

Journal of Proceedings

OF THE COMMON COUNCIL OF THE CITY OF OLEAN, N.Y.

May 8, 2018

**COMMON COUNCIL CHAMBERS
COUNTY OF CATTARAUGUS
STATE OF NEW YORK**

A Regular Meeting of the Olean Common Council of the City of Olean was held on Tuesday, May 8, 2018 at 6:55 p.m.

PRESENT: Aldermen 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; Keri Kerper, Community Development Program Coordinator; Bob Ring, Director of Public Works; Bob Bell, Fire Chief; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary

At this time a prayer was given by Alderman Andreano, followed by a salute to the flag.

**READING, CORRECTING & APPROVAL OF THE MINUTES OF THE
PREVIOUS REGULAR MEETING**

A motion to approve the minutes of the April 24, 2018 meeting was made by Alderman Crawford, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

COMMITTEE REPORTS & UNFINISHED COUNCIL BUSINESS

Report from Committee of the Whole on PL #32-18, to authorize the City of Olean Common Council to act as Lead Agency under New York State Environmental Quality Review Regulations in connection with the proposed Forest Hills Subdivision. Committee recommends approval. Referred to City Attorney for Resolution.

Report from Committee of the Whole on PL #51-18, to authorize the removal of 14 existing 17-watt mercury vapor lighting fixtures by National Grid located on Carolina Street and Bradley Drive. Committee recommends approval. Referred to City Attorney for Resolution.

Report from Committee of the Whole on PL #52-18, to authorize the City Auditor to bond for the remainder of the North Union Street Judgment payment. Committee recommends approval. Referred to City Attorney for Resolution.

COMMUNICATIONS FROM THE MAYOR

None

MISCELLANEOUS COMMUNICATIONS

None

CITY OFFICIAL REPORTS

None

PROPOSED LEGISLATION AND REFERRALS

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PL #50-18: (Aiello) To authorize the removal of 14 existing 17-watt mercury vapor lighting fixtures by National Grid located on Carolina Street and Bradley Drive. Referred to Committee of the Whole Tuesday, May 8, 2018 by Council President.

PL #51-18: (Aiello) To authorize the City Auditor to bond for the remainder of the North Union Street Judgment payment. Referred to Committee of the Whole Tuesday, May 8, 2018 by Council President.

PUBLIC COMMENT/INPUT

Alderman Witte welcomed the new Marshalls department store to the City. She stated that, as a member of the Olean Food Pantry, she is very thankful for the \$10,000 donation that was made by Marshalls to the Food Pantry. This is a great addition to our City.

Scott Paoletto of 318 North 11th Street voiced concerns of trees across power lines near his home. He is also concerned regarding poles that may be leaning towards the roadway. He also recommends cutting down on the number of parks in the City in order to focus available financing on making a few great parks, and to aid in saving money.

Barbara Langenhan of 106 Woodview Avenue expressed her opposition to the proposed Forest Hills Subdivision. She stated that she feels that it will greatly alter the character of the neighborhood, as well as impact the current resident's investments. The issue of neighborhood covenants that was previously discussed was upheld in the Supreme Court, so she is very pleased.

Steve McClain of 1 Inwood Drive stated that he feels that the Forest Hills Subdivision will change the character of the neighborhood. The neighbors wouldn't be here tonight if they didn't feel that way. He has visited the site in Batavia, and he feels that the aesthetics are completely different. He didn't sign up to pay \$8,000 a year in taxes to have a development such as this built in his neighborhood.

Kevin Bartholomew of 737 Bishop Street stated that he commends Mr. Ring and the Common Council for finally getting around to restriping West State Street. He noted that he read in the paper that parking may be an option in the area, but he does not feel that would be viable. He would rather see a bike lane. He also feels that, if an external consultant or engineer signed off on additional work by Catco that caused the City's lawsuit, that the City should pursue them for financial responsibility. He finished that residents will be upset if water and sewer rates are increased again next year, especially with the money that was just taken out of Water Fund and Sewer Fund balances.

John Schumaker of 100 Inwood Drive stated that he has two concerns with the proposed development. First, he doesn't know of many in Olean that take care of their rental properties, as there is no incentive. Second, he is concerned about the increase in traffic. The original plan for the development included two exits onto Genesee Street, where the new plan calls for one. He feels that more than one entrance and exit into the neighborhood should be included.

Eric Biscaro of Batavia, New York stated that in Batavia, the houses that surround his development are assessed higher (some significantly higher) than the residents houses where the proposed Forest Hills Patio Home Development would be located. He keeps hearing about the potential for property taxes going down, but nothing has been built in the neighborhood since 2009 and since then, all of the homes have lost value ranging from 20% to 47%. Only one house had an increase in value, and that was because of the addition of a garage. In Batavia, 100% of the surrounding

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homes' assessments increased since his properties were built. His homes are also designed to fit the requirements of an R1 zoning district. He feels that we need a neighborhood like this in the City.

Bob Simon, an attorney representing Jim and Carol Stitt of Woodview Avenue, stated that a property increase of 41 lots to 55 lots is a 35% increase in density. There will be increased traffic, and as the subdivision calls for two outlets while the new development calls for one, he feels that a traffic study should be complete. He also feels that the impacts pointed out in letters to the Council from the Department of Environmental Conservation and Cattaraugus County Health Department should be considered. He recommends that the City hire a consultant to prepare the full Environmental Impact Statement, and then charge the developer for the cost. Also, between 6 and 8 of these lots do not fit Code requirements for frontage.

FINANCE / BILLS

None

RESOLUTIONS

A motion to suspend the rules was made by Alderman Crawford, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

A motion to amend the agenda to include PL #53-18 was made by Alderman Crawford, seconded by Alderman Witte. Voice vote, ayes all. Motion carried.

Alderman Crawford explained that the the Strategic Planning committee has recommended to the Common Council that the Common Council declare Lead Agency status, adopt the revisions and recommendations submitted by interested and involved agencies, and declare a Positive Declaration, therefore triggering the requirement for a full Environmental Impact Statement. He explained that while "Positive Declaration" sounds as though the Council is in favor of the project, it actually means that the Committee believes that the environmental impact may not be in the best interests of the neighborhood or the City of Olean.

RESOLUTION #32-18

PL #32-18

By Alderman Crawford, Seconded by Alderman Dougherty

RESOLUTION OF THE COMMON COUNCIL FOR THE CITY OF OLEAN DECLARING ITSELF LEAD AGENCY, ADOPTING REVISIONS AND RECOMMENDATIONS ON THE FULL ENVIRONMENTAL ASSESSMENT FORM AS SUBMITTED BY INVOLVED AGENCIES, AND MAKING A DETERMINATION OF SIGNIFICANCE UNDER THE STATE ENVIRONMENTAL QUALITY REVIEW ACT RELATING TO THE APPLICATION FOR A SUBDIVISION OF A PLOT OF LAND LOCATED ON INWOOD DRIVE ("FOREST HILLS SUBDIVISION")

WHEREAS, pursuant to Chapter 22, Article III of the City of Olean Code of Ordinances, on February 23, 2018, the Common Council of the City of Olean ("Common Council") received an application from Eric Biscaro and Raquel Biscaro Martin ("Applicant") for the subdivision of a plot of land located on Inwood Drive for the purpose of a Patio Home Development ("Forest Hills Subdivision"), together with Part 1 of a Full Environmental Assessment Form (EAF) under the State Environmental Quality Review Act, and on or about March 16, 2018, a revised Part 1 of the EAF was resubmitted to the Common Council; and

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WHEREAS, the Applicant is seeking the subdivision of forty one (41) existing lots into fifty five (55) lots for the development of fifty two (52) patio homes for rental and three (3) single family homes; and

WHEREAS, the City desires to comply with Article 8 of the Environmental Conservation Law, as amended (SEQRA) and the implementing regulations at 6 NYCRR Part 617 (the "Regulations"); and

WHEREAS, the Common Council acknowledged receipt of the subdivision application and the EAF at its duly noticed regular business meeting on March 27, 2018, preliminary classified the Action as a Type I Action and declared its intent to act as the Lead Agency to undertake a coordinated environmental review as required by SEQRA; and

WHEREAS, in addition to the Common Council, the other involved agencies (as this quoted term is defined in the Regulations) in regard to this Action include the City of Olean Planning Board, the Cattaraugus County Planning Board, the Cattaraugus County Health Department, the New York State Department of Transportation, and the New York State Department of Environmental Conservation; and

WHEREAS, by a letter dated March 22, 2018, the Common Council caused a letter, a copy of the subdivision application, and the EAF to be sent to these other involved agencies, indicating the Common Council's desire to serve as Lead Agency (as this quoted term is defined in the Regulations) for a coordinated review under SEQRA and requesting any comments the agencies may have on the project; and

WHEREAS, the Common Council had thoroughly reviewed all information provided in the EAF, as well as the reports, analyses and correspondence provided by the Applicant, and the comments received from the involved agencies that were submitted to the Common Council regarding the potential adverse impacts of the Action, in addition to complete concurrence with the Council's Lead Agency status; and

WHEREAS, the Common Council is mindful of the criteria set forth in Section 617.7 of the Regulations for determining the environmental significance of an action; and

WHEREAS, pursuant to the Regulations, the Common Council has considered the significance of the potential environmental impacts of the Action by (a) using the criteria specified in Section 617.7 of the Regulations, and (b) examination of the EAF for the Action, including the facts and conclusions in Part 1 of the EAF, and completing Parts 2 and 3 of the EAF, together with examining other available supporting information, to identify the relevant areas of environmental concern, and (c) thoroughly analyzing the identified areas of relevant environmental concern;

***NOW, THEREFORE, IT IS HEREBY RESOLVED** by the Common Council of the City of Olean confirms and adopts the following findings with respect to SEQRA:*

- A. The Action is subject to SEQRA;*
- B. The other involved agencies with respect to this Action include the City of Olean Planning Board, the Cattaraugus County Planning Board, the Cattaraugus County Health Department, the New York State Department of Transportation, and the New York State Department of Environmental Conservation;*
- C. The Action is a Type I Action; and*
- D. The Common Council of the City of Olean has duly acted as Lead Agency for purposes of undertaking a coordinated review with respect to the Action.*

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***IT IS HEREBY FURTHER RESOLVED**, that this Action has the potential to create at least one significant adverse environmental impact and, therefore, a positive declaration (as this quoted term is defined in the Regulations) shall be prepared, filed and published pursuant to SEQRA, and the Applicant shall be required to prepare an Environmental Impact Statement with respect to such impacts of the Action.*

ROLL CALL, AYES ALL. MOTION CARRIED.

Alderman Crawford stated that we are simply cleaning up accounts for a transfer previously approved. Mr. Saradin added that two weeks ago, the following resolution was hastily thrown together. Numbers are the same. Alderman Crawford stated that as the City is incurring post judgment interest, the resolution needed to be put through as soon as possible. The money has been transferred into the correct accounts and the payment has been made. The revised resolution is for auditing purposes.

RESOLUTION #49-18

PL #NONE

By Alderman Witte, Seconded by Alderman Gonzalez

**AUTHORIZING THE TRANSFER OF FUNDS FROM VARIOUS LINE ITEMS OF THE
2017-2018 BUDGET TO LINE ITEM 1930.513**

RESOLVED, that the following transfers be authorized:

<i>Account #</i>	<i>Description- General</i>	<i>Amount Transferred</i>	<i>Transferred to</i>
A-01-3-909.000	General Fund Balance	\$431,986	A-01-5-1930.513
F-06-3-909.000	Water Fund Balance	\$90,676	F-06-5-1930.513
G-07-3-909.000	Sewer Fund Balance	\$64,187	G-07-5-1930.513
	Total Transfer to Judgments and Claims	\$586,849	

BE IT FURTHER RESOLVED, that this resolution shall be effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

RESOLUTION #51-18

PL #50-18

By Alderman Gonzalez, Seconded by Alderman Witte

**RESOLUTION AUTHORIZING THE REMOVAL OF FOURTEEN (14) EXISTING LIGHTING
FIXTURES BY NATIONAL GRID LOCATED ALONG CAROLINA STREET AND BRADLEY
DRIVE**

RESOLVED, that the Common Council, on behalf of the City of Olean, authorizes the removal of fourteen (14) existing 175w Mercury Vapor Traditional lighting fixtures utilizing City of Olean-owned poles located along Carolina Street (Poles #207, #218, #228, #235, #240) and Bradley Drive (Poles #100, #103, #104, #108, #109, #116, #119, #122, #129); and

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BE IT FURTHER RESOLVED, that the Common Council, on behalf of the City of Olean, authorizes National Grid to add thirteen (13) City-owned “energy-only” streetlights to the City’s existing Service Classification No. 3 streetlight bill, Account No. 08938-79108. The City-owned “energy-only” streetlights utilizing City-owned poles are located along East Ohio Street (#106 and #107), East Riverside Drive (Pole #120, #124, #136, #133, and #144), Vermont Street (Pole #484), and Virginia Street (Pole #100, #103, #112, #117, and #120); now

THEREFORE, BE IT RESOLVED, that this Resolution is effective immediately.
ROLL CALL, AYES ALL. MOTION CARRIED.

RESOLUTION #52-18

PL #51-18

By Alderman Gonzalez, Seconded by Alderman George

A BOND RESOLUTION, DATED MAY 8, 2018, OF THE COMMON COUNCIL OF THE CITY OF OLEAN, CATTARAUGUS COUNTY, NEW YORK (THE “CITY”), AUTHORIZING PAYMENT OF A JUDGMENT, AT AN ESTIMATED MAXIMUM COST OF \$500,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$500,000 OF THE CITY, PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE SAID PURPOSE, SAID AMOUNT TO BE OFFSET BY ANY BUDGETARY APPROPRIATIONS OR ANY OTHER FUNDS RECEIVED OR APPLIED, 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 authorize the satisfaction of a judgment (the “Purpose”);

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 the satisfaction of a judgment involving payment to Concrete Applied Technologies Corporation 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 \$500,000.

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 \$500,000 of the City, hereby authorized to be issued therefor pursuant to the Local Finance Law, said amount to be offset by any budgetary appropriations or any other funds received or applied. Unless paid from other sources or charges, the cost of such purpose 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 an object or purpose described in subdivision 33 of paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of the purpose is five years.

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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 not 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.

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SECTION 11. The City hereby determines that the Purpose is a Type II action that will not have a significant effect on the environment and, therefore, no other determination or procedures under the State Environmental Quality Review Act ("SEQRA") are required.

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.
ROLL CALL, AYES ALL. MOTION CARRIED.

RESOLUTION #53-18
PL #NONE

By Alderman Crawford, Seconded by Alderman Witte

TO APPROVE THE SHORT SALE OF A HOME FUNDED UNDER THE 2000 OLEAN HOMEOWNERSHIP ASSISTANCE PROGRAM

WHEREAS, the City of Olean was awarded funding from the New York State Housing Trust Fund Corporation under Title I of the Housing and Community Development Act of 1974 (as amended) through the Small Cities Community Development Block Grant Program; and

WHEREAS, the purpose of said Housing Trust Fund Corporation Grant was to provide funds to assist eligible low and moderate income first-time homebuyers to purchase houses in the City of Olean as their primary residence; and

WHEREAS, the Mortgagor entered into a Mortgage Agreement with conditions that the funding be paid back in the case that the property, or any portion thereof, is sold, transferred, foreclosed on, or no longer occupied by the Mortgagor as a principle residence; and

WHEREAS, a Mortgagor who obtained funding through the program is desirous of selling their home funded under the program and has requested that the City of Olean

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accept the net proceeds from the sale of the property to satisfy the requirements of the program; and

WHEREAS, *the Project Loan Committee has reviewed said request and recommends to the Common Council the approval of said request;*

NOW, THEREFORE, BE IT RESOLVED, *that the Common Council authorizes the acceptance of the net proceeds from the sale of the property associated with Olean Homeownership Assistance Program #30-2001 to satisfy the requirements of the program.*

RESOLVED, *that the Common Council authorizes the proceeding of a short sale of said property.*

RESOLVED, *that this Resolution be effective immediately.*

ROLL CALL, AYES ALL EXCEPT ALDERMAN ANDREANO, WHO VOTED NAY. MOTION CARRIED.

ADJOURNMENT

Motion to adjourn was made by Alderman Crawford, seconded by Alderman Gonzalez. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:15 p.m.

Lens Martial, City Clerk

Mayor William J. Aiello

John Crawford, Council President

I hereby approve the foregoing minutes

Dated: ____/____/____

**STATE OF NEW YORK
COUNTY OF CATTARAUGUS
CITY OF OLEAN**

I, Lens Martial, City Clerk of the City of Olean, do hereby certify that the foregoing minutes of the Common Council of the City of Olean is the true and correct copy of the whole thereof.

Lens Martial, City Clerk