

Journal of Proceedings

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

June 9, 2020

**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, June 9, 2020 at 6:35 p.m.

PRESENT: *Aldermen Gonzalez, Panus, Dougherty, Crawford, DaPolito, and Anastasia*

ABSENT: *Alderman Witte*

OFFICIALS: *Mayor William Aiello; Lens Martial, City Clerk; Nicholas DiCerbo, Jr., City Attorney; Fred Saradin, City Auditor; Keri Stephen, Community Development Program Coordinator; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary*

At this time an invocation 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 June 9, 2020 Regular Meeting was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried.

COMMITTEE REPORTS & UNFINISHED COUNCIL BUSINESS

Report from Committee of the Whole on PL #28-20, to authorize NYSDOT and the City of Olean to enter into a continuing agreement for the receipt by the City of Olean for federal operating assistance payments pursuant to said annual Project Applications under the Coronavirus Aid Relief and Economic Security Act (CARES) for operating activities related to COVID-19 that occur on or after January 20, 2020. Committee recommends approval. Referred to City Attorney for Resolution.

Report from Committee of the Whole on PL #29-20: (Aiello) To authorize the transfer of \$74,284.51 from Street Lighting to Capital Fund #188 for costs associated with Walkable Olean – Phase II. Committee recommends approval. Referred to City Attorney for Resolution.

COMMUNICATIONS FROM THE MAYOR

Letter of Resignation – Barry Clawson, Olean Police Department, effective June 30th after 20 years with the department

MISCELLANEOUS COMMUNICATIONS

None

CITY OFFICIAL REPORTS

None

PROPOSED LEGISLATION AND REFERRALS

PL #28-20: (Aiello) To authorize NYSDOT and the City of Olean to enter into a continuing agreement for the receipt by the City of Olean of federal operating assistance payments pursuant to said annual Project Applications under the Coronavirus Aid Relief and

Journal of Proceedings

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

June 9, 2020

Economic Security Act (CARES) for operating activities related to COVID-19 that occur on or after January 20, 2020. Referred to Committee of the Whole Tuesday, June 9, 2020 by Council President.

PL #29-20: (Aiello) To authorize the transfer of \$74,284.51 from Street Lighting to Capital Fund #188 for costs associated with Walkable Olean – Phase II. Referred to Committee of the Whole Tuesday, June 9, 2020 by Council President.

PL #30-20: (Crawford) To authorize the transfer of \$17,392.05 from General Fund Balance to Capital Fund #150, Sidewalk Replacement. Referred to Regular Meeting Tuesday, June 9, 2020 by Council President.

PL #31-20: (Aiello) To authorize the award of the contract for the construction portion of Walkable Olean – Phase II to D&H Excavating to include Bid Alternates 1 and 2 in an amount not to exceed \$1,328,992.00. Referred to Regular Meeting Tuesday, June 9, 2020 by Council President.

PL #32-20: (Aiello) To authorize the transfer of \$34,000 from General Fund Balance to line item 3120.230, Police Department – Motor Vehicles, for costs associated with the lease of two police vehicles, as well as costs associated with the upfitting of said police vehicles. Referred to Regular Meeting Tuesday, June 9, 2020 by Council President.

PL #33-20: (Anastasia) To amend the City of Olean Code of Ordinances Section 24-134 to prohibit parking on the east side of North Sixth Street from its intersection with Wayne Street north to the end of the street. Referred to Committee of the Whole June 23, 2020 by Council President..

PUBLIC COMMENT/INPUT

None

FINANCE / BILLS

None

RESOLUTIONS

RESOLUTION #38-20

PL #28-20

By Alderman Crawford, Seconded by Alderman DaPolito

TO AUTHORIZE NYSDOT AND THE CITY OF OLEAN TO ENTER INTO A CONTINUING AGREEMENT FOR THE RECEIPT BY THE CITY OF OLEAN OF FEDERAL OPERATING ASSISTANCE PAYMENTS PURSUANT TO SAID ANNUAL PROJECT APPLICATIONS UNDER THE CORONAVIRUS AID RELIEF AND ECONOMIC SECURITY ACT (CARES) FOR OPERATING ACTIVITIES RELATED TO COVID-19 THAT OCCUR ON OR AFTER JANUARY 20, 2020

WHEREAS, Section 5311 of Title 49, United States Code, provides federal financial assistance for public transportation in rural and small urban areas by way of a formula grant program to be administered by the States; and

WHEREAS, the Governor of the State has designated NYSDOT to receive and administer federal funds under this Nonurbanized Area Formula Program; and

Journal of Proceedings

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

June 9, 2020

WHEREAS, NYSDOT is authorized by Section 14 of the Transportation Law to assist in the operation of transportation facilities and services in the State, including mass transit facilities and services; and

WHEREAS, the City of Olean may make application annually to NYSDOT for such federal aid for operating assistance for the Project; and

WHEREAS, annual Project Applications are submitted to NYSDOT for approval and approved annual Project Applications are included in the State's annual 5311 program submitted to the Federal Transit Administration for approval for federal financial assistance; and

WHEREAS, Public Law No. 116-136 (3/27/20), authorized temporary additional funding under the Coronavirus Aid Relief and Economic Security Act (CARES) for operating activities related to COVID-19 that occur on or after January 20, 2020;

WHEREAS, NYSDOT and the City of Olean desire to enter into a continuing agreement for the receipt by the City of Olean of federal operating assistance payments pursuant to said annual Project Applications under the Coronavirus Aid Relief and Economic Security Act (CARES), provided that such federal funding is made available by the Federal Transit Administration and the State;

NOW BE IT RESOLVED, that the Mayor, City of Olean, is authorized to act on behalf of the City of Olean to sign the application and progress and complete the above named project(s);

NOW BE IT FURTHER RESOLVED, that the Mayor, City of Olean, is authorized to sign any contracts or agreements between the City of Olean and the State of New York any third party subcontractor necessary to complete the public transportation project(s), subject to the approval of the City of Olean Attorney.

ROLL CALL, AYES ALL EXCEPT ALDERMAN ANASTASIA, WHO ABSTAINED. MOTION CARRIED.

Alderman Crawford explained that he is glad that the Council is moving forward with properly funding Phase II of the Walkable Olean Project. He feels that we can all agree that we need to make Olean's downtown as vibrant as it once was, and looking at the design it seems that this is the right plan and that it will be a true asset to our downtown region.

RESOLUTION #39-20

PL #29-20

By Alderman Panus, Seconded by Alderman Dougherty

TO AUTHORIZE THE TRANSFER OF \$74,284.51 FROM STREET LIGHTING TO CAPITAL FUND #188 FOR COSTS ASSOCIATED WITH WALKABLE OLEAN – PHASE II

RESOLVED, that the Common Council authorizes the transfer of \$74,284.51 from Street Lighting (A-01-5-5182.424) to Capital Fund #188 (A-01-5-9955.550), Walkable Olean – Phase II, for costs associated with Walkable Olean – Phase II.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

Journal of Proceedings

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

June 9, 2020

RESOLUTION #40-20

PL #30-20

By Alderman Crawford, Seconded by Alderman Anastasia

**TO AUTHORIZE THE TRANSFER OF \$17,392.05 FROM GENERAL FUND BALANCE TO
CAPITAL FUND #150, SIDEWALK REPLACEMENT**

RESOLVED, that the Common Council authorizes the transfer of \$17,392.05 from General Fund Balance (A-01-3-909.000) to Capital Fund #150 (A-01-5-9955.550), Sidewalk Replacement, for the City of Olean Sidewalk Rebate Program.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

RESOLUTION #41-20

PL #31-20

By Alderman DaPolito, Seconded by Alderman Crawford

**TO AUTHORIZE THE AWARD OF THE CONTRACT FOR THE CONSTRUCTION PORTION OF
WALKABLE OLEAN – PHASE II TO D&H EXCAVATING TO INCLUDE BID ALTERNATIVES
1 AND 2 IN AN AMOUNT NOT TO EXCEED \$1,328,992**

WHEREAS, the City of Olean has received and opened bids for the construction phase of Walkable Olean – Phase II; and

WHEREAS, upon review of the bids received, City officials have determined that D&H Excavating is the lowest responsible bidder;

RESOLVED, that the Common Council authorizes the award of the contract for the construction portion of Walkable Olean – Phase II to D&H Excavating to include Bid Alternatives 1 and 2 in an amount not to exceed \$1,328,992.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

Alderman Anastasia explained that he was originally going to vote “no” because he is against leasing vehicles, but because our financial experts have suggested that we give this a try, he will vote yes. He noted that he is still not in favor of leasing and he feels that we should purchase, not lease, vehicles.

RESOLUTION #42-20

PL #32-20

By Alderman Crawford, Seconded by Alderman Witte

**TO AUTHORIZE THE TRANSFER OF \$34,000 FROM GENERAL FUND BALANCE TO LINE
ITEM 3120.230, POLICE DEPARTMENT – MOTOR VEHICLES**

RESOLVED, that the Common Council authorizes the transfer of \$34,000 from General Fund Balance (A-01-3-909.000) to line item A-01-5-3120.230, Police Department – Motor Vehicles, for the costs associated with leasing two police vehicles, as well as costs associated with the upfitting of said police vehicles.

RESOLVED, that this Resolution is effective immediately.

ROLL CALL, AYES ALL. MOTION CARRIED.

Journal of Proceedings

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

June 9, 2020

Mr. DiCerbo explained that last week the Governor issued an executive order which allows outdoor dining in restaurants, and it directed the liquor authority to issue guidelines on how liquor can be served outdoors as well or across the public right of way. HE explained that the City works with a licensee to expand their footprint during the epidemic, and if you have a bump out in front of the restaurant, you can come to the City to do a joint application to get permission to serve alcohol on it from the Liquor Authority. He explained that in some places, municipalities have closed streets to allow bars and restaurants to utilize them.

Mr. DiCerbo continued that this is an exemption to the City's Open Container Law. It allows us to expand our Open Container Law to align with the new Liquor Authority guidelines. He noted that five feet of clearance will still be required for pedestrians, He explained that this will allow for restaurants to gain back some of the money lost from opening at only 50% occupancy.

Mayor Aiello explained that he was on a webinar today, and that there is a lot of information on the New York State Liquor Authority's webpage if anyone would like it,. He explained that they are trying to make it very easy for establishments to expand their foot print, and this is one necessary step that the City needs to take in order to allow for restaurants to do this.

Mr. DiCerbo noted that if an existing licensee has questions, they can contact the Mayor's Office or City Attorney's Office to ensure that they are in compliance with the State Liquor Authority and the City in terms of our Code.

Alderman Panus asked if this ends when the Governor's order ends, and Mr. DiCerbo responded that it will end when the order ends, but that the Council can revisit and see if they want to expand on this in the future. He noted that there is a "sunset provision" and that things can be revisited at that time.

Alderman Crawford explained that the Council is not lifting the Open Container Law, but is rather creating the ability for open containers to be allowed in front of establishments downtown. Mr. DiCerbo responded that it is correct, and that an individual cannot take it upon themselves to have an open container while walking down the street.

Mayor Aiello explained that the webinar today talked about questions, and one note he would like to make is that the area has to be in front of, on the side of, or behind the establishment serving the alcohol, all with specific rules. The establishment must also apply for an extension of their license.

Alderman Crawford asked if a footprint is predetermined or if it is part of an application. Mr. DiCerbo explained that the Liquor Authority requires very specific diagrams to be submitted for what the licenses premises is. For example, State King has their side parking lot, and all they had to do was submit a map drawing a line where the parking lot is on the existing map. HE explained that it gets more difficult when you are talking about public spaces and crossing the right of way, and this is where the City needs to get involved to aid the businesses. He explained that the Council is essentially giving the Mayor the okay to sign off of applications to be sent to the State Liquor Authority. He explained that we are working in conjunction with the State to make sure we have a handle on what's going on.

Mayor Aiello explained that a prime example is the Beef – n – Barrel. Alderman Crawford explained that after the resolution is passed, they will need to go through the City Attorney, and Mr., DiCerbo noted that nothing will have to go back and forth with the Council, so the process is streamlined.

Alderman Gonzalez asked if the City has a mechanism in place if a restaurant wants to set up tables in the parking spots in front of their building. Mayor Aiello explained that

Journal of Proceedings

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

June 9, 2020

we do, and that in the State Liquor Authority plan, using the roadway requires showing that in the plan submitted to them, as well as barriers to protect diners. He explained that establishments need to show that they are protecting the public while they are sitting there. He explained that this is also for seating, and not standing around while talking and drinking. He noted that tables have to be six feet apart, and you can't have people sitting at tables with crowds standing around them drinking.

Alderman Crawford asked if tents could be put up in this area, and Mayor Aiello responded that he feels that it would be up to the City to decide if that would be allowed. Mr. DiCerbo explained that if approved, one of the things that the City may want to discuss is putting up jersey barriers to protect diners in parking spots. He noted that a tent would be a more permanent structure. He wonders if there will be issues, visual or otherwise, with this. Alderman Gonzalez responded that he can see the idea, but that it seems jersey barriers would take away from the aesthetic of the street.,

Alderman Panus asked if there is guidance from the Governor's office regarding seating individuals, and Mr. DiCerbo responded that this came from the State, not from the City. He explained that the sidewalk cafes serving alcohol cannot be under a permanent roof structure, but they can be under a temporary awning.

Mayor Aiello explained that this is meant to expand seating for restaurants. Alderman Gonzalez explained that this makes him think about when Corning closes Market Street, and Mr. DiCerbo noted that Ellicottville closes a street as well.

Alderman Gonzalez explained that the City should wait and see what other municipalities do and how it works out, and then go from there. Alderman Panus explained that he would like to see this idea expand regardless of COVID. Mr. DiCerbo explained that the liquor authority won't let you cross the public space to serve alcohol unless you have specific permission from the municipality, which we do have with the café permits. He explained that those who are currently licensed can amend their license legally to allow for space to get past the COVID crisis.

RESOLUTION #43-20 **PL #NONE**

By Alderman Dougherty, Seconded by Alderman DaPolito

RESOLUTION TO GRANT A WAIVER PURSUANT TO OLEAN CITY CODE SECTION 13-3 TO ANY ESTABLISHMENT WITH AN ON-PREMISES RETAIL LIQUOR LICENSE TO ALLOW THE EXPANSION OF SAID LICENSES PREMISES CONSISTENT WITH GUIDELINES SET FORTH BY THE NEW YORK STATE LIQUOR AUTHORITY ESTABLISHED PURSUANT TO THE GOVERNOR'S ORDER EFFECTIVE JUNE 4, 2020

RESOLVED, that the Common Council of the City of Olean grants a waiver pursuant to Olean City Code Section 13-3 to any establishment with an On-Premises Liquor License to allow the expansion of said licensed premises consistent with the guidance (a copy of which is attached hereto and incorporated herewith) set forth by the New York State Liquor Authority established pursuant to the Governor's order effective June 4, 2020.

RESOLVED, that said waiver shall be in effect for such time as the New York State Liquor Authority's special COVID-19 guidance shall be in effect.

RESOLVED, that this Resolution is hereby effective immediately.
ROLL CALL, AYES ALL. MOTION CARRIED.

ADJOURNMENT

Motion to enter into executive session to discuss the proposed acquisition or sale of

Journal of Proceedings

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

June 9, 2020

real property was made by Adlerman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Executive session began at approximately 7:00 p.m.

A motion to adjourn from executive session was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried. Executive session adjourned at approximately 7:15 p.m.

ADJOURNMENT

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

Lens Martial, City Clerk

Mayor William J. Aiello

Paul Gonzalez, 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