

# **Journal of Proceedings**

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

August 25, 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, August 25, 2020 at 7:35 p.m.*

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

**ABSENT:** *None*

**OFFICIALS:** *Mayor William Aiello; Lens Martial, City Clerk; Nicholas DiCerbo, Jr., City Attorney; Fred Saradin, City Auditor, 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 & APPROVAL OF THE MINUTES OF THE  
PREVIOUS REGULAR MEETING***

*A motion to approve the minutes of the August 11, 2020 meeting was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried.*

***COMMITTEE REPORTS & UNFINISHED COUNCIL BUSINESS***

*Report from Strategic Planning Committee on PL #47-20, to amend the City of Olean Code of Ordinances Section 5-1, subsection (4), to prohibit roosters and to cap the number of chickens to be kept per premises to twelve (12). 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***

*PL #48-20: (Dougherty) To authorize the transfer of \$23,300 from General Fund Contingency to line item 5111.301, Tree Programs, for costs associated with pruning and removing dangerous trees in various City parks. Referred to Regular Meeting Tuesday, August 25, 2020 for Resolution by Council President.*

*PL #49-20: (Robinson) To amend the City of Olean Code of Ordinances Chapter 15. Noise. Referred to Public Safety Committee by Council President.*

***PUBLIC COMMENT/INPUT***

*Alderman Witte explained that she has received several phone calls over the past several weeks regarding problems with deer. She explained that the Council did have*

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*a conversation with a representative from the DEC some time ago, but she thinks that this is something that we need to revisit.*

*Pete Peckyno explained that he lives in Derrick City, but owns property at 112 East Henley Street with his wife. He explained that he has had squatters in one of the apartments that haven't paid rent or utilities going on six months. He explained that they are smoking in a non-smoking apartment, they have disabled the smoke detectors, and are doing all sorts of damage to the property. He explained that they will not allow himself, the police, or Code Enforcement in the apartment to get property that he owns and left there while remodeling. There is also suspected drug activity in this apartment, and if you google the names of those living there, there are all sorts of charges that they have including drug charges. He explained that he has notified police, Code Enforcement, the New York State Police and drug enforcement, and he has hired an attorney to help get them out. He expressed frustration that the Police Chief told him that 50 percent of rentals would have to be shut down in Olean due to drugs, and that he doesn't like New York State laws and that he is retiring within the year. He feels that he is getting no help, and the system is protecting criminals from honest citizens.*

*Ty Malone of 203 North 11<sup>th</sup> Street explained that he was disappointed to see nothing on the agenda about the new committees being created. He asked that the two Aldermen who weren't wearing masks to put them on, because they are employees of the City and should wear them. Everyone else is wearing a mask and they should, too. He asked how Aldermen expect him to follow the rules when they don't.*

## **FINANCE / BILLS**

*By Alderman Dougherty, Seconded by Alderman Witte*

*The Auditor has processed bills and claims against the City of Olean as per list submitted to each Alderman and recommends payment thereof.*

***WHEREAS***, the Auditor has presented to the Common Council, bills and claims against the City of Olean totaling \$1,543,604.50 for the budget and recommends payment thereof.

***NOW, THEREFORE, BE IT RESOLVED***, that the same be and are hereby audited and allowed, and the Auditor is hereby authorized and directed to draw warrants for the payment thereof at the amounts set opposite each respective claim.

***ROLL CALL, AYES ALL. MOTION CARRIED.***

## **RESOLUTIONS**

*A motion to suspend the rules was made by Alderman Gonzalez, seconded by Alderman Witte. Voice vote, ayes all. Motion carried.*

*A motion to amend the agenda to include Resolution 66-20 was made by Alderman Gonzalez, seconded by Alderman Crawford. Voice vote, ayes all. Motion carried.*

### **RESOLUTION #58-20**

#### **PL #43-20**

*By Alderman Anastasia, Seconded by Alderman Witte*

**TO AMEND THE CITY OF OLEAN CODE OF ORDINANCES SECTION 24-151 TO  
AUTHORIZE TWO HOUR PARKING IN THE THIRTEEN (13) DESIGNATED SPACES ON THE  
EAST SIDE OF NORTH FIRST STREET FROM WEST STATE STREET TO LAURENS STREET**

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**RESOLVED**, that the City of Olean Code of Ordinances Section 24-151 is hereby amended to include the following:

<u>Street</u>	<u>Side</u>	<u>Extent</u>
First Street, North Street	East	From West State Street to Laurens

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

**RESOLUTION #64-20**  
**PL #48-20**

By Alderman Dougherty, Seconded by Alderman Crawford

**RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM GENERAL FUND  
CONTINGENCY TO LINE ITEM 5111.301, TREE PROGRAMS, FOR COSTS ASSOCIATED  
WITH PRUNING AND REMOVING DANGEROUS TREES IN VARIOUS CITY PARKS**

**RESOLVED**, that the following transfer be authorized for costs associated with pruning and removing dangerous trees in various City parks:

<i>Account #</i>	<i>Description – General</i>	<i>Transferred From</i>	<i>Transferred to</i>
A-01-5-1990.590	General Fund Contingency	\$23,300	
A-01-5-5111.301	Tree Programs		\$23,300

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

**RESOLUTION #66-20**  
**PL #NONE**

By Alderman Witte, Seconded by Alderman Gonzalez

**RESOLUTION DATED AUGUST 25, 2020, AUTHORIZING THE EXECUTION AND DELIVERY  
OF A LEASE / INSTALLMENT PURCHASE AGREEMENT BY THE CITY OF OLEAN IN  
CONNECTION WITH THE ACQUISITION OF DEPARTMENT OF PUBLIC WORKS EQUIPMENT**

**WHEREAS**, the City of Olean, Cattaraugus County, New York (the “City”) is a political subdivision of New York State (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State; and

**WHEREAS**, pursuant to applicable law, the Common Council of the City (the “Common Council”) is authorized to acquire, dispose of and encumber real and personal property including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the City; and

**WHEREAS**, the City desires to undertake a project consisting of the acquisition of Department of Public Works equipment for use by the City (collectively, “Project Items”); and

**WHEREAS**, the appropriate officials of the City have evaluated, in cooperation with the City’s professional advisors, the advantages and disadvantages of lease/purchase financing

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as compared to the most similar type of financing available to the City under the Local Finance Law; and

**WHEREAS**, such officials have determined that lease/purchase financing through Key Government Finance, Inc. (“Key Government Finance”) presents the most attractive long-term option for the City under these circumstances, in that the City would be able to obtain an attractive fixed interest rate for the duration of the financing of the Project Items, without having to incur the annual expenses (and interest rate fluctuation risk) associated with the annual renewal of bond anticipation notes; and

**WHEREAS**, a determination as to the most advantageous method of long term financing under prevailing market conditions is set forth in a written analysis, as presented to the Common Council, prepared by Municipal Solutions, Inc., in its capacity as financial advisor to the City for this transaction; and

**WHEREAS**, Section 109(b) of the General Municipal Law of New York (the “Statute”) authorizes the City to enter into an installment purchase contract (whether in the form of a lease/purchase agreement, installment sale agreement or other similar agreement) and providing for periodic payments by the City for the purpose of financing such Project Items; and

**WHEREAS**, the lease/installment purchase agreement price proposal from Key Government Finance (the essential terms of which are described in the lease proposal from Key Government Finance transmitted to the City on or about August 3, 2020, as presented to the Common Council) was judged by City officials and the City’s professional advisors to be the most advantageous to the City, allowing the City to acquire the Project Items at the lowest total cost and under the most favorable arrangements; and

**WHEREAS**, under the terms of the Statute, the express written approval of the Common Council is a prerequisite to the entry by the City into any such lease/installment purchase agreement; and

**WHEREAS**, the Common Council is willing to proceed with this stated manner of financing of the Project Items, and is prepared to grant such approval;

**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 Common Council) acting on the basis of (a) the analysis of Municipal Solutions, Inc., as presented to the Common Council, and (b) the lease proposal of Key Government Finance, as presented to the Common Council (the “Key Government Finance Proposal”), hereby authorizes and approves in all respects the entry by the City into lease/purchase financing arrangements with Key Government Finance at an estimated aggregate maximum amount not to exceed \$177,284.95 for a five-year term, under the interest rate arrangements as set forth in Key Government Finance Proposal, and otherwise on the general terms and pursuant to the documents described in the Key Government Finance Proposal, subject to final review and approval by appropriate City officials and by the City’s bond counsel, for the financing of the City’s acquisition of the Project Items, all pursuant to the provisions of Section 109(b) of the Statute; and be it further

**RESOLVED**, that the acquisition of objects or purposes described in subdivision 28 of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of such objects or purposes is 10 years; and be it further

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**RESOLVED**, that the City anticipates that the actual length of financing authorized by this Resolution will be five years; and be it further

**RESOLVED**, that the Common Council approves of the form of the financing documents for such transaction (including, without limitation, the documents generally described in or contemplated by the Key Government Finance Proposal) (collectively, the “Documents”), and authorizes and directs the City’s execution, delivery and performance of the Documents subject to the provisions of Section 109(b) of the Statute; and be it further

**RESOLVED**, that the funds, if any, appropriated under the City’s budget for the fiscal year of the City commencing June 1, 2021 for the repayment of obligations to be issued to finance the acquisition of the Project Items be, and they hereby are, dedicated to the repayment of the City’s obligations created under the Documents; and be it further

**RESOLVED**, that the City Auditor, as Chief Financial Officer of the City, is hereby authorized and directed to execute and deliver the Documents (with such amendments, additions or alterations as may, in the discretion of the City Auditor, be deemed appropriate); and be it further

**RESOLVED**, that the Auditor, the Mayor and other appropriate City officials are hereby authorized and directed to proceed with the implementation of all steps reasonably necessary and appropriate to allow for the City’s entry into such described lease/installment purchase arrangement, so that the City’s acquisition of the Project Items on financing terms satisfactory to the City may be expedited; and be it further

**RESOLVED**, that 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 obligation(s) created under the Documents and authorized by this Resolution as excludable from gross income for federal tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”) and to designate such obligation(s) authorized by this Resolution as a “qualified tax-exempt obligation(s)” in accordance with Section 265(b)(3)(B)(i) of the Code; and be it further

**RESOLVED**, that the City has determined that the acquisition of the Project Items is an 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 (“SEQR”) is required; and be it further

**RESOLVED**, that any financing of the City is to be undertaken in accordance with the provisions of the special deficit financing legislation applicable to the City, being Chapter 331 of the 2007 Laws of New York, as amended by Chapter 127 of the 2008 Laws of New York and as further amended by Chapter 147 of the 2009 Laws of New York (as so amended, the “Deficit Financing Statute”); and be it further

**RESOLVED**, that this Resolution shall be effective immediately, and the City Clerk shall enter this Resolution into the official minutes of the Common Council.

**ROLL CALL, AYES ALL. MOTION CARRIED.**

## ***ADJOURNMENT***

*Motion to adjourn was made by Alderman Gonzalez, seconded by Alderman Dougherty. Voice vote, ayes all. Motion carried. Meeting adjourned at approximately 6:50 p.m.*

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August 25, 2020

*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, Alexander Utecht, 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*