

# **REGULAR MEETING OF THE COMMON COUNCIL**

**Tuesday, May 9, 2017 – 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, April 25, 2017 at 6:40 p.m.”

PRESENT: Aldermen Gonzalez, Witte, Andreano, Dougherty, Crawford, Smith, and George.

ABSENT: None

OFFICIALS: Mayor William Aiello; Al Utecht, City Clerk; Fred Saradin, City Auditor; Mary George, Community Development Program Coordinator; Tom Windus, Director of Public Works; Bob Bell, Fire Chief; Jeff Rowley, Police Chief, and Tiffany Taylor, Managerial Confidential Administrative Secretary.

## **5. COMMITTEE REPORTS AND UNFINISHED COUNCIL BUSINESS**

Report from City Operations Committee on PL #36-17, to authorize the Mayor to enter into a Cost Plus Fixed Fee Consultant Agreement with C&S Engineers, Inc. for Construction Observation & Administration services for the Cattaraugus County – Olean Airport Perimeter Fence Replacement – Phase II, subject to funding award for the project. Committee recommends approval. Referred to City Attorney for Resolution.

Report from City Operations Committee on PL #39-17, to authorize the Mayor to sign an amendment to a Remote Net Metering Credit and Operations and Maintenance Agreement with Homeridae LLC. Committee recommends approval. Referred to City Attorney for Resolution.

Report from City Operations Committee on PL #40-17, to amend the City of Olean Code of Ordinances Section 28-108 to amend fines for contractors for failure to obtain permits. Committee recommends approval. Referred to City Attorney for Resolution.

## **6. COMMUNICATIONS FROM THE MAYOR**

## **7. MISCELLANEOUS COMMUNICATIONS**

**8. CITY OFFICIAL REPORTS**

Monthly Report of the City Auditor – month ended April 2017

**9. PROPOSED LEGISLATION & REFERRALS**

PL #41-17: (Aiello) To authorize the removal of two existing 250 watt mercury vapor cobra head street light fixtures by National Grid located on East State Street, poles #125 and #135. *Referred to Committee of the Whole Tuesday, May 9, 2017 by Council President.*

PL #42-17: (Aiello) To authorize the transfer of \$259,600 from various Contingency line items to the Vehicle Replacement Fund, Capital Fund #102, for the purchase of two police cars, two DPW vans, and one dump truck. *Referred to Regular Meeting Tuesday, May 9, 2017 by Council President.*

PL #43-17: (Aiello) To authorize the City Auditor to bond up to \$4,135,000 for the William O. Smith Recreation Center Complex Improvements Project. *Referred to Committee of the Whole Tuesday, May 9, 2017 by Council President.*

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

**11. FINANCE / BILLS**

**12. RESOLUTIONS**

**RESOLUTION #31-17**

**PL #01-17**

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

**TO FORM A TASKFORCE FOR EMPOWERING NEIGHBORHOODS AND ENCOURAGING PROACTIVE CHANGE THROUGHOUT THE CITY OF OLEAN**

**WHEREAS**, the Common Council of the City of Olean wishes to promote civic responsibility and develop a stronger, healthier, and safer community; and

**WHEREAS**; the City of Olean is desirous of providing additional resources to residents and neighborhood groups whose goals are in the best interest of the City of Olean and the safety and security of its residents;

**RESOLVED**, that the Common Council authorizes the formation of a taskforce with the ultimate goal of empowering neighborhoods and encouraging proactive change throughout the City of Olean.

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

**RESOLUTION #35-17**

**PL #36-17**

By Alderman George, Seconded by Alderman Dougherty

**TO AUTHORIZE THE MAYOR TO ENTER INTO A COST PLUS FIXED FEE CONSULTANT AGREEMENT WITH C&S ENGINEERS, INC. FOR CONSTRUCTION OBSERVATION & ADMINISTRATION SERVICES FOR THE CATTARAUGUS COUNTY – OLEAN AIRPORT PERIMETER FENCE REPLACEMENT – PHASE II, SUBJECT TO FUNDING AWARD FOR THE PROJECT**

**WHEREAS**, C&S Engineers has provided for the City of Olean a draft Cost Plus Fixed Fee Consultant Agreement for Construction Observation & Administration services for the Cattaraugus County – Olean Airport Perimeter Fence Replacement – Phase II; and

**WHEREAS**, the City of Olean has utilized C&S Engineers for airport consulting purposes on several projects and is desirous in again utilizing their services for the aforementioned project; and

**WHEREAS**, the Agreement has been reviewed by appropriate City Officials who recommend approval of the agreement;

**RESOLVED**, that the Mayor is authorized to enter into a Cost Plus Fixed Fee Consultant Agreement with C&S Engineers, Inc. for Construction Observation & Administration services for the Cattaraugus County – Olean Airport Perimeter Fence Replacement – Phase II, subject to funding award for the project.

**RESOLVED**, that the Mayor is authorized to submit any necessary documentation of said agreement to the Federal Aviation Administration (FAA), as required.

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

**RESOLUTION #36-17**

**PL #39-17**

By Alderman Gonzalez, Seconded by Alderman Dougherty

**TO AUTHORIZE THE MAYOR TO SIGN AN AMENDMENT TO A REMOTE NET METERING CREDIT AND OPERATIONS AND MAINTENANCE AGREEMENT WITH HOMERIDAE LLC**

**WHEREAS**, Homeridae LLC has approached the City with an amendment to a Remote Net Metering Credit and Operations and Maintenance Agreement originally entered into for a fifteen (15) year term; and

**WHEREAS**, the proposed amendment increases the agreement term to twenty five (25) years; and

**WHEREAS**, as incentive to the City of Olean, Homeridae LLC has offered a one (1) cent per kWh decrease in cost in exchange for extension of the agreement; and

**WHEREAS**, City Officials and the Common Council have reviewed said amendment and find its terms to be agreeable;

**BE IT RESOLVED**, that the Mayor of the City of Olean is hereby authorized to sign an amendment to a Remote Net Metering Credit and Operations and Maintenance Agreement with Homeridae LLC.

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

**RESOLUTION #38-18**

**PL #33-17**

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

**AUTHORIZING THE RELEASE OF OLEAN HOMEOWNERSHIP ASSISTANCE PROGRAM GRANT FUNDS TO QUALIFIED FIRST TIME HOMEBUYERS**

**WHEREAS**, the City of Olean has been awarded \$400,000 in grant funds from the Empire State Community Development Corporation under the Small Cities Community Development Block Grant program, and

**WHEREAS**, these funds have been designated to assist low- and moderate-income first time homebuyers seeking to purchase homes in the City of Olean with down payment and closing cost fees, along with housing rehabilitation assistance, and

**WHEREAS**, the City of Olean has received applications from individuals who have been determined eligible to participate in this program, and

**WHEREAS**, the City of Olean's Project Loan Committee have reviewed the applications for assistance and have approved the grant to the following applicants:

- OHAP #185-04, not to exceed \$10,000;
- OHAP #186-04, not to exceed \$5,200; and
- OHAP #187-04, not to exceed \$10,000;

**NOW, THEREFORE, BE IT RESOLVED**, that the City of Olean approves the above-identified grants to first time homebuyers which will be leveraged with loans from private and public lending institutions to assist this applicant to make improvements on his home in the City of Olean.

**BE IT FURTHER RESOLVED**, that the City Auditor is authorized to release the funds to the qualified individuals according to the rules and regulations of the funding source.

**IT IS FURTHER RESOLVED**, that this Resolution will be effective immediately.

**RESOLUTION #39-17**

**PL #41-17**

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

**TO AUTHORIZE THE REMOVAL OF TWO EXISTING 250 WATT MERCURY VAPOR COBRA HEAD STREET LIGHT FIXTURES BY NATIONAL GRID LOCATED ON EAST STATE STREET, POLES #125 AND #135**

**RESOLVED**, that the Common Council, on behalf of the City of Olean, authorizes the removal of two (2) existing 250 watt Mercury Vapor Cobra Head street light fixtures utilizing City of Olean-owned poles located along East State Street (Poles #125 and #135).

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

**RESOLUTION #40-17**

**PL #42-17**

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

**RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM GENERAL FUND, WATER FUND AND SEWER FUND CONTINGENCY TO CAPITAL FUND #102**

**WHEREAS**, the Common Council has determined the best use for remaining 2016-2017 Contingency is for the purchase of the following:

- 2 police cars, for an amount not to exceed \$75,000;
- 2 DPW vans (engineering and electrician), for an amount not to exceed \$45,000; and
- 1 dump truck, for an amount not to exceed \$150,000;

**RESOLVED**, that the following transfers be authorized:

<i>Account #</i>	<i>Description – General</i>	<i>Transferred From</i>	<i>Transferred to</i>
<i>A-01-5-1990.590</i>	<i>General Fund Contingency</i>	<i>\$229,600</i>	
<i>F-06-5-1990.590</i>	<i>Water Fund Contingency</i>	<i>\$15,000</i>	
<i>G-07-5-1990.590</i>	<i>Sewer Fund Contingency</i>	<i>\$15,000</i>	

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

**RESOLUTION #41-17**

**PL #43-17**

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

**AN AMENDING AND RESTATING BOND RESOLUTION, DATED MAY 9, 2017, OF THE COMMON COUNCIL OF THE CITY OF OLEAN, CATTARAUGUS COUNTY, NEW YORK (THE “CITY”), AMENDING THE BOND RESOLUTION THAT WAS ADOPTED ON APRIL 26, 2016, AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT AT THE CITY’S WILLIAM O. SMITH RECREATION CENTER COMPLEX, AT AN ESTIMATED MAXIMUM COST OF \$4,135,000 AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,135,000 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**, on April 26, 2016 the Common Council of the City of Olean, Cattaraugus County, New York (the “City”) adopted bond resolution (the “Original Bond Resolution”) entitled:

**A BOND RESOLUTION, DATED APRIL 26, 2016, OF THE COMMON COUNCIL OF THE CITY OF OLEAN, CATTARAUGUS COUNTY, NEW YORK (THE “CITY”), AUTHORIZING A CAPITAL IMPROVEMENTS PROJECT AT THE CITY’S WILLIAM O. SMITH RECREATION CENTER COMPLEX, AT AN ESTIMATED MAXIMUM COST OF \$2,735,000, AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,735,000 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”) adopted the Original Bond Resolution authorizing a capital improvements project generally consisting of the reconstruction of and construction of improvements to the City’s William O. Smith Recreation Center Complex, at an estimated maximum cost of \$2,735,000; and

**WHEREAS**, the City has previously issued bond anticipation notes pursuant to the Original Bond Resolution, but has not yet entered into permanent financing arrangements (i.e., the issuance of long-term serial bonds); and

**WHEREAS**, the Common Council has been advised that the full scope of the project (which is believed to include work deemed necessary to bring the facility up to code) has been identified; and

**WHEREAS**, the Common Council has also been advised that the cost of the proposed modified project has increased due to such modifications and construction bids coming in higher than anticipated; and

**WHEREAS**, the City is pleased to report that a portion of this project will be paid for by grant funds provided by the NYS Parks, Empire State Development and the Dormitory Authority of the State of New York; and

**WHEREAS**, the Common Council now wishes to modify the Original Bond Resolution for the purposes of: (a) clarifying the modified scope of the project, (b) increasing the estimated maximum cost of the project from \$2,735,000 to \$4,135,000 and (c) increasing the amount of serial bonds authorized to be issued from \$2,735,000 to \$4,135,000 and to make other modifications to the Original Bond Resolution as may be consistent with law; and

**WHEREAS**, the Common Council now wishes to amend and restate (in its entirety) the Original Bond Resolution for the reasons identified above, and to make other modifications to the Original Bond Resolution as may be consistent with law; and

**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 capital improvements project at the City's William O. Smith Recreation Center Complex, such work to generally include, but not be limited to, the reconstruction of the ice rink floor and associated refrigeration equipment, reconstruction of rink area rooms, and the renovation of restrooms, shower facilities, changing rooms, locker rooms, and the pool area surface, all of the forgoing to include all preliminary work and necessary equipment, materials and site work, as well as other such improvements as more fully set forth in, or contemplated by, materials prepared with the assistance of the City, and all preliminary costs and costs incidental thereto and in connection with the financing thereof (collectively, the "Purpose"). The amended estimated maximum cost of the Purpose is \$4,135,000.

SECTION 2. The Common Council plans to finance the estimated maximum cost of the Purpose by the issuance of serial bonds of the City in an aggregate principal amount not to exceed \$4,135,000 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 (including, but not limited to, grant funds from NYS Parks, Empire State Development and Dormitory Authority of the State of New York ("DASNY")). Unless paid from other sources or charges, the cost of such improvements is to be paid by the levy and collection of taxes on all real property in the City to pay the principal of such bonds and the interest thereon as the same shall become due and payable.

SECTION 3. Any financing 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 "Statute").

SECTION 4. The Director of Public Works has determined that the useful life of the Purpose (which is classified as a capital asset under generally accepted accounting principles for municipalities) is at least 15 years, and, accordingly, pursuant to subdivision 35 of paragraph (a) of Section 11.00 of the Local Finance Law, the period of probable usefulness of the Purpose herein authorized is 15 years.

SECTION 5. 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 6. It is hereby determined the proposed maturity of the obligations authorized by this resolution will be in excess of five years.

SECTION 7. The faith and credit of the 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 the City a tax sufficient to pay the principal of and interest on such bonds or notes as the same become due and payable.

SECTION 8. 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 9. 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 April 26, 2016 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 original declaration of its "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 11. 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 12. 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 13. 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 the State Environmental Quality Review Act is necessary.

SECTION 14. 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 15. The validity of such serial bonds or of any bond anticipation notes issued in anticipation of the sale of such 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 16. 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 such Local Finance Law, in a newspaper having a general circulation in such City and hereby designated as the official newspaper of such City for such publication.

SECTION 17. Nothing in this amendment shall affect the validity of the Original Bond Resolution, or any actions taken thereunder, and any such actions are hereby ratified.

SECTION 18. This Resolution is effective immediately.

### **13. ADJOURNMENT**