

**MINUTES OF THE COMMON COUNCIL
REGULAR MEETING
JULY 5, 2023**

A meeting of the Common Council of the City of Oneida, NY was held on fifth day of July 2023 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 type="checkbox"/>	<input checked="" 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 Scott Jones	<input checked="" type="checkbox"/>
City Clerk Sandy LaPera	<input checked="" type="checkbox"/>	Police Chief Steve Lowell	<input type="checkbox"/>
City Engineer Jeff Rowe	<input type="checkbox"/>	Public Safety Com. Kevin Salerno	<input type="checkbox"/>
Codes Director Bob Burnett	<input type="checkbox"/>	Supervisor Joe Magliocca	<input checked="" type="checkbox"/>
Comptroller Lee Ann Wells	<input checked="" type="checkbox"/>	Other _____	<input type="checkbox"/>

Call to Order/Pledge of Allegiance/Roll Call

The Mayor advised that she was switching the order of the Public Hearings and would be holding the Public Hearing for the Local Law amending the Code of the City of Oneida regarding Appearance Tickets and issuing and service of the same first. The Mayor stated that she would not be limiting the time on the Public Hearing for the Charter change regarding the City Manager to allow for open dialogue, including questions and answers. She noted that as this is a big change for the City that is important, she felt it should be open and talked about.

PUBLIC HEARING: A Local Law amending the Code of the City of Oneida regarding Appearance Tickets and issuing and service of the same.

OPEN PUBLIC HEARING

**A LOCAL LAW AMENDING THE CODE OF THE CITY OF ONEIDA REGARDING APPEARANCE TICKETS AND
ISSUING AND SERVICE OF THE SAME**

RESOLUTION 23-109

Moved by Councilor Rossi
Seconded by Councilor Simchik

RESOLVED, that the Public Hearing for a Local Law amending the Code of the City of Oneida regarding Appearance Tickets and issuing and service of the same is hereby opened at 6:31pm.

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

MOTION CARRIED

APPEARANCES

None

CLOSE PUBLIC HEARING

**A LOCAL LAW AMENDING THE CODE OF THE CITY OF ONEIDA REGARDING APPEARANCE TICKETS AND
ISSUING AND SERVICE OF THE SAME**

RESOLUTION 23-110

Moved by Councilor Pagano
Seconded by Councilor Rossi

RESOLVED, that the Public Hearing for a Local Law amending the Code of the City of Oneida regarding Appearance Tickets and issuing and service of the same is hereby closed at 6:32pm.

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

MOTION CARRIED

PUBLIC HEARING: A Local Law amending the Oneida City Charter to create the office of City Manager and amending the Code of the City of Oneida so as to accurately reflect the duties and responsibilities of the City Manager

OPEN PUBLIC HEARING

A LOCAL LAW AMENDING THE ONEIDA CITY CHARTER TO CREATE THE OFFICE OF CITY MANAGER AND AMENDING THE CODE OF THE CITY OF ONEIDA SO AS TO ACCURATELY REFLECT THE DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER

RESOLUTION 23-111

Moved by Councilor Rossi
Seconded by Councilor Pagano

RESOLVED, that the Public Hearing for a Local Law amending the Oneida City Charter to create the office of City Manager and amending the Code of the City of Oneida so as to accurately reflect the duties and responsibilities of the City Manager be hereby opened at 6:33pm.

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

APPEARANCES

MARGARET MILMAN-BARRIS-1855 WEST RD., ONEIDA

Margaret Milman-Barris thanked the Mayor for removing the time limit for these comments. She stated that she Foil requested the meeting minutes from the Special Committee that was convened last year to look into a city administrator or city manager position, and City Clerk Sandy LaPera, was kind enough to send those today. She advised that she had a chance to look through some of them and appreciates the time and effort and thoughtfulness that the Special Committee took to look into this issue.

She advised that she is generally in favor of a city administrator that supports the mayor and leaves most powers in the hands of the mayor but would be open to hearing about a city manager that transfers more power from the mayor to a city manager, if the Common Council wants to make a case for that.

Mrs. Milman-Barris had seven (7) concerns that she presented:

1) The charter change would give a city manager an indefinite term, stating that might be ok, except for the other powers taken away from the mayor mentioned below.

2) There is no requirement in the charter change that when a city manager is hired, there be a public announcement, a public search, or a search and selection committee with members of the public as some of the members. In her opinion, this should be added to prevent nepotism and to get the best possible candidates.

3) There is no requirement in the charter change that a city manager be non-partisan and apolitical. She feels this should be added to the charter change. To make sure it's not just empty words, she suggested adding a requirement that a city manager can't have run for office or been a member of a political party committee for the previous 5 years.

4) The charter change would give a city manager the power to appoint people to fill vacancies in elected office without Common Council approval. Since the city manager would work for the Common Council, that effectively means the city manager could choose their own boss. This is an abnormal power to give to a non-elected official. She stated she is also concerned, because this power was hidden in the local law, incorporated by referencing the relevant paragraph in the existing charter, so you must go look up the existing charter to know it's there. This should be removed entirely, and that power should stay with the elected mayor.

5) The charter change would give a city manager the power to hire department heads, subject to Common Council approval. It would also give a city manager power to fire department heads, not subject to Common Council approval, and to hire acting department heads, not subject to Common Council approval. As an example, If the city manager doesn't like a department head, they can fire him or her and replace that person with an acting department head, and not initiate the process to hire a permanent department head. There is nothing the Common Council or Mayor would be able to do about it, other than remove the city manager, which requires 4 votes out of the 7 Common Council members (including the mayor). She did not feel that is what the Council would want or what is in the best interest of the city.

6) The charter change would take away the power of the Mayor to initiate investigations into city conduct and give it to the city manager. The Mayor would only be able to hear complaints that someone else brings to them. The power to initiate investigations should be restored to the Mayor and City Manager jointly.

7) The charter change would allow a city manager to make appointments to boards and commissions, subject to Council approval. Mrs. Milman-Barris felt this should stay with the elected mayor.

Mrs. Milman-Barris also stated she had concerns with the June 20th version of the Local Law pertaining to moving so much of the financial power of the City away from the Comptroller to the City Manager but noted that a lot of those concerns were addressed in the June 29th revision.

City Attorney, Nadine Bell, was asked by the Mayor to address these concerns. Attorney Bell stated that some of the concerns are legal; and some were not and were just preference.

- 1.) Regarding indefinite terms, there are consequences when you assign a term to a position. Attorney Bell advised that sometimes when you assign a term to a position, it becomes an office, and then as an office you cannot remove the person due to issues, because they have a term and cannot be removed, as they have a right to complete their term. She also advised that when creating this position, they tried to carefully craft this so that it could not be construed as an officer, because public officers have separate, special rights that are not with employees, and Civil Service complications could involve a competitive list. The choice for an indefinite term was

deliberate to avoid some of those issues. She also noted that while it is indefinite, there is the right of removal.

- 2.) Public announcement and search requirements-this is something that if the Council wants to include, they can look at language to add it, noting there was not a legal reason for or against putting this in.
- 3.) Non-partisan-apolitical requirement concern-if this is something the Council would like to explore and put in, they can advise her accordingly. She stated that she did not know, without looking, whether you can say that a person has not ever run for office or ever been a member of a political committee, and whether or not 5 years is okay. She advised that she could investigate this if it is something that the Council would like to consider.
- 4.) Power to appointment vacancies in elected offices-Attorney Bell stated that if Council would like this to remain with the Mayor, they do not have to change it (Section 5 of the Local Law-2.6).
- 5.) Firing of Department Heads and appointing acting Department Heads-she stated that this can be made subject to Council approval; however, she noted as a clarification, that the ability to fire a Department Head is not easy, as they have Section 75 Civil Service rights. This is intended to prevent someone from being fired simply because they are not liked or said something someone does not like. Attorney Bell said there is a fine line with how involved the Council wants to be in the operation of City government, as far as approving every Department Head and acting Department Head. Mayor Acker stated that currently this falls under personnel, and right now the Council does not do this. Attorney Bell advised that this is a preference on how you envision the role of City Manager.
- 6.) Investigations-The City Attorney was not clear as to this concern, and Mrs. Milman-Barris advised that she would look at this again, and if she still had a concern, she would email Council.
- 7.) City Boards and Commissions-she stated that it is up to Council how they want to do this. It was noted that currently not all Boards are subject to Council approval. Councilor Laureti stated that he feels the approval should stay with the Mayor, as the Mayor would know more people in the community than the City Manager and is better suited to appoint someone.

JOE MAGLIOCCA-429 GRAND ST., ONEIDA

Supervisor Magliocca stated that one of the issues was that the City Manager could appoint Department Heads subject to Council approval, including filling vacancies, and he feels there should be consideration regarding elected officials as well. Currently, the Mayor can appoint someone to fill a vacancy for an elected position. The Mayor advised that Council already discussed this, and the appointment of elected officials would remain with the Mayor.

Supervisor Magliocca later stated that this has been a long time coming, and he thanked the Council and the Mayor for moving forward with this. He stated that he supports having a City Manager, and although the Local Law isn't perfect, it is good. Supervisor Magliocco commented that there was no greater thing in the City of Oneida for voters to vote on than passing this referendum. He encouraged all running for election in November to make this part of their campaign, noting that creating the position of City Manager can have the greatest positive impact on the community. He stated that it is important to inform the public about this, as he felt Council dropped the ball with two referendums last year that went before the voters, because they were not informed. He stressed the importance of this.

Council members had a brief discussion of each, and City Attorney Bell provided a summary of the determinations made as follows:

- Regarding the term of the City Manager position, there will be no change to the revised Local Law
- Regarding the Public announcement and search requirements-there will be no change to the revised Local Law
- Regarding Non-Partisan/Apolitical requirements-there will be no change to the revised Local Law
- Regarding Power to appoint vacancies in an elected office, Section 5-2.6 will be removed.
- Firing of Department Heads and appointing of Acting Department Heads-there will be no change to the revised Local Law
- Regarding Investigations-there will be no change to the revised Local Law
- Regarding the appointments to City Boards and Commissions-this will remain with the Mayor

JIM CHAMBERLAIN-WEST ELM ST., ONEIDA

Jim Chamberlain addressed Council and the Mayor stating that for this position being as important as it is, they should consider one of the qualifications of the appointment to have a time period whereby he or she moves to the City of Oneida. He feels this person should be a part of the community, even if there is a time period to allow for this, which could include compensation for moving expenses. The Mayor noted that the language reads that the City Manager need not be a resident of the City, but it is preferred. Mr. Chamberlain said that his comments pertain to this position and not to other positions within the City.

Councilor Simchik asked if it was known what the residency requirements were for other communities that have a City Manager. The City Clerk, and/or Deputy was asked to contact various municipalities to see what their requirements were, and this will be supplied to the Mayor upon completion.

Brian Bortree, who was a member of the City Manager Committee in 2022, advised that most were required to reside in the community in which they worked. He said that the City Manager in Corning, who in his opinion was fantastic, told the committee that one of the most important things for a City Manager is to be in the public eye and to be part of the community. Mr. Bortree agreed with Mr. Chamberlain that the City Manager should reside in the City.

Council members discussed this and decided to think about it further until the next meeting. Some factors in opposition to residency requirements included the limited number of qualified candidates to choose from, forcing a candidate to move without having a set term, candidates who might not want to leave their current school system or uproot their children, and the ability to find suitable housing. Councilor Simchik inquired as to whether it could be added to the contract, but also allow for Council to make an exception (waiver) should they decide to do so.

Councilor Simchik also asked if the Mayor would be included in voting with this form of government. The City Attorney advised that if this passes, the Mayor would be considered part of the Council and would be able to vote.

MOTION TO KEEP THE PUBLIC HEARING FOR A LOCAL LAW AMENDING THE ONEIDA CITY CHARTER TO CREATE THE OFFICE OF CITY MANAGER AND AMENDING THE CODE OF THE CITY OF ONEIDA SO AS TO ACCURATELY REFLECT THE DUTIES AND RESPONSIBILITIES OF THE CITY MANAGER OPEN UNTIL JULY 18, 2023

RESOLUTION 23-112

Moved by Councilor Rossi
Seconded by Councilor Simchik

RESOLVED, to keep the Public Hearing for a Local Law amending the Oneida City Charter to create the office of City Manager and amending the Code of the City of Oneida so as to accurately reflect the duties and responsibilities of the City Manager open until July 18, 2023.

Ayes: 5

Nays: 0

Absent: 1 (Kinville)

MOTION CARRIED

DISCUSSION:

The Public Hearing for a Local Law amending the Oneida City Charter to create the office of City Manager and amending the Code of the City of Oneida so as to accurately reflect the duties and responsibilities of the City Manager will be kept open until **Tuesday, July 18, 2023**. The Local Law will be revised as discussed and will be circulated to all, as well as be posted on the City Website and on the bulletin board in the lobby at Oneida City Hall.

PUBLIC COMMENT

MARGARET MILMAN-BARRIS-1855 WEST RD., ONEIDA

Mrs. Milman-Barris asked Council for an update on the status of the cleanup at 140 Madison Street since it has been more than six months since the building fell and wanted to know if it had gone out to bid for the second time. City Comptroller, Lee Ann Wells advised that bids will be received on July 25th. The Mayor advised that Council will then vote on the lowest bid. She noted that it would be up to the winning bidder's schedule as to when work would begin, which we would not know right now.

Councilor Rossi read an email from City Engineer, Jeff Rowe, advising that the bids would be received July 25th and can be awarded by the Council meeting on August 1. Mrs. Milman-Barris expressed her disappointment that this process has taken so long, as our own City Code states that if a building falls, it needs to be taken care of "forthwith". Because this building is considered "hot" due to asbestos, it should have been cleaned up immediately.

OLD BUSINESS: None

APPROVAL OF MINUTES

Moved by Councilor Pagano
Seconded by Councilor Simchik

RESOLVED, that the minutes of the regular meeting of June 20, 2023, are hereby approved as presented.

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

MOTION CARRIED

APPROVAL OF WARRANT

Moved by Councilor Simchik
Seconded by Councilor Pagano

RESOLVED, that Warrant No. 13, checks and ACH payments in the amount of \$639,940.68 as audited by the Voucher Committee are hereby approved for payment in the usual manner at the discretion of the Comptroller.

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

MOTION CARRIED

ADOPT A LOCAL LAW AMENDING THE CODE OF THE CITY OF ONEIDA REGARDING APPEARANCE TICKETS AND ISSUING AND SERVICE OF THE SAME

RESOLUTION 23-113

Moved by Councilor Simchik
Seconded by Councilor Rossi

WHEREAS, pursuant to the provisions of the Municipal Home Rule Law, a proposed local law titled "A Local Law Amending the Code of the City of Oneida Regarding Appearance Tickets and Issuing and Service of the Same" was presented and introduced at a Regular Meeting of the Common Council of the City of Oneida held on June 20, 2023; and

WHEREAS, a public hearing was held on such proposed local law on July 5, 2023 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 an unlisted action for purposes of environmental review under the State Environmental Quality

Review Act (SEQRA), an environmental impact statement (EIS) was not required, and a negative declaration was issued on June 20, 2023, pursuant to SEQRA determining that this action will have no significant effect on the environment thus concluding the SEQRA 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 a Local Law as follows:

“A LOCAL LAW AMENDING THE CODE OF THE CITY OF ONEIDA REGARDING APPEARANCE TICKETS AND
ISSUING AND SERVICE OF THE SAME

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

Section 1. AUTHORITY.

This local law is enacted pursuant to New York State Constitution and New York Municipal Home Rule Law § 10.

Section 2. PURPOSE.

The purpose of this local law is to promote the public safety and welfare of the City and its residents by ensuring that public servants are appropriately authorized with the power to issue and serve appearance tickets.

Section 3. AMENDMENT OF THE CODE OF THE CITY OF ONEIDA SECTION 21-1, TITLED “APPEARANCE TICKETS TO ENFORCE ORDINANCES.”

So that Section 21-1, titled “Appearance tickets to enforce ordinances,” is hereby amended to read in its entirety as follows:

“The officer charged by ordinance or other provision of law with enforcement of the provisions of the City of Oneida health and sanitation, solid waste and recycling, subdivision regulations and zoning regulations ordinances is hereby authorized to issue and serve an appearance ticket, as defined in the New York State Criminal Procedure Law, for violation of any of the provisions of such ordinances or any lawful orders or directions issued pursuant thereto, after providing any required notice and period of time for correction or compliance.”

Section 4. AMENDMENT OF THE CODE OF THE CITY OF ONEIDA SECTION 17-15, TITLED “PENALTIES FOR OFFENSES; VIOLATIONS; APPEARANCE TICKETS”

So that Subsection C of Section 17-15, titled “Penalties for offenses; violations; appearance tickets” is hereby repealed in its entirety.

Section 29. VALIDITY & SEVERABILITY

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or 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 30. EFFECTIVE DATE

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

Councilor Szczerba	<u>YES</u>
Councilor Laureti	<u>YES</u>
Councilor Rossi	<u>YES</u>
Councilor Kinville	<u>ABSENT</u>
Councilor Pagano	<u>YES</u>
Councilor Simchik	<u>YES</u>

MOTION CARRIED

APPROVE BID-LIQUID CAUSTIC SODA

RESOLUTION 23-114

Moved by Councilor Rossi
Seconded by Councilor Simchik

RESOLVED, to approve the apparent low bidder meeting specifications for Liquid Caustic Soda to JCI Jones Chemical Inc., 100 Sunny Sol Blvd., Caledonia, NY 14423.

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

CELLULAR TELEPHONE ADMINISTRATIVE POLICY

RESOLUTION 23-115

Moved by Councilor Rossi
Seconded by Councilor Laureti

RESOLVED, that the Employee Acknowledgement of Receipt and Understanding of the Cellular Telephone Administrative Policy from Water Maintenance Worker/SWMW, Joseph Stoffle, be hereby received and placed on file.

RESOLVED, that the Telephone Request Form from Joseph Stoffle, pursuant to the City of Oneida Cellular Telephone Policy adopted June 15, 2010, Resolution 10-153 and reaffirmed on May 17, 2016, be hereby approved.

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

MOTION CARRIED

BUDGET TRANSFERS/AMENDMENTS

RESOLUTION 23-116

Moved by Councilor Rossi
Seconded by Councilor Simchik

	<u>To</u>	<u>From</u>
2023 Budget Adjustments		
\$ 476.19	001.0026.4300.0000 Federal Revenue	001.3410.0200.0000 Fire Equipment
<i>To re-allocate reimbursement back to the expense account used for the original purchase</i>		
\$ 1,062.00	001.0001.0885.0000 Kallet Capital Improvement Reserve	001.0019.2413.0000 Kallet Revenue

To re-allocate funds from the ticket sales to the capital improvement reserves as per the contract

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

MOTION CARRIED

NEW BUSINESS: None

Motion to adjourn by Councilor Simchik
Seconded by Councilor Rossi

Ayes: 5
Nays: 0

Absent: 1 (Kinville)

MOTION CARRIED

The regular meeting is hereby adjourned at 7:40 p.m.

CITY OF ONEIDA

Sandra LaPera, City Clerk