Departments to participate and all of the vendors and volunteers who participated. He especially thanked all of the citizens who came out, including Deputy City Comptroller, Jessica Kaiser,

and Councilor Tom Simchik. Chief Little stated that it was a great event and nice to see everyone there.

OLD BUSINESS: None

OPEN PUBLIC HEARING

A PROPOSED LOCAL LAW OVERRIDING THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C IN THE CITY OF ONEIDA

RESOLUTION 22-192

Moved by Councilor Kinville
Seconded by Councilor Rossi

RESOLVED, that the Public Hearing on a proposed Local Law overriding the tax levy limit established in General Municipal Law §3-C in the City of Oneida be hereby opened at 6:31p.m.

Ayes: 6
Nays: 0

MOTION CARRIED

APPEARANCES

None

CLOSE PUBLIC HEARING

A LOCAL LAW OVERRIDING THE TAX LEVY LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-C IN THE CITY OF ONEIDA

RESOLUTION 22-193

Moved by Councilor Kinville
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing on a proposed Local Law overriding the tax levy limit established in General Municipal Law §3-C in the City of Oneida be hereby closed at 6:33p.m.

Ayes: 6
Nays: 0

MOTION CARRIED

APPROVAL OF MINUTES

Moved by Councilor Kinville
Seconded by Councilor Simchik

RESOLVED, that the minutes of the regular meeting of September 20, 2022 are hereby approved as presented.

Ayes: 6
Nays: 0

MOTION CARRIED

APPROVAL OF WARRANT

Moved by Councilor Simchik
Seconded by Councilor Rossi

RESOLVED, that Warrant No. 19, checks and ACH payments in the amount of \$548,592.26 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

WATER BOARD RECOMMENDATION-HP HOOD

RESOLUTION 22-194

Moved by Councilor Kinville
Seconded by Councilor Rossi

WHEREAS, HP Hood, 252 Genesee Street, Oneida, NY, Account No. 52-002002-00 was charged late fees in the amount of \$92,184.65 for six water bills that were paid late after the due date; **and**

WHEREAS, HP Hood representatives appeared at the Water Board meeting on September 13, 2022 to request that the stated late fees be waived due to extenuating circumstances involving the implementation of a new accounting system which caused delays in payments; **and**

WHEREAS, HP Hood has not been late on any payments prior to the implementation of the new accounting system and has been a customer in good standing with the City of Oneida; **and**

WHEREAS, the City of Oneida Water Board recommends that the six late fees be hereby waived due to extenuating circumstances; **now therefore be it**

RESOLVED, that the Common Council approves the waiver of \$92,184.65 in late fees assessed to HP Hood, 252 Genesee St., Oneida, NY, Account No. 52-002002-00.

Ayes: 6

Nays: 0

MOTION CARRIED

WATER BOARD RECOMMENDATION-HILLARY HASKELL, 609 VALLEY VIEW DRIVE

RESOLUTION 22-195

Moved by Councilor Kinville

Seconded by Councilor Rossi

WHEREAS, Hillary Haskell, 609 Valley View Drive, Oneida, NY Account No. 20-122001-00 requested a Due Process Hearing to avoid termination of water services on August 16, 2022; **and**

WHEREAS, the Common Council granted an extension, with no termination of water services at the Due Process Hearing until September 6, 2022 to allow the Water Department the opportunity to check the meter and usage to date for comparison purposes; **and**

WHEREAS, an extension was granted at the September 6, 2022 meeting of the Common Council to October 31, 2022 for payment in full, and recommendation was also made that Ms. Haskell appear before the City of Oneida Water Board to determine if any adjustments would be considered; **and**

WHEREAS, Hillary Haskell appeared before the Water Board on September 13, 2022 to seek an adjustment to her June 2022 water bill; **and**

WHEREAS, the City of Oneida Water Board hereby recommends to the Common Council that the June 2022 water bill be adjusted in accordance with the Leak Adjustment Policy; **now therefore be it**

RESOLVED, that Hillary Haskell, 609 Valley View Drive, Oneida, NY, Account No. 20-122001-00, pay \$3,274.41 in full on or before October 31, 2022, which represents all amounts due on account 20-122001-00 and reflecting the adjustment to the June 2022 water bill, or the Water Department is hereby authorized to terminate water service to 609 Valley View Drive, Oneida, NY 13421.

Ayes: 6

Nays: 0

MOTION CARRIED

LIQUOR LICENSE APPLICATION NOTICE-AMERICAN LEGION POST 169

RESOLUTION 22-196

Moved by Councilor Rossi
Seconded by Councilor Kinville

RESOLVED, that the Standardized Notice Form for providing 30-day advance notice to a Local Municipality or Community Board for the filing of a Class Change application for an On-Premises Alcoholic Beverage License by the Oneida American Legion Post 169, 398 North Main Street, Oneida, NY 13421, be hereby received and placed on file.

Ayes: 6
Nays: 0

MOTION CARRIED

**INTRODUCE A LOCAL LAW IMPOSING A SIX (6) MONTH MORATORIUM ON SMOKE SHOP USES WITHIN
THE CITY OF ONEIDA-SCHEDULE PUBLIC HEARING**

RESOLUTION 22-197

Moved by Councilor Kinville
Seconded by Councilor Simchik

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**

WHEREAS, the City of Oneida Common Council has the authority to adopt provisions to advance and protect the safety, welfare, and aesthetics of the community; **and**

WHEREAS, this proposed moratorium will enable the City to undertake review and comprehensively address the issues involved with smoke shop uses; **and**

WHEREAS, the Common Council has deemed this moratorium urgent and immediately necessary in order to preserve the 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 (SEQR) with respect to the proposed enactment of said Local Law.

NOW, THEREFORE, it is

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

RESOLVED AND DETERMINED, that the Common Council shall conduct a public hearing as to the enactment of the proposed Local Law at the Oneida City Hall located at 109 North Main Street, Oneida, New York on October 18, 2022, 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.

Ayes: 6

Nays: 0

MOTION CARRIED

**CITY OF ONEIDA
PROPOSED LOCAL LAW**

**A LOCAL LAW IMPOSING A SIX (6) MONTH MORATORIUM
ON SMOKE SHOP 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 six (6) month moratorium on the establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the City of Oneida because of the exponential increase of the same within the City of Oneida.

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 establishment, creation, maintenance, advertisement and/or operation of new smoke shop uses within the City of Oneida.

Because of the exponential increase of smoke shop uses within the City of Oneida, the Common Council of the City of Oneida desires to address, in a careful manner, the issues raised by smoke shops 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.

SECTION 3. Definitions.

SMOKE SHOP – This term includes any premises dedicated to the display, sale distribution, delivery, offering, furnishing or marketing of tobacco and/or cannabis, tobacco and/or cannabis products, and/or tobacco and/or cannabis paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells tobacco and/or cannabis as an ancillary sale shall not be defined as a “smoke shop.”

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, 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 construction, establishment, use, creation, maintenance, advertisement and/or operation of any land, building or structure within the City of Oneida for any new smoke shop use, as defined above.

B. This moratorium shall be in effect for a period of six (6) months from the effective date of this Local Law and shall expire on the earlier of: (i) the date six (6) 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 of Oneida.

D. Under no circumstances shall the failure of the Common Council of the City of Oneida, the Planning Department, the Planning Commission/Zoning Board of Appeals, or the Code Enforcement Office for the City of Oneida to take any action upon any application for a permit, zoning permit, special 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 Planning Department 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 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 Zoning Law. 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 Planning Department 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 establish, construct, reconstruct, relocate, enlarge or modify any site to be used for a smoke shop 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 Code Enforcement Office 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 effect of any other section of this Local Law.

SECTION 9. Effective date.

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

DISCUSSION: The Mayor advised that the City has been getting a lot of Smoke Shops lately, and this is being introduced to slow the roll down a bit.

INTRODUCE A LOCAL LAW TO AMEND CHAPTER 122 OF THE ONEIDA CITY CODE TO REMOVE REFERENCES TO MARIJUANA-SCHEDULE PUBLIC HEARING

RESOLUTION 22-198

Moved by Councilor Kinville
Seconded by Councilor Simchik

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**

WHEREAS, the proposed Local Law is intended to amend Chapter 122 of the Oneida City Code so as to remove any references to marijuana to be consistent with recent changes to the State Penal Law; **and**

WHEREAS, no other agency has the legal authority or jurisdiction to approve or directly undertake the enactment of a local law 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, with the result that the Common Council shall act as lead agency in this matter; **and**

WHEREAS, the adoption of said Local Law is an unlisted action for purposes of environmental review under SEQRA and the Common Council has determined that a short environmental assessment form (EAF) shall be required in connection with this matter; **and**

WHEREAS, said EAF has been prepared and has been reviewed by the Common Council; **and**

WHEREAS, the Common Council has considered the adoption of said Local Law, has considered the criteria contained in 6 N.Y.C.R.R. Part 617.7 and has compared the impacts which may be reasonably expected to result from the adoption of said Local Law against said criteria.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that there are no other involved agencies, that the Common Council shall act as lead agency and that the enactment of the proposed Local Law is an unlisted action for purposes of SEQRA review; **and it is further**

RESOLVED AND DETERMINED, that the Common Council has determined this action shall have no significant adverse impact on the environment; that, accordingly, an environmental impact statement (EIS) shall not be required; and that this resolution shall constitute a negative declaration under SEQR; **and it is further**

RESOLVED AND DETERMINED, that the Common Council shall conduct a public hearing as to the enactment of the proposed Local Law at the Oneida City Hall located at 109 North Main Street, Oneida, New York on October 18, 2022, 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.

Ayes: 6
Nays: 0

MOTION CARRIED

**CITY OF ONEIDA
PROPOSED LOCAL LAW**

**A LOCAL LAW TO AMEND CHAPTER 122 OF THE ONEIDA CITY CODE TO REMOVE REFERENCES TO
MARIJUANA**

Be it enacted by the Common Council of the City of Oneida, that this local law amends Chapter 122 of the Oneida City Code, 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.

SECTION 2.

So that the definition of "Illegal Drug Activity," as set forth in Section 122-2 of the Oneida City Code, is hereby amended to read, in its entirety, as follows:

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

SECTION 3.

So that the definition of "Public Nuisance," as set forth in Section 122-2(A)(1) of the Oneida City Code, is hereby amended to read, in its entirety, as follows:

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

SECTION 4.

So that Section 122-4(A)(3)(a) of the Oneida City Code is hereby amended to read, in its entirety, as follows:

"(a) Service of a search warrant on the premises where controlled substances and/or weapons are seized."

SECTION 5. EFFECTIVE DATE.

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

DISCUSSION: The Mayor advised that this is to clean up the local codes, as marijuana was not previously legal and is now.

BUDGET TRANSFERS/AMENDMENTS

RESOLUTION 22-199

Moved by Councilor Kinville
Seconded by Councilor Rossi

2022 Budget Adjustments

RESOLVED, to approve the following 2022 Budget Amendment/Transfers

	<u>To</u>	<u>From</u>
\$ 7,500.00	001.1315.0417.0000 CDL CSEA Training Expenses	001.0001.0912.0000 General Fund Balance

To allocate funds for approved CSEA CDL Training Expenses

Ayes: 6

Nays: 0

MOTION CARRIED

AGREEMENT-ENTERTAINEMENT SERVICES OF NEW YORK

RESOLUTION 22-200

Moved by Councilor Rossi
Seconded by Councilor Kinville

RESOLVED, to authorize the Mayor to sign a Facilities Agreement with Entertainment Services of New York, 606 N. Madison St., Rome, NY 13440 for services at the Kallet Civic Center, 159 Main Street, Oneida, NY 13421 for a one-year term.

Ayes: 6

Nays: 0

MOTION CARRIED

WAIVE RULE TO ACCEPT AGENDA ITEMS

RESOLUTION 22-201

Moved by Councilor Kinville
Seconded by Councilor Rossi

RESOLVED, that per Resolution 08-180 adopted by the Common Council on August 19, 2008, the provisions of the procedure to accept agenda items is hereby waived.

Ayes: 6
Nays: 0
MOTION CARRIED

LIQUOR LICENSE NOTIFICATION-ABBEY WOODCOCK, INC./dba CALLEE 1945

RESOLUTION 22-202

Moved by Councilor Rossi
Seconded by Councilor Kinville

RESOLVED, that the Standardized Notice Form for Providing 30-day Advance Notice to a Local Municipality or Community Board for the filing of a new application for an On-Premises Alcoholic Beverage License by Abbey Woodcock, Inc., dba Callee 1945, 134 Main St., Oneida, NY 13421, be hereby received and placed on file; **and be it further**

RESOLVED, that the 30-day Advance Notice wait period be hereby waived.

Ayes: 6
Nays: 0
MOTION CARRIED

NEW BUSINESS: None

Motion to adjourn by Councilor Kinville
Seconded by Councilor Simchik

Ayes: 6
Nays: 0
MOTION CARRIED

The regular meeting is hereby adjourned at 6:38 p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk