

# **REGULAR MEETING OF THE COMMON COUNCIL**

**Tuesday, July 9, 2019 – 6:35 p.m.**

**Olean Municipal Building - Council Chambers**

- 1. ROLL-CALL**
- 2. INVOCATION**
- 3. PLEDGE**
- 4. READING, CORRECTING, AND APPROVAL OF THE MINUTES OF THE PREVIOUS REGULAR MEETING:**

“The Regular Meeting of the Olean Common Council was held on Tuesday, June 25, 2019 at 6:50 p.m.”

PRESENT: Alderman Crawford, Witte, Andreano, Gonzalez, Dougherty, Smith, and George

ABSENT: None

OFFICIALS: Mayor William Aiello; Lens Martial, City Clerk; Nicholas DiCerbo, Jr., City Attorney; Fred Saradin, City Auditor; Bob Ring, Director of Public Works; Keri Stephens, Community Development Program Coordinator; Bob Bell, Fire Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary

- 5. COMMITTEE REPORTS AND UNFINISHED COUNCIL BUSINESS**
- 6. COMMUNICATIONS FROM THE MAYOR**
- 7. MISCELLANEOUS COMMUNICATIONS**
- 8. CITY OFFICIAL REPORTS**
- 9. PROPOSED LEGISLATION & REFERRALS**

PL #60-19: (Aiello) That the Common Council as Lead Agency concludes that the proposed project for the Washington Street and North 4<sup>th</sup> Street Waterline Replacement is a Type II Action and that after full review of the Environmental Assessment Form determines that the project will have no adverse environmental impact and thus declares a Negative Declaration. *Referred to Committee of the Whole Tuesday, July 9, 2019 by Council President.*

PL #61-19: (Aiello) That the Common Council as Lead Agency declares the King Street Park Project an Unlisted Action and determines that the project will have no significant impact on the environment. *Referred to Committee of the Whole Tuesday, July 23, 2019 by Council President.*

PL #62-19: (Aiello) To authorize the Mayor to sign and submit a grant application to New York State under the Consolidated Funding Application process to secure funding for the Allegheny Syphon Project. *Referred to Committee of the Whole Tuesday, July 9, 2019 by Council President.*

PL #63-19: (Aiello) To authorize the Mayor to sign and submit a grant application to New York State under the Consolidated Funding Application process for the Water Distribution System Plan. *Referred to Committee of the Whole Tuesday, July 9, 2019 by Council President.*

PL #64-19: (Aiello) To authorize the City Auditor to bond for the Washington Street and North 4<sup>th</sup> Street Waterline Replacement Project. *Referred to Committee of the Whole Tuesday, July 9, 2019 by Council President.*

## **10. PUBLIC COMMENT / INPUT (5 MINUTE LIMIT PER SPEAKER)**

## **11. FINANCE / BILLS**

## **12. RESOLUTIONS**

### **RESOLUTION #61-19**

### **PL #58-19**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

### **TO DESIGNATE SAVARINO COMPANIES, LLC AS A “QUALIFIED AND ELIGIBLE SPONSOR”, APPROVING THE DEVELOPMENT AGREEMENT AND QUALIFYING THE DISPOSITION OF THE 101 NORTH UNION STREET PROPERTY**

**WHEREAS**, in furtherance of the objectives of Article 15 and 15-A of the General Municipal Law of the State of New York (“GML”) and the recommendation of the Olean Urban Renewal Agency (OURA), the City of Olean has undertaken a program for reconstruction of its urban core area in a portion of the City’s downtown business district in accordance with an Urban Renewal Plan known as the Olean Urban Renewal Plan Update with respect to the parcels of real property located at 101 North Union Street, 107 North Union Street, 106-108 West State Street and 110-116 West State Street, and

**WHEREAS**, The Agency acquired title to the OURA Development Site pursuant to the Urban Renewal Plan on August 27, 2010, and

**WHEREAS**, on three occasions OURA prepared and advertised Request for Proposals for the redevelopment of the OURA Development Site which had failed to produce a successful Developer for a comprehensive project involving all of the properties, and

**WHEREAS**, in August 2011, in response to its Request for Proposal for the redevelopment of the OURA Development site, the OURA received two proposals and selected one such proposal as the preferred developer after scoring the proposals, and

**WHEREAS**, in May 2013, the preferred developer selected withdrew from the project for various reasons and on June 19, 2014 the OURA accepted the notice to withdraw from the preferred developer, and

**WHEREAS**, on August 27, 2013 the OURA prepared and advertised another Request for Proposals for the redevelopment of the OURA Development Site that resulted, contrary to expectations, in no responses, and

**WHEREAS**, in September 2013, the OURA sought Requests for Bids for the demolition of a portion of the development site being 110 West State Street and 116 West State Street (“110-116 West State Street”), and

**WHEREAS**, on November 21, 2013 in response to the publicity related to the bid procedure for demolition of the 110-116 West State Street, Goodban Belt Management Consulting, LLC proposed to redevelop 110-116 West State Street as a mix of uses and amenities, including ground floor retail, new residential on the second floor and residential development on the third floor; which proposal was accepted and which has resulted in an approved project underway by Sunny Olean, LLC which is a related company to Goodban Belt Management Consulting, LLC, and on November 24, 2015, the OURA successfully disposed of 110-116 West State Street to Goodban Belt, LLC, and

**WHEREAS**, by letter dated March 15, 2017, Sunny Olean, LLC proposed to purchase the contiguous parcel being 106-108 West State Street, and

**WHEREAS**, on May 24, 2017, the Agency decided to pursue, subject to legal requirements, redevelopment of the 106-108 West State Street property by Sunny Olean, LLC (“Preferred Developer” as designated by the OURA) by negotiated disposal process consistent with the company’s March 15, 2017 proposal (Project) which the OURA believes is consistent with the goals and objectives in the Urban Renewal Plan Update, and

**WHEREAS**, the Land Disposition Agreement was executed on February 21, 2018 and the OURA successfully disposed of 106-108 West State Street to Sunny Olean, LLC, and

**WHEREAS**, by letter of interest submitted to OURA dated June 27, 2017, Savarino Companies, LLC proposed to acquire 101 North Union Street for development. On September 13, 2017, the Agency decided to pursue, subject to legal requirements, redevelopment of the Properties by the Company by negotiated disposal process consistent with the Company’s 6/27/17 and related

Adaptive Reuse of Manny-Hanny Complex follow up letter dated February 21, 2018 which constitutes the Company's proposal, and

**WHEREAS**, in order for the OURA and the Preferred Developer to enter into a Development Agreement for the disposition of 101 North Union Street, the Common Council pursuant to GML Section 507(2)(d) must: 1) permit the designation of the Preferred Developer as a "qualified and eligible sponsor"; and 2) approve the Development Agreement and qualify the disposition of the property, and

**WHEREAS**, the OURA has undertaken a coordinated review of this Project pursuant to the State Environmental Quality Review Act and issued a Negative Declaration determining that the Project will have no significant adverse environmental impact, and

**WHEREAS**, the Common Council held a public hearing on Tuesday, July 9, 2019, the purpose of which was to provide the public with information on the Project and the Preferred Developer's plan for redevelopment of the 101 North Union Street property, and

**WHEREAS**, consideration to be paid by the Preferred Developer as the purchase price of 101 North Union Street will be determined by negotiation between the parties based upon an independent 3<sup>rd</sup> party appraisal of fair market value plus actual Agency capital improvement expenditures, if any, and

**WHEREAS**, KLV Appraisal Group, Inc. performed an independent 3<sup>rd</sup> party appraisal and determined the as is market value of the fee simple interest of the real property, as of January 19, 2018, to be \$34,450. In addition, there is the added benefit of the leased fee rights attributable to the cell tower lease with the present worth benefits of this lease, as of January 19, 2018, to be \$124,000 for a combined total of \$158,450 respectfully, and

**WHEREAS**, the disposition of the property shall not occur until after the OURA completes the Manufacturers' Hanover Stabilization Project and satisfies the close-out requirements outlined by the funding agencies involved in said project, which includes New York State Parks, Recreation & Historic Preservation and Empire State Development.

**NOW, THEREFORE, BE IT RESOLVED**, that the Common Council hereby designates Savarino Companies, LLC as a "qualified and eligible sponsor", approves the Development Agreement (attached) and qualifies the disposition of 101 North Union Street when deemed befitting.

**RESOLVED**, that this Resolution is effective immediately.

**RESOLUTION #62-19**

**PL #60-19**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**THAT THE COMMON COUNCIL AS LEAD AGENCY CONCLUDES THAT THE PROPOSED PROJECT FOR THE WASHINGTON STREET AND NORTH 4<sup>TH</sup> STREET WATERLINE REPLACEMENT IS A TYPE II ACTION AND THAT AFTER FULL REVIEW OF THE ENVIRONMENTAL ASSESSMENT FORM DETERMINES THAT THE PROJECT WILL HAVE NO ADVERSE ENVIRONMENTAL IMPACT AND THUS DECLARES A NEGATIVE DECLARATION**

**WHEREAS**, the Common Council of the City of Olean is desirous of undertaking a project for waterline replacement on Washington Street and North 4<sup>th</sup> Street; and

**WHEREAS**, such project requires SEQR review prior to formal consideration by the Common Council; and

**WHEREAS**, said project qualifies as a Type II Action under SEQRA regulations; and

**WHEREAS**, the Common Council, in its capacity as Lead Agency, has caused to be prepared an environmental assessment of the significance of an potential environmental impact of the action described above; and

**WHEREAS**, it has been determined through findings of the EA that the proposed project will have no significant impact(s) on the environment;

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Olean Common Council declares itself Lead Agency for this project and for the purposes of SEQRA.

**BE IT FURTHER RESOLVED**, that the Common Council, as Lead Agency, concludes that the proposed project for waterline replacement on Washington Street and North 4<sup>th</sup> Street is a Type II Action and that after full review of the Environmental Assessment Form determines that the project will have no adverse environmental impact and thus issues a Negative Declaration.

**RESOLUTION #63-19**

**PL #62-19**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**TO AUTHORIZE THE MAYOR TO SIGN AND SUBMIT A GRANT APPLICATION TO NEW YORK STATE UNDER THE CONSOLIDATED FUNDING APPLICATION PROCESS TO SECURE FUNDING FOR THE ALLEGHENY SYPHON PROJECT**

**WHEREAS**, the New York State Consolidated Funding Process was created to streamline and expedite the grant application process for securing economic and community development funding; and

**WHEREAS**, there are currently grant funds available for said projects through the New York State Department of Environmental Conservation Water Quality Improvements Program; and

**WHEREAS**, the City of Olean as applicant has identified the Allegheny Syphon Project as eligible and fundable under this State funded program; and

Whereas, \$811,500 in funding is requested of the total project cost of \$1,082,000, with a local match of \$270,500;

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Olean Common Council that the Mayor, as the representative designated to act on behalf of the City of Olean in all matters related to State assistance for these projects, is authorized to sign and submit said application, execute the Grant Agreement, request State advances and reimbursements, submit project documentation, and otherwise act for the applicant in all matters related to the project funding and to State assistance.

**BE IT FURTHER RESOLVED**, that this Resolution will take effect immediately.

**RESOLUTION #64-19**

**PL #63-19**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**AUTHORIZING THE MAYOR TO SIGN AND SUBMIT A GRANT APPLICATION TO NEW YORK STATE UNDER THE CONSOLIDATED FUNDING APPLICATION PROCESS FOR THE WATER DISTRIBUTION SYSTEM PLAN**

**WHEREAS**, funding is available through the Consolidated Funding Application (CFA) process from Empire State Development (ESD) to develop a Water Distribution System Plan; and

**WHEREAS**, of the Plan estimate of \$40,000, \$20,000 in funding is being requested through the CFA process to aid in the development of the Water Distribution System Plan; and

**WHEREAS**, the City of Olean has requested the County of Cattaraugus to provide the \$20,000 match for said grant funding;

**NOW, THEREFORE, BE IT RESOLVED**, by the City of Olean Common Council that the Mayor of the City of Olean, as the representative designated to act on behalf of the City of Olean in all matters related to State assistance for this project, is authorized to sign and submit said application, execute the Grant Agreement, request State advances and reimbursements, submit project documentation, and otherwise act for the applicant in all matters related to project funding and the State assistance.

**BE IT FURTHER RESOLVED**, that this Resolution is effective immediately.

**RESOLUTION #65-19**

**PL #64-19**

By Alderman \_\_\_\_\_, Seconded by Alderman \_\_\_\_\_

**A BOND RESOLUTION, DATED JULY 9, 2019, OF THE COMMON COUNCIL OF THE CITY OF OLEAN, CATTARAUGUS COUNTY, NEW YORK (THE “CITY”), AUTHORIZING A WATER SYSTEM CAPITAL IMPROVEMENTS PROJECT, AT AN ESTIMATED MAXIMUM COST OF \$1,350,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,350,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY FEDERAL, STATE, COUNTY AND/OR LOCAL FUNDS RECEIVED, AND DELEGATING THE POWER TO ISSUE BOND ANTICIPATION NOTES IN ANTICIPATION OF THE SALE OF SUCH BONDS TO THE CITY AUDITOR.**

WHEREAS, the Common Council of the City of Olean, in the County of Cattaraugus, New York (the “City”) desires to undertake a capital improvements project consisting of the reconstruction of and construction of improvements to the City Water System;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council (by the favorable vote of not less than two-thirds of all the members of the Council) as follows:

SECTION 1. The City is hereby authorized to undertake a certain water system capital improvements project, such work to generally consist of (but not be limited to) the installation of approximately 2,700 linear feet of 4-inch and 8-inch water main along various road in the City including, but not limited to, Washington Street and North 4<sup>th</sup> Street, the installation of new water service lines to existing homes and businesses, and road improvements, as well as other such improvements as more fully identified in (or contemplated by) a report prepared by the City Engineering Department in connection with such project, including all preliminary work and necessary equipment, materials, and site work and all preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the “Purpose”). The estimated maximum cost of the Purpose is \$1,350,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of said purpose by the issuance of serial bonds in an aggregate principal amount not to exceed \$1,350,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any federal, state, county and/or local funds received. Unless paid from other sources or charges, the cost of such improvement is to be paid by the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

SECTION 3. It is hereby determined that the Purpose is a class of objects or purposes described in subdivision 1 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such Purpose is 40 years.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of the sale of said bonds.

SECTION 5. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 6. The faith and credit of said City are hereby irrevocably pledged for the payment of the principal of and interest on such bonds (and any bond anticipation notes issued in anticipation of the sale of such bonds) as the same respectively become due and payable. An annual appropriation will be made in each year sufficient to pay the principal of and interest on such bonds or notes becoming due and payable in such year. Unless paid from other sources or charges, there will annually be levied on all the taxable real property of said City a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 7. Subject to the provisions of this resolution and of the Local Finance Law, and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and of Section 50.00, Sections 56.00 to 60.00, Section 62.00, Section 62.10, Section 63.00, and Section 164.00 of the Local Finance Law, the powers and duties of the Common Council pertaining or incidental to the sale and issuance of the obligations herein authorized, including but not limited to authorizing bond anticipation notes and prescribing the terms, form and contents and details as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said notes, are hereby delegated to the City Auditor, the chief fiscal officer of the City. Without in any way limiting the scope of the foregoing delegation of powers, the City Auditor, to the extent permitted by Section 58.00(f) of the Local Finance Law, is specifically authorized to accept bids submitted in electronic format for any bonds or notes of the City.

SECTION 8. The temporary use of available funds of the City, not immediately required for the purpose or purposes for which the same were borrowed, raised or otherwise created, is hereby authorized pursuant to Section 165.10 of the Local Finance Law, for the purpose or purposes described in Section 1 of this resolution. The City then reasonably expects to reimburse any such expenditures (to the extent made after the date hereof or within 60 days prior to the earlier of (a) the date hereof or (b) the date of any earlier expression by the City of its intent to reimburse such expenditures) with the proceeds of the bonds authorized by Section 2 of this resolution (or with the proceeds of any bond anticipation notes issued in anticipation of the sale of such bonds). This resolution shall constitute the declaration (or reaffirmation) of the City's "official intent" to reimburse the expenditures authorized by Section 2 hereof with such bond or note proceeds, as required by United States Treasury Regulations Section 1.150-2.

SECTION 9. The City Auditor is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and may designate the bonds authorized by this resolution, and any notes issued in anticipation thereof, as "qualified tax-exempt bonds" in accordance with Section 265(b)(3) of the Code.

SECTION 10. The City Auditor is further authorized to enter into a continuing disclosure agreement with the initial purchaser of the bonds or notes authorized by this resolution, containing provisions which are satisfactory to such purchaser in compliance with the provisions of Rule 15c2-12, promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934.

SECTION 11. The City has complied with applicable federal, state and local laws and regulations regarding environmental matters, including compliance with the New York State Environmental Quality Review Act ("SEQRA"), comprising Article 8 of the Environmental Conservation Law and, in connection therewith, duly issued a negative declaration and/or other applicable documentation, and therefore, no further action under SEQRA is necessary.

SECTION 12. In the absence or unavailability of the City Auditor, the Deputy Auditor is hereby specifically authorized to exercise the powers delegated to the City Auditor in this resolution.

SECTION 13. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

1. (a) such obligations are authorized for an object or purpose for which said City is not authorized to expend money, or

(b) the provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within 20 days after the date of such publication; or

2. such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 14. The City Clerk is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of said Local Finance Law, in a newspaper having a general circulation in said City and hereby designated as the official newspaper of said City for such publication.

SECTION 15. This Resolution is effective immediately.

### **13. ADJOURNMENT**