

September 24, 2012

City Council

---

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, September 24, 2012 at 7:30 p.m.

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

Others Present: Mayor Teresi, Director of Financial Services/City Clerk James N. Olson, City Comptroller Joe Bellitto, Deputy Fire Chief Chet Harvey, Police Chief/Director of Public Safety Harry Snellings, and Matt Hanley, Executive Assistant to the Mayor

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

Pastor Jim Reed of the Bethel Baptist Church gave the invocation.

Councilman Spitale moved to approve the minutes from the August 27th, 2012 meeting.

**MESSAGES FROM THE MAYOR**

201209A00.01

Dear City Council Members:

In accordance with the provisions of Section 20(4) of the Municipal Home Rule Law of the State of New York and in my capacity as Chief Executive Officer of the City of Jamestown and in response to a request made by members of the Jamestown City Council, I hereby certify that there is necessity for immediate passage of Local Law Number 1 of 2012 entitled "A LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT ESTABLISHED IN GENERAL MUNICIPAL LAW §3-c."

THIS CERTIFICATION IS INTENDED TO ALLOW PASSAGE OF THIS Local Law by the Jamestown City Council on or before September 24, 2012 so that a public hearing pursuant to Section 20(5) of the Municipal Home Rule Law may be scheduled for 9:00 A.M., October 9, 2012 in the Police Training Room.

Sincerely,

Samuel Teresi  
Mayor

September 24, 2012

201209A00.02

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:

Skyler Gore  
56 E. Cowden Place  
Jamestown, New York 14701

to be appointed a youth member of the Youth Services Board of Directors in and for the City of  
Jamestown, New York (to fill the unexpired term of Sarah Nazzaro-resigned).

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

Dated: September 24, 2012

Samuel Teresi  
Mayor of the City of Jamestown, New York

Councilman Taylor moved to suspend the rules.

Carried: 9 ayes, 0 nays

Councilman Dolce: Just a quick comment that this was the young man who has worked very  
hard and is an activist in his neighborhood and spoke a couple of times here on behalf of that  
Cowden Place neighborhood for some much needed improvements in their infrastructure and for  
their Neighborhood Watch and is also a fine young man from Jamestown High School. I'm very  
proud to sponsor him.

Councilman Dolce moved to support the appointment of Skyler Gore.

**OPPORTUNITY FOR PERSONS TO ADDRESS THE COUNCIL**

201209A00.03

Richard Edward McQuay, Sr., 368 Buffalo Street, Apt. 2: Now your timer is going to have to keep an eye on the clock because this is going to take more than one session because it involves the murder of two undercover police officers, the police coverup, falsifying evidence and political corruption. Many years ago in this town, the Democrats had control but they wanted to gain control of Mayville so the City of Jamestown hired two undercover detectives to investigate corruption in Mayville. During their investigation, they could not find anything against the Republican parties but they did find things against the Democratic party; so when the two undercover police officers reported in on their findings, they were ordered to turn in their findings and they refused to do that because they knew it was going to be a coverup. In the pursuing time, James P. Subjack and a female from the County Legislature met in a bar here in Jamestown and Subjack was going to try to get the papers back. Now in the meantime, there is a report that came over the scanner of a Jamestown Police Officer reporting that he had witnessed an open door and was going to investigate and this was at night. They asked if he needed backup and he says “no – I’ll go in alone.” Now anybody that knows the Jamestown Police Department knows that even in daylight hours, they will not go into a business alone without backup; so the two undercover officers knew that the address reported was the same place where they had stored the evidence that they had gotten out of Mayville and the police officer was going in to recover those evidence papers. Well, when the police officers heard this on the scanner, they jumped up and took off to go their car to stop it. Well, James P. Subjack at the time jumped up with his female companion and raced also to the car. They proceeded up Washington Street and there was a patrol car sitting on the side street waiting to enter on to Washington Street. Now he reported over the scanner or the police radio that two vehicles had passed him at speeds in excess of 90 m.p.h. and he was going to give chase. Before he could get out into the intersection on Washington Street, the car was forced off the road into a tree and the two undercover officers were killed. Now the witness at the bar claims that they were drinking heavily and they were arguing about drag racing and they jumped up and ran for the door to see whose car was the fastest. Now my wife was an alcoholic and I have proof that when you are drinking heavily, you do not jump up from a table and run to the door because 90% of the time, they’re going to hit the doorsill so that was a false statement that the Police Department received from the owner of this bar establishment. Now because of his involvement in the accident, he was with the Public Defender’s Office in Mayville – and he was forced to resign. The City of Jamestown felt so sorry for him and they wanted to keep his mouth shut so they had a job here they called the Associate Corporation Counselor that had been vacant for five years because it was not needed. The City Council reactivated that position and gave it to him to keep him out of the public’s eye. In years to come, the County District Attorney who helped cover up this incident, was appointed as Judge which left a vacancy in the District Attorney’s Office in Mayville. It so happens that this James P. Subjack who was involved in the murder of two undercover police officers on the corner of Eighth and Washington was given the job as the County District Attorney, another way of promoting him for his involvement in keeping everything quiet about the corruption in Mayville. Because of my fighting this incident over the years, the Jamestown Police Department and the politicians have repeatedly tried to get me.

September 24, 2012

Council President Rabb:  
up so I have to stop you.

Well, Sir, I'm not trying to get you, but your five minutes is

Mr. McQuay:

Okay. I'll be back next month.

Council President Rabb:

...as we'll wait. Thank you.

## **STANDING COMMITTEES**

### **FINANCE COMMITTEE**

201209A01

BY COUNCILMAN DeJOY:

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 \$4,037,613.38 in accordance with the period ending September 21, 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 \$2,923,398.43, and payrolls in the total amount of \$1,114,214.95, 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

201209A02

BY COUNCILMAN DeJOY:

RESOLVED, That the Mayor of the City of Jamestown be, and he hereby is, authorized to enter into a grant agreement with the Chautauqua Region Community Foundation in an amount not to exceed SIX HUNDRED DOLLARS (\$600) for the purpose of funding a portion of the cost of the 2012 Parks, Recreation and Conservation Department Halloween Fun Fest subject to the approval of the Corporation Counsel as to form.

Carried: 9 ayes, 0 nays

201209A03

BY COUNCILMAN DeJOY:

RESOLVED, That the Mayor be, and he hereby is, authorized to enter into an agreement with Schichtel's Nursery of Orchard Park, New York, in the amount of EIGHT THOUSAND FIVE HUNDRED EIGHTY DOLLARS (\$8,580.00) for the purchase of nursery stock and with Russell's Tree and Shrub Farm, East Amherst, New York in the amount of TEN THOUSAND

September 24, 2012

THREE HUNDRED NINE DOLLARS (\$10,309.00) for the purchase of nursery stock subject to the approval of the Corporation Counsel as to form.

Carried: 9 ayes, 0 nays

201209A04

BY COUNCILMAN DOLCE:

WHEREAS, funding has become available through the Coastal Resources Division of New York State's Department of State for the Brownfield Opportunity Areas Grant Program designed to provide municipalities and community-based organizations with funding assistance that covers up to ninety percent (90%) of eligible costs to complete area-wide Brownfields investigations and land use redevelopment planning; and

WHEREAS, the Jamestown Urban Renewal Agency, the City of Jamestown Department of Public Works, and the City of Jamestown Parks Department, identified the Chadakoin West Brownfield Opportunity Areas Grant Program area as an approximately 738-acre site bounded by Washington Street to the east, Fluvanna Avenue to north, Eighth Street to the south, and the railroad line parallel to Jones & Gifford Avenue to the west; and

WHEREAS, the identified area overlaps portions of Chadakoin Park, Jones & Gifford Park, federal Census Tract 303, several Community Development Block Grant neighborhood redevelopment target areas, portions of the Southern Tier West Rail Authority railroad lines, and the City's industrial corridor; and

WHEREAS, by previous City Council resolution, the Jamestown Urban Renewal Agency successfully served as program applicant for the Step 1 (Pre-Nomination Study) for the Chadakoin West Brownfield Opportunity Areas Grant Program on behalf of the City of Jamestown and also continues to serve as the administrator and coordinator of the area-wide Brownfields investigation and land use redevelopment planning efforts; and

WHEREAS, the Jamestown Urban Renewal Agency proposes to serve as program applicant for a Step 2 (Nomination Study) for this second phase of the City's Chadakoin West Brownfield Opportunity Areas Grant Program on behalf of the City of Jamestown; and

WHEREAS, said Brownfield investigation and redevelopment is consistent with and in support of the City of Jamestown Comprehensive Plan (1998) and other studies regarding riverfront development and its importance to downtown redevelopment including the Downtown Jamestown Community Redevelopment Plan (2001) and City of Jamestown Urban Design Plan (2006); now therefore be it

RESOLVED, that the City Council of Jamestown, New York remains fully committed and supportive of the Brownfield Opportunity Areas Grant Program and fully supports this Step 2 (Nomination Study) application for the City's Chadakoin West Brownfield Opportunity Area by the Jamestown Urban Renewal Agency and hereby designates the Jamestown Urban Renewal Agency as administrator and coordinator of the area-wide Brownfields investigation and land use redevelopment planning efforts associated with Step 2 (Nomination Study) for this second phase of the City's Chadakoin West Brownfield Opportunity Areas Grant Program; and be it further

RESOLVED, that the City Council of Jamestown, New York hereby authorizes the Mayor to execute all necessary contracts with the Coastal Resources Division of New York State's Department of State should the Jamestown Urban Renewal Agency be successful in

September 24, 2012

securing funding for a Step 2 (Nomination Study) for this second phase of the Chadakoin West Brownfield Opportunity Areas Grant Program.

Carried: 9 ayes, 0 nays

201209A05

BY COUNCILMAN DOLCE:

RESOLVED that the Mayor of the City of Jamestown be, and he hereby is, authorized to enter into an agreement with Eagle Radio Technologies, 1367 East Second Street Jamestown, New York 14701 for the purchase of a Radio System for the Jamestown Police Department, Jamestown Fire Department and Department of Public Works in the amount of Six Hundred Eight Thousand Seven Hundred (\$608,700) subject to the approval of the Corporation Counsel as to form.

Councilman Dolce: I just wanted to comment that this is part of our discussion over the last several weeks to bring us into compliance by January 1 by the Federal FCC regulations.

Carried: 9 ayes, 0 nays

201209A06

BY COUNCILMAN DOLCE:

RESOLVED, That Lieutenant Philip Hanlon be, and he hereby is, authorized to attend the New York State Fire Instructor Conference at the New York State Academy of Fire Science to be held in Montour Falls, New York on October 14-17, 2012, with expenses paid pursuant to Section 77-b of the General Municipal Law.

Carried: 9 ayes, 0 nays

**PUBLIC WORKS**

201209A07

BY COUNCILMAN SPITALE:

RESOLVED that Jeffrey Lehman, P.E., Director of Public Works, is hereby authorized and directed to purchase from Hoselton Chevrolet, 909 Fairport Road, East Rochester, NY 14416, one (1) new 2013 Chevrolet Equinox AWD vehicle off NYS OGS contract # PC65854, for a total amount not to exceed Twenty-One Thousand Eight Hundred Eighty-Four Dollars and Four Cents (\$21,884.04), said vehicle for use in the Department of Public Works.

Councilman Spitale: This is to replace the van that they use.

September 24, 2012

Carried: 9 ayes, 0 nays

**PUBLIC SAFETY**

201209A08

BY COUNCILMAN SZWEJBKA:

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

Mark Heintzman

October 25, 2012 to October 24, 2014

Carried: 9 ayes, 0 nays

Council President Rabb asked to relinquish the Chair so that he could read the Local Law resolution.

201209A09

BY COUNCIL PRESIDENT RABB:

**LOCAL LAW NO. 1 OF 2012**

**A local law authorizing a property tax levy in excess of the limit established in General Municipal Law §3-c**

BE IT ENACTED by the City Council of the City of Jamestown, New York as follows:

Section 1. Legislative Intent: It is the intent of this local law to allow the City of Jamestown to adopt a budget for the fiscal year commencing January 1, 2013 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law § 3-c.

Section 2. Authority: This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes a local government’s governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

Section 3. Tax Levy Limit Override: The City Council of the City of Jamestown, County of Chautauqua, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2013 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law §3-c.

Section 4. Severability: If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court’s order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause,

September 24, 2012

sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 5. Effective date: This local law shall take effect immediately upon filing with the Secretary of State.

Mayor Teresi: Under the General Municipal Law, the letter from the Chief Executive Officer of the municipality gives you the ability to vote on it should you want to.

Council President Rabb reassumed the Chair.

Carried: 7 ayes, 2 nays (Szwejbka, Ecklund)

### **ANNOUNCEMENTS:**

Councilman Spitale: I'd like to recognize our Police Chief. He's what you call a real hero. He's retired from the military and I think he should be recognized. We're fortunate to have somebody of his caliber and as a veteran, I'm very proud of him.

Councilman Dolce: I have just a couple of comments about the Local Law after the fact. I just wanted to assure the public that this in no way locks us in. We haven't seen the budget. It does a couple of things. It gives us a safety net in case there's mistakes made and calculations that have happened in other communities in the last year or so. It covers us. There have been several different towns, villages and cities across the State, I believe – how many has it been now?

Councilman DeJoy: 359.

Councilman Dolce: 359 that have done this. The purpose of passing this tonight, and again I think people know that I'm probably one of the most ardent fighters against a tax increase, this in no way signals that we're just now giving ourselves a carte blanche to raise taxes. As you know, this is a tough budget and it will be a tough budget and this at least takes that out of the equation while we are discussing and deliberating the budget after the Mayor presents it to us in a couple of weeks; so it's one of those situations where the Governor and the State Legislature has put localities in a very tight spot giving us the authority to do this. They've passed a tax cap and have done little or nothing to decrease the costs that have been put on us – costs and increases in retirement and other benefits and other things across the state that are really straddling localities and so what this does really is it just gives us the opportunity to have those discussions about our budget without having that around our neck and having to deal with that at the 11<sup>th</sup> hour. Again, in no way, it locks us in, or it should not send a signal to our community that we are going to use this. We don't know if we're going to use it; we don't want to have to use it, and I hope I speak on behalf of all the Council saying that this isn't going to change the way we deliberate and certainly we'll do our best to deliver a budget that will be little

September 24, 2012

or no impact on the current tax levy. I can say that we'll do our best to make sure that happens and I guess that's all I have to say.

Councilman DeJoy: Thank you Mr. President. I would like to concur with just about every one of Councilman Dolce's comments here and explanation as to why we initially even thought about bringing up this legislation. It's responsible legislation. It's good governance. It's not a simplistic way of just relinquishing the property tax cap and not adhering to trying to keep the property tax levy down to the lowest level that is absolutely possible and we are doing this to insure that if there is any potential miscalculation, that we are not held responsible for that amount that would need to be held in reserves and like I said, it's good, responsible legislation that we enacted tonight and I applaud the City Council for taking the right measures.

Councilman Szwejbka: Yes, Mr. President. I did vote against it so I guess I should say something. I look at the law – any law – and say “what is the intent of this law?” “Why did Governor Cuomo enact this law?” “Why did he get the voters of this great State to get him in office?” Well, he said he was going to take hold of taxes and I don't think the intent was symbolic. I think he really wanted to get ahold of property taxes. He didn't want a back door so we could jump out of it if we didn't like it and I truly believe if we are going to get ahold of taxes in this State, maybe it has to start at the local level and maybe we need to send a message to the State that “okay – maybe we can't offer all the services no more and we're going to hold our taxes.” I don't think passing this is in the best interests of our taxpayers. Thank you.

There being no further business, the meeting was adjourned.

James N. Olson  
Director of Financial Services/City Clerk