

Journal of Proceedings

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

October 12, 2021

**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, November 9, 2021 at 6:20 p.m.

PRESENT: *Aldermen Crawford, Witte, Panus, Gonzalez, Robinson, and Anastasia*

ABSENT: *Alderman Barnard*

OFFICIALS: *Mayor William Aiello; Lens Martial, City Clerk; Kris Shewairy, Youth and Recreation Supervisor, and Tiffany Taylor, Managerial Confidential Administrative Secretary*

At this time a prayer was given by Mr. Martial, followed by a salute to the flag.

READING, CORRECTING, AND APPROVAL OF THE MINUTES OF THE PREVIOUS REGULAR MEETING

A motion to approve the minutes of the October 26, 2021 Regular Meeting was made by Alderman Crawford, seconded by Alderman Anastasia. Voice vote, ayes all. Motion carried.

COMMITTEE REPORTS & UNFINISHED COUNCIL BUSINESS

Report from Strategic Planning Committee on PL #52-21, to adopt the City of Olean Employee Social Media Policy. Committee recommends approval. Referred to City Attorney for Resolution.

COMMUNICATIONS FROM THE MAYOR

The Annual Organizational Meeting and State of the City Address will be held on Monday, January 3, 2022 at 6:00 p.m.

Notice of Retirement – Fred Saradin, City Auditor – effective December 11, 2021

Notice of Retirement – Glenda Jester, Auditor's Office – effective January 3, 2022

MISCELLANEOUS COMMUNICATIONS

None

CITY OFFICIAL REPORTS

Monthly Report of the City Auditor – month ended September 2021

PROPOSED LEGISLATION AND REFERRALS

PL #72-21: (Aiello) That the Common Council as Lead Agency concludes that the proposed project for the City of Olean Water Filtration Plant Structural Improvements 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 Regular Meeting Tuesday, November 9, 2021 for Resolution by Council President.

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PL #73-21: (Barnard) to amend the City of Olean Code of Ordinances Section 24-176 to authorize the installation of a “Do Not Block Driveway” sign between 516 West State Street and 518 West State Street. Referred to Regular Meeting Tuesday, November 23, 2021 for Resolution by Council President.

PL #74-21: (Aiello) To authorize the Mayor to apply for funding through the New York State Environmental Facilities Corporation (EFC) Water Infrastructure Improvements Act (WIIA) for the Water Filtration Plant Structural Improvements Project for structural improvements to a weight-bearing wall that is failing at the water filtration plant. Referred to Regular Meeting Tuesday November 9, 2021 for Resolution by Council President.

PL #75-21: (Aiello) To authorize the City Auditor to bond for the local match for the City of Olean Water Filtration Plant Structural Improvements Project. Referred to Regular Meeting Tuesday, November 16, 2021 for Resolution by Council President.

PUBLIC COMMENT/INPUT

Alderman Witte explained that she would like to remind residents to get their leaves into the streets. She explained that the DPW employees started this week on the second round of leaf pickup. She explained that this past weekend was also the pumpkin shoot for Operation Warm Hearts, and over \$3,500 was raised.

Alderman Panus explained that he feels that it is appropriate to congratulate Mr. Saradin and Ms. Jester on their retirements. He explained that he will also be voting “no” on the Social Media Policy tonight, He explained that his belief is that whether we like what people have to say or not, they have a right to say it.

Alderman Robinson explained that there was a judge who was recently removed from office in Alabama for things he had said that would have gone against this social media policy, including referring to African Americans by a derogatory term, making biased assumptions about employees he worked with, and using racist language and undertones in public. He explained that none of these things happened in the courtroom but it still affected his employment. He explained that he knows that people say a lot and it is their right to say things, but it is not right to say something that violates someone else’s Constitutional rights. He explained that he will be voting “yes” but that he actually believes that this policy needs some work. He explained that we can put it into place and amend the policy if we need to down the road.

Alderman Anastasia explained that he is not too sure what the policy entails, but it has been read and approved by the City’s HR Specialist. He asked if it has been reviewed by our attorneys, and Alderman Witte responded that it has been. Alderman Anastasia explained that the First Amendment rights of our employees are not being violated by this policy and he will support it for now. Alderman Witte explained that she feels that the Equity and Inclusion Committee did a good job putting this together. She explained that we can’t overstep what is in place as far as Unions and we can’t discipline someone for more than what is in place. She explained that if someone says something that is discriminatory or hurts other people, then they shouldn’t be saying it. She explained that we have rights but have to be sensitive to other people.

Wendy Filbert of Crown Street explained that last month Resolution #82-21 was passed and that the passage of the resolution is an attempt by a board of officials to pressure the School Board to fire an official for expressing their religious freedoms. She explained that we have a First Amendment right to religious freedoms and that the action of elected officials shows a lack of tolerance of religious freedoms. She explained that if the Council can comment on this, that she feels that the Council should comment on another controversy involving profane language in the book “Lawn Boy” (by Jonathan Evison) that is in the school’s library. She explained that this was brought up at the School Board Meeting, and that the book contains

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pornographic sexual content between minors but is still available in the library. She explained that if the Council can weigh in on one controversy that they should weigh in on another.

Mickey George of Ward 3 explained that he read through the most recent Civilian Review Board proposal and explained that there are numerous references about the Board working with the OPD, but there are no references to the OPD having to work with the Board and that is alarming. He explained that a restricted review board can never have the same impact as the officers themselves, so they should be required to work together. He explained that the draft policy states that after the Chief makes their determination that they will share the evidence that has the biggest impact on their decision with the board, and he feels that this is backwards and it prohibits the ability of the board to work swiftly with the Chief. He explained that he feels that we have also missed the mark about how appointments should be made. He explained that he feels that we should empower the Civilian Review Board to choose candidates to refer to the Mayor. He explained that the Board needs a basic independent identity, otherwise we won't be able to get the right type of people to volunteer. He explained that complaints should also be able to be brought to a board member. He explained that we still have a lot of work to do. He thanked the Council for their time and effort that they are putting into this and he hopes that they continue working on it.

FINANCE / BILLS

None

RESOLUTIONS

Alderman Crawford explained that he wants to mention that Director Ring came to him and explained that he needs authorization to purchase two City vehicles that need to be ordered by this Friday, otherwise they cannot be ordered until the spring. Mr. Ring explained that there is a lot to the story, and this has been discussed a number of times in the Fleet Management committee. He explained that they are trying to replace a vehicle in each the Water and Sewer divisions, and that these Ford F450's are the main utility vehicles that crews use when going to a job site. He explained that a lot of plants are shutting down vehicle production. We purchase a lot of Fords. He explained that their state bid prices are reasonable and our mechanics are trained in Ford. He explained that Ford has given us until this Friday to put in orders, or they cannot be taken until March.

Mr. Ring explained that the vehicles to be replaced are a 2012 and a 2010. He explained that they cost a significant amount of money to maintain each year, and after some research, he found that they are costing more to maintain than they would in depreciation to own them new. He explained that it is effectively better to buy new vehicles. He explained that these vehicles are taxing the mechanics to have to maintain them on a regular basis. He explained that what he is asking is for verbal approval to order these two vehicles at this point. He explained that there is about an 8 to 10 month buildout so we will have to keep the current vehicles for another winter and another summer. He explained that if we wait to order that the old vehicles will then have to get us through another winter.

Mr. Ring explained that the expectation is that the cost will go up from here. He explained that Enterprise Fleet gave us a higher quote for these vehicles. Alderman Crawford asked when we will have to pay for these, and Mr. Ring explained that we would have to pay upon receiving the vehicles, so eight to ten months from now. Alderman Crawford asked the cost of the vehicles, and Mr. Ring explained that the cost is \$49,500 per vehicle. Alderman Crawford explained that there is usually contingency remaining at the end of the year in the Water and Sewer Funds, and he recommends encumbering funds from each to pay for the vehicles if the funding is not used between now and the end of May. Alderman Robinson explained that he thought that some of this funding was used, and Mr. Ring explained that

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\$7,500 was used from each Water and Sewer Contingency for new fuel pumps. Alderman Crawford noted that there is usually a \$75,000 starting balance in Water and Sewer Fund Contingencies at the beginning of the fiscal year.

Alderman Witte explained that because of COVID and slow-downs with manufacturers it is hard to tell how long it can take to get a vehicle in. She explained that it is better to get these ordered sooner rather than later. Alderman Crawford asked if each vehicle is at least ten years old, and Mr. Ring responded that they are. Alderman Crawford explained that we got our money out of the current vehicles, and they are critical to keep the infrastructure up and running.

Alderman Anastasia asked if stimulus funding can be used for these purchases, and Mr. Ring explained that we can explore that over the next 8 months. He explained that there are other vehicles in the fleet approaching 10 years old or more so we may have more discussions about their replacements. Alderman Panus explained that ten years seems to be the industry standard for these vehicles, and that the price doesn't sound ridiculous either for these types of trucks.

The general consensus of the Council was to authorize the ordering of the two F450's.

RESOLUTION #83-21

PL #71-21

By Alderman Crawford, Seconded by Alderman Gonzalez

TO AMEND THE CITY OF OLEAN CODE OF ORDINANCES SECTION 24-135 TO PROHIBIT PARKING ON THE NORTH SIDE OF WASHINGTON STREET AT ITS EAST CORNER WITH WORDEN AVENUE AND AT ITS EAST CORNER WITH WINTERS AVENUE

RESOLVED, that the City of Olean Code of Ordinances Section 24-135 is hereby amended to include the following:

| Street | Side | Extent |
|------------------------------|-------------|---|
| Washington Street with of | North | 20 feet from the sidewalk at its intersection Worden Avenue |
| Washington Street with of | North | 20 feet from the sidewalk at its intersection Winters Avenue |

RESOLVED, that this Resolution is hereby effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

RESOLUTION #84-21

PL #52-21

By Alderman Witte, Seconded by Alderman Gonzalez

TO ADOPT THE CITY OF OLEAN EMPLOYEE SOCIAL MEDIA POLICY

WHEREAS, the City of Olean desires to address personal use of social media by employees during and after working hours; and

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WHEREAS, the City of Olean respects the legal rights of its employees to use their own devices and time to express their opinions through social media but must also clarify that responsibilities of municipal employees do not always end with their work day; and

WHEREAS, employees' use of social media can pose risks to the City's confidential and proprietary information and reputation, can expose the City to discrimination and harassment claims, and can jeopardize the City's compliance with other applicable laws; and

WHEREAS, to minimize these risks, to avoid loss of productivity and distraction from employees' job performance, and to ensure that the City's information technology resources and communication systems are used appropriately as explained below, the City requires its employees to adhere to the following guidelines and rules regarding social media use; and

WHEREAS, the Common Council has reviewed the proposed Social Media Use Policy and agree that it is in the best interest of the City of Olean to institute the policy for its employees;

NOW, THEREFORE, BE IT RESOLVED, that the Common Council of the City of Olean hereby adopts the City of Olean Employee Social Media Policy.

RESOLVED, that this Resolution is effective immediately.

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

Alderman Crawford explained that we received a presentation about the WIIA grant for the water filtration plant last week from Mr. Camp. He explained that in order to apply for this funding, we need to pass these resolutions. He explained that one resolution is for an updated SEQR, which was originally passed in 2020 but is updated to specify why this qualifies as a Type II Action.

RESOLUTION #85-21

PL #72-21u

By Alderman Witte, Seconded by Alderman Crawford

THAT THE COMMON COUNCIL AS LEAD AGENCY CONCLUDES THAT THE PROPOSED PROJECT FOR THE CITY OF OLEAN WATER FILTRATION PLANT STRUCTURAL IMPROVEMENTS 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

WHEREAS, the City of Olean is desirous of undertaking a project for structural improvements at the water filtration plant; and

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

WHEREAS, in accordance with 6 NYCRR Part 615.7, subsection (C), the following are representative of the Water Filtration Plan Structural Improvements Project and thus qualifies said project at a Type II Action under SEQRA regulations:

617.5 (C.1) maintenance or repair involving no substantial changes in an existing structure or facility;

615 (C.2) replacement, rehabilitation, or reconstruction of a structure or facility, in kind, on the same site, including upgrading buildings to meet building, energy, or fire codes unless such action meets or exceeds any of the thresholds in section 317.4 of this part; and

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

WHEREAS, it has been determined through findings of the Environmental Assessment Form 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 Water Filtration Plant Structural Improvements 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.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

Alderman Crawford explained that the estimated cost for this project is about \$1.5 million and that if we receive the grant that is will be 60% covered. He explained that this has been an ongoing issue as long as he has been on the Council and it is a high priority project.

RESOLUTION #86-21

PL #74-21

By Alderman Anastasia, Seconded by Alderman Witte

TO AUTHORIZE THE MAYOR TO APPLY FOR GRANT FUNDING THROUGH THE NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION (EFC) WATER INFRASTRUCTURE IMPROVEMENTS ACT (WIIA) FOR THE WATER FILTRATION PLANT STRUCTURAL IMPROVEMENTS PROJECT FOR STRUCTURAL IMPROVEMENTS TO A WEIGHT-BEARING WALL THAT IS FAILING AT THE WATER FILTRATION PLANT

WHEREAS, the City of Olean is desirous of undertaking a project involving improvements at the water filtration plant, including to a weight-bearing wall that is failing with an estimated maximum cost of \$1,560,800; and

WHEREAS, the New York State Environmental Facilities Corporation has funding available for such projects through a Water Infrastructure Improvements Act (WIIA) Grant; and

WHEREAS, the City of Olean is seeking financial assistance through the 2021 EFC WIIA Program; and

WHEREAS, if awarded, said grant will fund up to 60% of eligible project costs for a maximum of \$936,480; and

WHEREAS, the local share is estimated to \$624,320 (40% of the total project cost) and the Common Council authorizes the appropriation of such funds associated with the local match for said project; and

NOW, THEREFORE, BE IT RESOLVED, that the Common Council authorizes the Mayor to apply for grant funding through the New York State Environmental Facilities Corporation Water Infrastructure Improvements Act for the Water Filtration Plant Structural Improvements Project; and

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BE IT RESOLVED, that the Common Council of the City of Olean authorizes the Mayor to execute a Grant Agreement with the New York State Environmental Facilities Corporation and any and all other contracts, documents, and instruments necessary to bring about the Project and to fulfill the City of Olean's obligations under the Water Infrastructure Improvements Act Grant Agreement; and

RESOLVED, that the Mayor is authorized to execute expenditures for the City of Olean's Water Filtration Plant Structural Improvements Project under the New York State Environmental Facilities Corporation Water Infrastructure Improvement Act Program on behalf of the City of Olean.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

Alderman Crawford explained that we will not be voting on Resolution #87-21 until next Tuesday, November 16, 2021. Mr. Ring explained that he had a phone call with John Alessi and Municipal Solutions, and they have advised that we do need a formal bond resolution to apply for the grant. He explained that this is the third time we have applied for the grant and that hopefully we again get funding. He explained that in the past we could get away with a generic resolution for funding but that communities were doing that and then backing out when being awarded funding, so the EFC strengthened the requirements for this application. He explained that hopefully this makes the grant less competitive. He explained that John Alessi could not have the resolution ready for today. He explained that it is a formal commitment to the funding, but it does not mean we have to borrow the funds. He explained that it can be rescinded if we do not get the grant or amended to any amount that the Council likes. Alderman Crawford asked if this is the government saying that if they go through the lengths to approve funding the project that we have to do it, and Mr. Ring explained that this is correct. He explained that there is always a way out, but this is really a formal commitment to the project. Alderman Crawford explained that one of his questions was if we are awarded the funding if we are committed to taking out the bond, and the answer is no. He explained that this is just an additional hoop that EFC is making us jump through to make sure that we are serious in going after the money.

Mr. Ring explained that we have been working on this for the past two years. He explained that there is deterioration on the wall and a chunk of concrete is pushing out. He explained that this grant would pay for all of the work, fixing the work that is there, fixing the basin, and replacing the media. Alderman Panus explained that the only thing he asks of this project is that in the future we find a way to hold people at their warranties. Mr. Ring agreed and explained that this is a part of the reason that Mr. Camp is here. He explained that this can't happen again. Alderman Witte asked when the wall was originally built, and Mr. Ring explained that he believes that it is 17 years old. He explained that from what he understands there was a lawsuit and that it paid for some injection, draining the basin and injecting epoxy, but the integrity was not there.

Alderman Crawford explained that there will be a special meeting next Tuesday, November 16, 2021 to vote on this bond resolution before committees.

ADJOURNMENT

Motion to adjourn was made by Alderman Crawford, seconded by Alderman Anastasia. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 7:00 p.m.

Lens Martial, City Clerk

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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