

February 27, 2012

City Council

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Proceedings by Authority

State of New York  
City of Jamestown           ss:  
City Council Chambers

A regular meeting of the City Council of the City of Jamestown, New York was held on Monday, February 27, 2012 at 7:30 p.m.

Members Present:     Council President Greg Rabb, Council Members, Steve Szwejbka, Tony Dolce, Michael Taylor, Vincent DeJoy, Maria Jones, Paul Whitford, Kim Ecklund, and George Spitale

Others Present:       Director of Financial Services/City Clerk James N. Olson, Director of Public Works Jeff Lehman, Deputy Fire Chief Chet Harvey, Corporation Counsel Marilyn Fiore-Lehman, Police Chief/Director of Public Safety Harry Snellings

City Council President Greg Rabb called the meeting of the Jamestown City Council to order and led the assembly in the Pledge of Allegiance to the Flag.

Councilwoman Maria Jones gave the invocation.

The minutes of the January 30, 2012 meeting were approved.

**MESSAGES FROM THE MAYOR**

201202A00.01

CITY OF JAMESTOWN     )  
Mayor's Office            )

To the City Council of the City of Jamestown New York

Council Members:

In pursuance of the authority vested in me by the Charter of said City, I do hereby nominate:

Jason Stronz  
108 East 3<sup>rd</sup> Street.  
Jamestown, New York 14701

to be appointed a member of the Parks, Recreation and Conservation Commission to fill the unexpired term of Kevin Sixbey - resigned - in and for the City of Jamestown, New York.

The term for which said appointment is to be made will expire December 31, 2013.

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Dated: February 27, 2012

Samuel Teresi  
Mayor of the City of Jamestown, New York

Councilman Spitale moved to suspend the rules and vote on the appointment.

Carried: 9 ayes, 0 nays

Councilman Dolce moved to approve the appointment.

Carried: 9 ayes, 0 nays

**OPPORTUNITIES FOR PERSONS TO ADDRESS THE COUNCIL**

201202A00.02

Richard E. McQuay, Sr., Lone Eagle, 368 Buffalo Street, ph: 665-3352: I'm 73 years old and in those 73 years I've lived over 40 years here in Jamestown. Now since the Democratic party has gained control of the radio stations, the newspapers, and now the TV stations. The public cannot get the word out as to what is going on in this city unless the Democrats want to do that so I'm going to take this time to bring to the public's attention what the Democrats don't want the city to know. About 40 years ago, there was a man in Chicago. He was under criminal investigation. The city hired him and brought him here to Jamestown and gave him the job of garbage collection so that the investigations in Chicago could be ceased. There was a police officer who was about to get fired for drinking on duty and public intoxication while on duty. The city brought him here to Jamestown and made him Chief of Police so that the investigations would be stopped. In Buffalo they had a drug raid that was controlled by the FBI. The Buffalo Police Department was left out of the raid because one of the investigations concerned a Buffalo Police Officer. In the raids they found out that this police officer owned three houses. All three houses were crack houses and were being raided so the FBI decided to investigate because anybody could figure – you can't own three houses and have them all crack houses and not know what's going on. The city allowed the drunken police officer, the Chief of Police, early retirement to clear up that position so that they could bring this Buffalo Police Officer who's under FBI investigation for drug dealing and brought him here to Jamestown and made him Chief of Police. Now, it seems awful funny that every time the City of Jamestown brings somebody in from out of town and gives them a job, they're under investigation for something. A Jamestown City Council member vouched for a man from Rochester who was under investigation for child molesting because of his involvement as a Director of a boys and girls club in Rochester. Because the City Council member vouched for him, he was brought here to Jamestown and the Boys and Girls Club gave him the job as Director of the Boys and Girls Club here in Jamestown. Low and behold, he becomes investigated for child molesting, but before the investigation is completed, he is allowed to leave Jamestown and go to a boys and girls club in New Jersey. The only mistake was that in New Jersey, the district he was sent to was a Republican district. He was investigated, arrested and convicted and it was only then that it was brought out that he had molested the children here in Jamestown and in Rochester. Now I don't

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know about you, but I do know one thing. In my 40 years of living here in Jamestown, there is only one difference between members of the Democratic party and prisoners in prison. The people serving time in prison did not control the newspapers, the Police Department or the Courts. I think that's awful funny and that you people have been allowed to get away with this for over 40 years. Now each time I come to the City Council, I'm going to pick a certain detail out...

President Rabb: Excuse me Sir – your five minutes are up. I have to interrupt you.

Mr. McQuay: Okay. I'll continue it next time.

President Rabb: I don't believe there's anyone else here to speak to us.

**FINANCE COMMITTEE**

201202A01

BY COUNCILMAN DOLCE:

RESOLVED, That bills be audited and warrants drawn on the proper funds in payment of the respective amounts, totals as follows: General Fund, Capital Fund, Special Revenue Fund and Trust & Agency Fund \$13,049,932.65 in accordance with the period ending February 26, 2012, copy of which is annexed hereto and a copy to be filed in the office of the City Clerk, and be it further

RESOLVED, That disbursements in the total amount of \$2,378,790.31, and payrolls in the total amount of \$1,171,142.34 and investments in the amount of \$9,500,000.00, as paid by the Comptroller and Director of Financial Services, a copy of which is annexed hereto and a copy to be placed on file in the office of the City Clerk be and hereby are approved.

Carried: 9 ayes, 0 nays

201202A02

BY COUNCILMAN DOLCE:

RESOLVED, That Fire Fighter Shawn Tibbitts be, and he hereby is, authorized to attend the Finger Lakes Building Officials Association Annual Training Seminar for Code Enforcement Officials to be held in Rochester, New York on March 12-15, 2012, with expenses paid pursuant to Section 77-b of the General Municipal Law.

Carried: 9 ayes, 0 nays

201202A03

BY COUNCILMAN DOLCE:

RESOLVED, That Fire Fighter Shawn Shilling be, and he hereby is, authorized to attend the Level Two fire Investigation Certification Course State Fire Academy in Montour Falls, New York. February 27-March 9, 2012, with expenses paid pursuant to Section 77-b of the General Municipal Law.

Carried: 9 ayes, 0 nays

201202A04

BY COUNCILMAN DOLCE:

RESOLVED, That Fire Fighter Ryan Roush be, and he hereby is, authorized to attend the Level Two fire Investigation Certification Course to be held at the State Fire Academy in Montour Falls, New York, September 17-28, 2012, with expenses paid pursuant to Section 77-b of the General Municipal Law.

Carried: 9 ayes, 0 nays

201202A05

BY COUNCILMAN DOLCE:

RESOLVED, That Police Officers Jay Wadsworth and Sam Piazza be, and they hereby are, authorized to attend the Taser Instructor Re-Certification Course in Verona, New York, May 1-3, 2012 with expenses paid from federal seizure funds.

Carried: 9 ayes, 0 nays

201202A06

BY COUNCILMAN DeJOY:

WHEREAS, as set forth in Code of Ethics, The City of Jamestown, New York is committed to compliance with all applicable laws, regulations, and international conventions in all of its activities, and

WHEREAS, the City of Jamestown, New York requires lawful and ethical behavior of its Mayor, City Council Members and Appointed Officers and expects high standards of business and personal ethics in the fulfillment of their duties and responsibilities , and

WHEREAS, the purpose of a Whistleblower policy is to support the City's goal of legal compliance and its City Council members, Mayor Appointed Officers, employees, and volunteer Board and Commission members to share their questions, concerns, suggestions, or complaints with someone who can address them properly as it is the responsibility of all City Council members, Mayor, Appointed Officers, employees, and volunteer Board and Commission members directors, officers, and employees to report legal or ethics violations.

WHEREAS, if any individual reasonably believes that a policy, practice, or activity of the City is in violation of the law, public policy, or The City of Jamestown, New York Code of Ethics, that individual will be protected from retaliation if he or she reports the alleged policy,

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practice, or activity to the Corporation Counsel, City Council President, or City Comptroller and provides The Jamestown City Council President, Corporation Counsel or City Comptroller with reasonable opportunity to investigate and correct the alleged unlawful activity. If the reporting individual is uncomfortable speaking with or not satisfied with the response of the foregoing individuals, the issue may be reported to any member of the City Council Members. Reports of violations or suspected violations will be kept confidential to the extent possible, consistent with the parameters of an adequate investigation, now therefore be it

RESOLVED, that the City Council of the City of Jamestown hereby establishes a Whistleblower Policy for the City of Jamestown and directs the Corporation Counsel to ensure that the policy is (1) provided to all employees and volunteers, and (2) included in new employee orientation as well as ongoing training programs for employees and volunteers.

Carried: 9 ayes, 0 nays

201202A07

BY COUNCILMAN DeJOY:

WHEREAS, pursuant to the provisions of §806 of the General Municipal Law, the City Council of the City of Jamestown recognizes that there are rules of ethical conduct for public officers and employees which must be observed if a high degree of moral conduct is to be obtained and if public confidence is to be maintained in our unit of local government, and

WHEREAS, the purpose of Chapter 21, Code of Ethics, of the Jamestown City Code is to promulgate these rules of ethical conduct for the officers and employees of the City of Jamestown as these rules serve as a guide for official conduct of the officers and employees of the City of Jamestown, and

WHEREAS the rules of ethical conduct of Chapter 21 as adopted shall not conflict with but shall be in addition to any prohibition of Article 18 of the General Municipal Law or any other general or special law relating to ethical conduct and interest in contracts of municipal officers and employees, and

WHEREAS, Chapter 65 of the Charter of the City of Jamestown refers to the ethical conduct for the City Council members, the Mayor and City Officers directly or indirectly interested either as principal, surety or in any other manner in any contract, sale, lease, concession or other agreement to or in which the City is a party, and

WHEREAS, the proper operation of the City government requires that its officers and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; that public officers and employees observe in their official acts the highest standards of morality and discharge faithfully the duties of their office regardless of personal consideration; and that the public have confidence in the integrity of its government and the officers and employees thereof, now therefore be it

RESOLVED, that the City Council of the City of Jamestown hereby adopts a Conflict of Interest Policy for the Mayor, City Council members and Appointed Officers of the City of Jamestown in accordance with Article 18 of the General Municipal Law, Chapter 65 of the City Charter of the City of Jamestown and Chapter 21 of the City Code of the City of Jamestown.

Carried: 9 ayes, 0 nays

BY COUNCILMAN DeJOY:

RESOLVED, That the Mayor be, and he hereby is, authorized and directed to enter into a lease agreement with Chautauqua County for rental of approximately nine thousand two hundred ninety-nine (9,299) square feet of office space on the fifth floor of the Municipal Building for use by the Chautauqua County Division of Mental Hygiene, which lease shall commence January 1, 2012 and terminate December 31, 2016 with an option to renew for an additional five year period and provide for rental payments as follows:

January 1, 2012 through December 31, 2012	\$102,289 per year
January 1, 2013 through December 31, 2013	\$102,289 per year
January 1, 2014 through December 31, 2014	\$102,289 per year
January 1, 2015 through December 31, 2015	\$111,588 per year
January 1, 2016 through December 31, 2016	\$111,588 per year

subject to the approval of the Corporation Counsel as to form.

Carried: 9 ayes, 0 nays

BY COUNCILMAN DeJOY:

WHEREAS, the State of New York currently charges thirty dollars (\$30) for producing certified copies of birth and death certificates to those individuals who were born or die in New York State, and

WHEREAS, currently Monroe County, Onondaga County, Chemung County, Tompkins County and the City of Oswego have received home rule legislation allowing them to charge up to the amount received by the New York Commissioner of Health pursuant to law for producing certified copies of birth and death certificates as well as ancillary services including priority handling, internet and telephone orders to those individuals who were born or die within their respective municipalities, and

WHEREAS, the City of Utica currently has home rule legislation pending to allow it to charge up to the amount received by the New York Commissioner of Health pursuant to law for producing certified copies of birth and death certificates as well as ancillary services including priority handling, internet and telephone orders to those individuals who were born or die within their municipality, and

WHEREAS, the City of Jamestown desires to charge up to the amount received by the New York State Commissioner of Health pursuant to law and the municipalities noted above charge for producing certified copies of birth and death certificates as well as ancillary services including priority handling, internet and telephone orders to those individuals who were born or died within the City of Jamestown, and

WHEREAS, the City of Jamestown desires the enactment of home rule legislation allowing them to charge up to the amount received by the New York State Commissioner of Health pursuant to law for producing certified copies of birth and death certificates as well as

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ancillary services including priority handling, internet and telephone orders to those individuals who were born or die within the City of Jamestown, now therefore be it

RESOLVED, that the Mayor be, and he hereby is, authorized and directed to request home rule legislation from New York State Senator Catherine Young and New York State Assemblyman Andrew Goodell related to the above referenced matter.

Carried: 9 ayes, 0 nays

**PUBLIC WORKS**

201202A10

BY COUNCILMAN SPITALE:

WHEREAS, the City of Jamestown, NY, herein called the “City”, after thorough analysis of various aspects of the storm water runoff problem on the City’s West side and following the study of all available data, has hereby determined that certain work herein called the “Project”, is desirable, is in the public interest, and is required in order to implement the Storm Water Management Pond Project; and

WHEREAS, the City is proposing to make joint application to the New York State Department of State’s, Local Government Efficiency Grant Program with the Town of Ellicott for the joint construction and management of a storm water management pond ; and

WHEREAS, the New York State Department of State’s, Local Government Efficiency Grant Program provides assistance to eligible local governments for capital improvements, transitional personnel costs, or joint equipment purchases where such expenses are integral to the coordinated or consolidated service delivery, and the government deems it to be in the public interest and benefit to enter into a contract therewith; now, therefore, be it

RESOLVED, that the Mayor of the City of Jamestown, be, and hereby is, authorized as the representative to act on behalf of the City in all matters related to State assistance and is hereby authorized and directed to put forth the City of Jamestown as the “Lead-Applicant Government” on the application to the New York State Department of State’s, Local Government Efficiency Grant Program, execute the State Assistance Contract, submit Project documentation, and otherwise act on behalf of the City’s governing body in all matters related to the Project and to State assistance; and be it further

RESOLVED, that the City agrees that it will fund its portion of the cost of the Project, in local share funds, in an amount not less than 5% of total project cost, and upon approval of said grant request will enter into and execute a project agreement with the State for such financial assistance for participation in the Storm Water Management Pond Project.

Carried: 9 ayes, 0 nays

201202A11

BY COUNCILMAN SPITALE:

RESOLVED, that the Mayor be, and he hereby is, authorized to execute Change Order #2 to the Jamestown Highway Garage Repairs contract with E. E. Austin & Son, Inc., 4 Carter Street, Falconer, NY 14733 (authorized by Resolution #201109A11) to include changes as follows:

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Additional work:

Repair top of existing beam \$18,344.00  
Supplemental beam supports \$27,300.00

Time Extension:

Twenty-eight (28) days

per letter of E. E. Austin & Son, Inc. dated February 7, 2012, for a total cost increase to the contract not to exceed the amount of Forty-five Thousand Six Hundred Forty-four Dollars (\$45,644.00), and a contract time extension of twenty-eight (28) days.

Mr. Spitale: The reason for that is they have to pour concrete and it has to cure in different sections.

Carried: 9 ayes, 0 nays

201202A12

BY COUNCILMAN WHITFORD:

RESOLVED, that the Mayor be, and he hereby is, authorized to execute Final Closeout Change Order #1 to the Traffic Signal Work: Main Street Traffic Signal Improvements 2011 from Sixth Street to Harrison Street/West Harrison Street contract with Power & Construction Group, Inc. (authorized by Resolution # 201107A06), to include certain changes and additions (see attached) for a total increase to the contract of Twenty-two Thousand Eight Hundred Fifty-three Dollars and Sixty-nine Cents (\$22,853.69).

Carried: 9 ayes, 0 nays

201202A13

BY COUNCILMAN WHITFORD:

WHEREAS, pursuant to New York State General Municipal Law, local governments are authorized to enter into mutual cooperation agreements for the performance among themselves or one for the other of their respective functions, and

WHEREAS, it has been proposed that municipalities within Chautauqua County enter into a county-wide mutual aid agreement for highway projects and maintenance, and

WHEREAS, the City of Jamestown is desirous of entering into a mutual aid agreement with the County of Chautauqua and other municipalities within Chautauqua County for highway projects and maintenance, now therefore be it

RESOLVED, that the Mayor be, and he hereby is, authorized and directed to enter into an agreement by and between the City of Jamestown and County of Chautauqua and the various other municipalities within the County of Chautauqua for mutual aid for highway projects and maintenance subject to the approval as to form by the office of the Corporation Counsel.

Carried: 8 ayes, 0 nays

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201202A14

BY COUNCILWOMAN ECKLUND:

RESOLVED that the Mayor be, and he hereby is, authorized to enter into a lease agreement with RēLTEK, LLC, 1314 Oxmead Road, Burlington, NJ 08016 for lease of railroad property from Isabella Avenue to north of W. Eleventh Street in the City of Jamestown to be used for Riverwalk Trail System and bike path purposes, for the yearly lease amount of One Hundred Dollars (\$100.00). Said agreement shall be subject to approval as to form by the office of the Corporation Counsel.

Carried: 9 ayes, 0 nays

**PUBLIC SAFETY**

201202A15

BY COUNCILWOMAN JONES:

RESOLVED, That the following person be, and she hereby is, reappointed to the office of Commissioner of Deeds in and for the City of Jamestown for a term of two years:

Mary L. Zerbo

March 24, 2012 to March 23, 2014

Carried: 9 ayes, 0 nays

201202A16

BY COUNCILMAN SZWEJBKA:

RESOLVED, That the Board of Public Utilities be, and it hereby is, requested to install one new 150W HPS street light at the following location:

BPU Pole 21250

Forest Avenue

Mr. Dolce: I just want to thank the Public Safety Committee for going back and reviewing that request coming from Pilgrim Memorial Church. They had some concerns in that area and many of us went back to take a look at that and appreciate the re-look on that and hope everyone can support that. Thank you.

Carried: 9 ayes, 0 nays

There being no further business, the meeting was adjourned.

James N. Olson, Director of Financial  
Services/City Clerk