

April 28, 2014

City Council

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Proceedings by Authority

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

A meeting of the City Council of the City of Jamestown, New York was held on Monday, April 28, 2014 at 7:30 p.m.

Members Present:     Council President Greg Rabb and Council Members, Brent Sheldon, Tony Dolce, Tamara Dickey, Marie Carrubba, Maria Jones, Paul Whitford, Kim Ecklund, and George Spitale

Members Absent:

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

City Council President Greg Rabb City Clerk James N. Olson called the meeting to order in the absence of Council President Rabb and led the assembly in the Pledge of Allegiance to the Flag.

The Invocation was given by The Rev. Dr. William Blair of the New Creation Assembly of God.

Council Spitale moved to approve the minutes from the March 31, 2014 meeting.

**MESSAGES FROM THE MAYOR/COUNCIL PRESIDENT**

201404D00.01

Mayor Teresi: Mr. President, members of the City Council, and my fellow Jamestowners.

As I am sure that all are fully aware, the Unified City Court Act of 2013 (Chapter 548) created a second full-time Judge position for the Jamestown City Court, the intention of which, was to help address and alleviate the mounting and diverse caseload being handled by our municipal court.

As you are also aware, Judge George Panebianco, who had been serving in a half-time capacity in this position since 2004 and had the option under the law to assume the new full-time position, declined to do so...thus creating the need for the appointment of a new full-time judge to fill a 10-year term.

Speaking of Judge Panebianco, I had the pleasure and honor to nominate him on two occasions (2004 and 2010) for the position in which he served with great distinction. Judge Panebianco

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was universally respected on the bench by his judicial peers, his colleagues within the legal profession and clients appearing in his courtroom, for the attributes that defined his judicial service to our community...his caring nature, his firm and decisive approach and the quality that most defined and determined his decisions...his drive to be fair and to always seek a right and just outcome.

Regardless of one's background, affiliation, or where they stand on particular issues, I know that the members of this City Council and the Community at large join with me this evening in thanking Judge George Panebianco for his outstanding judicial service to our community, wish him well in all of his ongoing professional and personal pursuits and look forward to the many, many ways that he will continue to contribute his valuable time and energy to make our city an even better place in which to live, work, play, and raise a family.

My fellow officers of the great City of Jamestown, in accordance with the authority vested in me by Chapter 548 of the Laws of the State of New York, as well as the Charter of the City of Jamestown, it is my pleasure and honor this evening to present to you my nomination of Frederick A. Larson for the position of City Court Judge in and for the City of Jamestown.

I have come to this decision in anything but a light and cursory fashion...but rather following what has been a very challenging, difficult and, at times, nerve-wracking process evaluating a large number of eligible and highly-capable candidates.

I strongly believe that Mr. Larson is eminently qualified for this position, has demonstrated over the years....through a whole variety of community service endeavors...his commitment to making our city a better place, and I am convinced that through his firm but fair approach on the bench, he will continue to serve our community well and with distinction during the coming years.

Allow me the opportunity to share with you some information about Mr. Larson's background, service and notable accomplishments.

- Born and raised in our city and educated in Jamestown Public Schools.
- Obtained his Bachelor's Degree from the prestigious Woodrow Wilson School of Public and International Affairs at Princeton University where he served as a research assistant to legendary Professor Eric F. Goldman and was honored as Princeton University's top debater three years running.
- Graduated from Yale Law School in 1976, serving as an Associate for the Yale Law Journal.
- Following graduation from Law School and his admittance to the New York State Bar, Mr. Larson served as an associate with law firms in Rochester and Buffalo.
- With his impressive academic record and mounting legal credentials, Mr. Larson could have literally chosen to make a successful career anywhere in the nation, but, for his

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burning desire to return home to Jamestown and serve and help improve the community that he loves and is committed to. And work, and serve, and volunteer, he has done.

- In addition to continuous employment since September 1977 as a private practice attorney (in both Partnership and Sole Practitioner capacities), Mr. Larson has served as:
  - An Assistant Chautauqua County Attorney
  - The Chautauqua County Attorney (1998 – 2005)
  - Legal Counsel to the Chautauqua County Legislature
  - An instructor of Business Law and Political Science at Jamestown Community College and SUNY Fredonia
  - An At-large member of the Jamestown City Council
  - Previous and current member of the City’s Board of Public Utilities
  - Previous and current member of the Chautauqua County Legislature
  - Member of the County’s Airport Commission
  - Board Member for the County’s new Landbank Corporation
  - Founding member of the Southern Tier Rail Authority
  - Twice Past President of the Jamestown Kiwanis Club
  - Fenton History Center
  - Chautauqua County Sports Hall of Fame
  - United Way of Southern Chautauqua County
  - First Lutheran Church (Sunday School Teacher and former President of the church’s memorial foundation)

He lives with his wife Wendy at their home at 641 Lakeview Avenue and is the proud father of two sons, Eric, a corporate attorney in Atlanta, and Peter, who will be graduating from Case Western Reserve Law School in Cleveland next month.

Given the level of existing and growing court calendar demands and the built-in lead time and requirements associated with seating the approved judge on the Bench (including provisions for a reasonable period for Mr. Larson to make arrangements for the transfer of his private legal practice obligations; fulfilling the mandatory orientation and training process as required by the State Office of Court Administration, etc.), it would be my hope that this appointment could be reviewed and acted upon in all due haste. As such, I am respectfully requesting that the members of the City Council consider a suspension of the standard appointment approval rules and act upon this nomination at the meeting this evening.

Once again, I would like to thank each and every one of you for your patience, support and understanding during what has been an extremely difficult, at times frustrating, but productive review and final selection process.

201404D00.02

The Director of Financial Services/City Clerk read the following appointment.

CITY OF JAMESTOWN     )

Mayor’s Office             )

April 28, 2014

To the City Council of the City of Jamestown New York

Council Members:

In pursuance of the authority vested in me by Chapter 548 of the Laws of 2013 of the State of New York amending §2104 of the Uniform City Court Act and by the charter of said City, I do hereby nominate:

Frederick A. Larson  
641 Lakeview Ave.  
Jamestown, NY 14701

to be appointed a City Court Judge in and for the City of Jamestown, New York.

The term for which said appointment is to be made will expire  
March 31, 2024.

Dated: April 28, 2014

Samuel Teresi  
Mayor of the City of Jamestown, New York

Councilman Whitford moved to suspend the rules and act on the appointment.

Carried: 8 ayes, 1 nays (Sheldon)

Councilman Spitale moved to approve the appointment.

Councilman Sheldon: Yes. It's definitely clear that we do need a second full-time judge in the City of Jamestown and the State of New York has decreed that. They have done several different things in different cities throughout New York State. In 7 cities, they will hold elections to fill these positions of 10-year terms at salaries well over 3 digits, excuse me, 6 digits, over \$100,000.00. I feel that the appointment of a person to this position, this magnitude, is wrong. I believe that there should be an election by the people to approve this petition. It's just something that – there's nothing in our charter right now approving any term that's over 4 years. It's not a reflection on the person he's appointed, there's no question he's qualified, I just feel this should be something that is voted on by the people and I would request that the Corporation Council draft a municipal home rule legislation to make this an elected position in the City of Jamestown. Thank you.

Carried: 8 ayes, 1 nays (Sheldon)

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## **OPPORTUNITIES FOR PERSONS TO ADDRESS THE COUNCIL**

Ms. Swanson: Again, my name is Rhonda Swanson, I reside on Lafayette Street. I'm here with a few of my neighbors to speak about issues resulting from the location of the Weitsman Scrapyard. The Weitsman yard located on 610 West Eighth Street is surrounded by residential, recreational, and commercial and manufacturing zones. They are on the Chadakoin River. This poorly located business has caused severe problems with heavy dust, noise, and traffic. It is much more than just a business, resulting loss of property views, the damage of property, and the loss of health. For these reasons we are asking for restrictions, Weitsman have restrictions on the types of operations, restriction on the days they can be open and the hours that they can be open. We would like restrictions on when the equipment and vehicles are allowed to operate. We also ask that they are not allowed to expand, which is just what is going to happen when they purchase Outlet Avenue. And, we ask that the auto shredder, which Weitsman plan on installing not be allowed. This would result in extreme hardship for nearby residents. I would like to read a letter now from a resident who lives one block from the Weitsman yard. She was unable to attend tonight.

My name is Chandra Goodway. I live at 644 West Seventh Street with my backyard almost directly across the street from Weitsman's. I am totally against anything else that would cause more dust and noise in this area. The dust and dirt is horrible. The roads are even a terrible mess constantly. Their street cleaner runs once a day, but by then it's so dirty in the roads, that it kicks it up. I have to dust my house every single day now and it's not even summertime when I can open my windows. I have to dust every day because I have a 32 year old handicap son who takes nebulizer treatments 4 times a day and oxygen 24/7. He is on a ventilator. That ventilator has 2 air filters that have to be cleaned 2 to 3 times a day due to all the dust. In wintertime we were able to get away with once a day sometimes. That is much too much here even for a healthy person. Then there is the noise. Tractors start at 7am. Shortly after that, it's the banging and clanking of objects being loaded, dropped in the large containers that are all on the back of the road. This noise is all day long until 6 – 7 pm. And then there's the noise from the trucks, putting their brakes on all the way down Murray Avenue, from West Sixth to Eighth Street. Between the shift down noise and the squeaking noise gets annoying and I must remind you, my windows are still closed. As trucks pull into the lot directly behind my house, where most of these trucks go, there is banging and clanking of loose chains and rods on these trucks. That driveway has several large vehicles, even commercial trucks with trailers hauling cars, clang and bang through there. I realize the economy is bad, we need more jobs, but not at the risk of people's health or freedom. The City gave a large sum of money in a grant to help me fix my house and Weinsteins will only destroy what has been done due to their pollution and noise. My yard is very well taken care of and I take pride in doing so. So, why do I have to put up with all the grief that Weinsteins has already put on our shoulders. My son Eric has been on a ventilator for 3 years now, put on Hospice one year ago. So, it's a daily fight with his health issue. Why increase his health problem and subject him to all this unnecessary noise in his final days?

I firmly believe that before granting car shredders or anything else that will increase the problems that already exist, they should concentrate more on the problems that are making this neighborhood miserable. Yes, I can only hope that many have shown up for this meeting and regret terribly that I couldn't be there. I have limited nursing hours available and could not

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rearrange those hours to attend, but please feel free to contact me and come into my area to see what we live with. And it's signed Chandra Goodway and Eric Robbins.

And then a P.S., another one, Bill Jones from the City worked to get the grant for my house and has met my son Eric so he knows the situation.

Mr. Rabb: Is there anyone else who would like to address the Council this evening? Again, state your name and residential address, please.

Mr. Champ: My name is Doug Champ. I live at 225 Bowen Street in Jamestown. One aspect that applies to the development that may have not been considered is an environmental surety bond that would hold harmless the City for environmental protection associated with any involvement, any mitigating circumstances, any deterioration associated with future development of the property. I think the Corporation Counsel should incorporate the change in your allowance of this type of project with the possibility of making sure that the environmental bond be in place for this development to go forward as it is. Especially with the allocation of City money or any kind of advancement of this project whatsoever. And with the abandonment of the street the body encroached the safeguarding area also, the Chadakoin River might be something that should be considered.

Mr. Rabb: Thank you. Is there anyone else that would like to address the Council this evening?

## **STANDING COMMITTEES**

### **FINANCE COMMITTEE**

201404D01

BY: COUNCILWOMAN ECKLUND

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 \$8,325,376.40 in accordance with the period ending April 28, 2014, 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 \$7,035,503.85, and payrolls in the total amount of \$1,289,872.55, 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

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201404D02

BY COUNCILWOMAN ECKLUND:

WHEREAS, the City of Jamestown is an entitlement community that is apportioned funding for the Community Development Block Grant (CDBG) and HOME programs to implement housing, community, and economic development activities under the United States Department of Housing and Urban Development (HUD), which requires the adoption of a Citizen Participation Plan in accordance with the 24 CFR 91.105; and

WHEREAS, in conjunction with an extensive public input process conducted by the City of Jamestown Department of Development, the staff develops a draft Annual Action Plan that aligns with the Five Year Consolidated Plan adopted by City Council, which includes proposed housing, community, and economic development activities to be funded; and

WHEREAS, said development activities will occur in designated target areas in the community and include a variety of housing rehabilitation, infrastructure, planning, public services, and economic development initiatives; and

WHEREAS, the Department of Development has drafted a Citizen Participation Plan that establishes the extensive, informal public input process conducted by the Department of Development, two required public hearings with numerous methods for public notice, outreach, accessibility, written surveys, and the opportunity for public comment for the purpose of obtaining citizen input regarding the Annual Action Plan and the specific CDBG and HOME activities to be contained therein; and

WHEREAS, the Citizen Participation Plan is available for public review as required by U.S. Department of Housing and Urban Development regulations at the Department of Development and on the city website; and therefore be it

RESOLVED, that the Jamestown City Council approves and heretofore adopts the Citizen Participation Plan attached as Exhibit A, and authorizes its use for public outreach in conjunction with the CDBG and HOME Programs funded through HUD.

Carried: 9 ayes, 0 nays

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201404D03

BY COUNCILMAN DOLCE:

RESOLVED, That the City Comptroller be and he hereby is authorized to make the following amendment to the 2014 General Fund Budget to recognize an additional \$929 Consolidated Local Street and Highway Improvement Program (CHIPS) funding and \$85,167 Extreme Winter Recovery Capital Grant Funding included in the adopted 2014-2015 New York State budget as follows:

INCREASE: Appropriations	\$86,096.00
CHIPS – Capital	
H.9551.0500	
INCREASE: Estimated Revenues	\$86,096.00
State Highway Aid	
A.0000.3501	

Councilman Dolce: Obviously this is good news. With the harsh winter that we had, this is extra money coming to the City for road repair and other improvements because of the damage that has been done this past winter. Thank you.

Carried: 9 ayes, 0 nays

**PUBLIC WORKS COMMITTEE**

201404D04

BY COUNCILMAN SHELDON:

WHEREAS, the Planning Commission of the City of Jamestown voted on March 18, 2014, to recommend to the Jamestown City Council that a portion of the City-owned property known as Outlet Avenue that is located between West Eighth Street and Isabella Avenue, be abandoned by the City of Jamestown as a public street, and

WHEREAS, it has been determined that the City of Jamestown no longer requires the aforesaid property known as Outlet Avenue that is located between West Eighth Street and Isabella Avenue as a public street of the City of Jamestown, and

WHEREAS, notice of the City of Jamestown's intention to abandon the aforesaid property was published in The Post-Journal on April 18, 2014, and thereafter a public hearing was held on April 28, 2014, in accordance with the provisions of Section 29 of the General City Law, and

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WHEREAS, notice has heretofore been sent by registered mail, return receipt requested, to the persons and addresses noted on the last preceding real property tax notice issued on the property which abuts the City-owned property above-described, in accordance with the provision of Section 29 of the General City Law, and

WHEREAS, the City Council of the City of Jamestown concurs with the recommendation of the Planning Commission aforesaid; now, therefore, be it

RESOLVED, That a portion of the City-owned property known as Outlet Avenue that is located between West Eighth Street and Isabella Avenue, as shown on the Official Tax Map of the City of Jamestown, be and the same hereby is abandoned to abutting property owners with the condition that a perpetual/permanent easement for purposes of constructing, maintaining, repairing and replacing **public utility facilities**, storm water management structures and **their** associated appurtenances be conveyed and the described property shall be subject to any and all utility easements or rights-of-way of record that may validly affect the described premises, and be it further

RESOLVED, That the Assessor and Director of Public Works of the City of Jamestown be and they hereby are authorized and directed to amend the Official Map of the City of Jamestown to reflect the abandonment of the above-described property, and be it further

RESOLVED, That the Mayor be and he hereby is authorized and directed to execute quite claim deeds conveying all of the City of Jamestown's right, title and interest to the abutting property owners of property known as Outlet Avenue that is located between West Eighth Street and Isabella Avenue, measurements to be determined by the Director of Public Works.

ALL THAT TRACT OR PARCEL OF LAND, situate in the City of Jamestown, County of Chautauqua, and State of New York, bounded and described as follows:

BEGINNING at a point in the southerly bounds of Isabella Avenue where said southerly bounds intersects the easterly bounds of Outlet Avenue; running thence southerly along the easterly bounds of Outlet Avenue 545 feet; thence westerly and perpendicular to the easterly bounds of Outlet Avenue to the westerly bounds of said Outlet Avenue; thence northerly along the westerly bounds of Outlet Avenue 545 feet to the intersection of said westerly bounds of Outlet Avenue with the southerly bounds of Isabella Avenue; thence easterly along the southerly bounds of Isabella Avenue to the point and place of beginning.  
Intending to convey that portion of Outlet Avenue lying south of Isabella Avenue and extending southerly there from a distance of 545 feet.

Carried: 7 ayes, 2 nays (Sheldon, Spitale)

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Councilwoman Dickey: Yes, I'd like to make a comment. I'd like to thank the Ward 3 residents who came out tonight and voiced your opinions and your comments regarding the environmental and other issues related to this property. I also want to thank the Planning Commission for sharing with us some of the corrective actions and outlined some of the responses to those concerns.

Councilwoman Spitale: Yes, I sympathize with the people here because I grew up on Water Street, I had Chautauqua Hardware next to us. They dumped acid in the river, my father had a garden – it killed the garden. They had no regards – we had dust all the time, same as you guys are going through. My cousin called OSHA, they came in and told us not to dust. They checked it and they had a machine out there that they never cleaned, so they got written up. So, at this time, I cannot support this resolution.

Councilwoman Carrubba: I would like to speak as well. I hear your concerns and this is a very difficult decision for many of us. I sympathize with those with respiratory problems. I have a child with asthma and understand what you're dealing with. Right now, we have to do something to improve the situation and I think I've taken many of your comments with great concern and deliberation. This project needs to be monitored very closely. These people need to live up to all of the demands that we place upon them to improve the situation so that it does not interfere with your ability to cohabit and live in that neighborhood. I can assure you that I will do everything I can to make sure that they do that, and they honor that, and that they do not make it a miserable situation for those residents living there. I hope we can all deal with the situation and now that you've made us aware, I appreciate it as well. I work very close to that area and driving through that, I understand how difficult it is. I did not realize how bad the noise was and I think that's something that really needs to be considered as to how it's addressed. Thank you very much.

Carried: 7 ayes, 2 nays (Dickey, Spitale)

201404D05

BY COUNCILWOMAN DICKEY:

WHEREAS, the Planning Commission of the City of Jamestown voted on March 18, 2014, to recommend to the Jamestown City Council that the City-owned property known as Rose Alley that is located between West Second Street and the Railroad Tracks, be de-dedicated by the City of Jamestown as a public street, and

WHEREAS, it has been determined that the City of Jamestown no longer requires the aforesaid property known as Rose Alley that is located between West Second Street and the Railroad Tracks as a public street of the City of Jamestown, and

WHEREAS, notice of the City of Jamestown's intention to de-dedicate the aforesaid property was published in The Post-Journal on April 18, 2014, and thereafter a public hearing was held on April 28, 2014, in accordance with the provisions of Section 29 of the General City Law, and

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WHEREAS, notice has heretofore been sent by registered mail, return receipt requested, to the persons and addresses noted on the last preceding real property tax notice issued on the property which abuts the City-owned property above-described, in accordance with the provision of Section 29 of the General City Law, and

WHEREAS, the City Council of the City of Jamestown concurs with the recommendation of the Planning Commission aforesaid; now, therefore, be it

RESOLVED, That the City-owned property known as Rose Alley that is located between West Second Street and the Railroad Tracks, as shown on the Official Tax Map of the City of Jamestown, be and the same hereby is de-dedicated as a public street, and be it further

RESOLVED, That the Assessor and Director of Public Works of the City of Jamestown be and they hereby are authorized and directed to amend the Official Map of the City of Jamestown to reflect the de-dedication of the above-described property.

Carried: 9 ayes, 0 nays

201404D06

BY COUNCILMAN SPITALE:

WHEREAS, the County of Chautauqua included the City of Jamestown in its bidding process for construction materials and services; and

WHEREAS, the City of Jamestown has determined that some County proposals may be the most advantageous to the City; now, therefore, be it

RESOLVED, that the Director of Public Works is authorized to purchase construction materials and services at the prices quoted to the County of Chautauqua and set forth in the Chautauqua County 2014 Construction Season Purchasing Guide.

Carried: 9 ayes, 0 nays

**PUBLIC SAFETY COMMITTEE**

201404D07

BY COUNCILMAN WHITFORD:

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:

Cathleen J. Barber

April 28, 2014 to April 27, 2016

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Carried: 9 ayes, 0 nays

There being no further business, the meeting was adjourned.

James N. Olson  
Director of Financial Services/City Clerk