

September 29, 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, September 29, 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, George Spitale

Members Absent:

Others Present:       Mayor Sam 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

City Council President Greg Rabb called the meeting to order 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 Church of God.

Councilman Spitale moved to approve the minutes from the August 25, 2014 meeting.

City Council President Rabb wished Councilwoman Jones a happy birthday on behalf of the Council.

**MESSAGES FROM THE MAYOR**

201409A00.01

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:

September 29, 2014

Charles Nazzaro  
236 Springdale Ave.  
Jamestown, New York 14701

to be appointed a member of the Salary Review Commission in and for the City of Jamestown,  
New York.

Dated: September 29, 2014

Samuel Teresi  
Mayor of the City of Jamestown, New York

201409A00.02

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:

Richard A. Kimball Jr.  
258 McDaniel Ave.  
Jamestown, New York 14701

to be appointed a member of the Salary Review Commission in and for the City of Jamestown,  
New York.

Dated: September 29, 2014

Gregory P. Rabb  
City Council President

September 29, 2014

201409A00.03

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:

William Stevenson  
363 Broadhead Ave.  
Jamestown, New York 14701

to be appointed a member of the Riverfront Management Council in and for the City of Jamestown, New York.

The term for which said appointment is to be made will expire December 31, 2017.

Dated: September 29, 2014

Samuel Teresi  
Mayor of the City of Jamestown, New York

201409A00.04

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:

Jennifer Lumia  
424 East Virginia Circle  
Jamestown, New York 14701

to be appointed a member of the Riverfront Management Council in and for the City of Jamestown, New York.

The term for which said appointment is to be made will expire

September 29, 2014

December 31, 2017.

Dated: September 29, 2014

Samuel Teresi  
Mayor of the City of Jamestown, New York

Councilman Dolce moved to suspend the rules and vote on the appointments this evening.

Councilwoman Ecklund moved to vote on the appointments.

Carried 9 – 0.

**OPPORTUNITIES FOR PERSONS TO ADDRESS THE COUNCIL**

201409A00.05

Mr. Anderson: Hello, thank you for having me tonight. My name is Quinn Anderson. I reside at 334 East Fifth Street here in the City of Jamestown. I was going to speak extemporaneously, but I have a letter I'd like to read from because I think it has details that I don't want to omit. And I think it will turn out to be a little more succinct. This is regarding the red bin recycling law and the problem that I've run into that I'd like to bring to your attention, not as an adversary, but as a friend.

In America today I, as are many others, known as a small voice. Although we may fight to affect change and fight for principals to stop things that are not right often is to no avail. We may also uncover flaws in various laws or practices or corruption in high offices that accomplish little. This is because even though we may be right, higher-ups may choose to ignore us and hope that we would quietly walk away. I have recently tried to bring to the attention of the City of Jamestown, not as an adversary, but as a friend to bring to their attention a flaw in their fairly new red bin recycling program. Although I believe myself to be absolutely correct in doing so, the City garbage administration has been in denial and are not open to my suggestions. The new bins come with a UPC barcode sticker attached to scan able digits below. It is not a problem for the homeowner, but for tenants living in apartment buildings or multiple dwelling housing units it is a major potential problem which I myself have been the victim of. When inquiring at the Jamestown BPU as to why I have not yet received any discount on my sanitation charge each month promised by the Municipality of Jamestown to entice more customers to recycle, my account was pulled up via computer. The UPC barcode number that was somehow assigned to my apartment number and home address was written down for me by a BPU employee. I took it home and discovered that the UPC barcode and digits on my bin did not match. This is where the problem lies. When these bins are distributed by the City garbage department, they are delivered much the same way as phone books. Obviously, the employees cannot take the time to hand deliver each bin designated with UPC numbers for specific apartments within buildings to their door, so they are left in a stack on front porches or foyers with a quantity that matches the

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number of apartments in each building. This allows tenants within to randomly select a bin without knowing that a UPC barcode number was selected prior to delivery and assigned to a specific apartment. This means that many tenants in multiple apartment buildings could be using the wrong bins and not know it. Therefore, many others, such as myself, could be recycling and be receiving no monthly discount. This is known legally as false enticement whether unintentional or not and could also be perceived by some as a clever way of city government to generate, in some instances, a fraudulent influx of revenue as the city gets certain percentages from a municipal BPU. I suggested to an employee in administration for garbage collection that a solution to the problem might be to print the UPC barcode digits assigned to specific apartments within buildings on the monthly invoice and add a disclaimer which encourages customers to check each month and make certain that their assigned barcode in fact matches the one in their apartments on the recycling bin. If it does not, then the customer can promptly bring it to their attention and alleviate the problem before numerous customers file complaints with the State Attorney General's office and a class action lawsuit is possibly initiated against the City of Jamestown for false enticement. Promising to render discounts and not fulfilling their legal obligation to do so with all recycling customers. If this happens, the City could find itself owing thousands of dollars to its recycling customers retroactively who can prove that they did in fact recycle yet never received their discount. The other issues that I have is that the UPC barcode digits are fixed to each bin with a sticker and I believe it's theoretically possible if these could be peeled off of a neighbor's bin in an apartment building and be placed onto their own, thus allowing them to receive a discount in which they're not entitled to. Thank you.

Mr. Rabb:                    Thank you.

## **STANDING COMMITTEES**

### **FINANCE COMMITTEE**

201409A01

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 \$4,865,144.78 in accordance with the period ending September 26, 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 \$3,625,531.75, and payrolls in the total amount of \$1,239,613.03, 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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201409A02

BY COUNCILWOMAN ECKLUND:

RESOLVED, that the Mayor of the City of Jamestown be and he hereby is authorized to enter into an agreement with the County of Chautauqua, in an amount not to exceed Two Thousand, Five Hundred dollars (\$2,500), for the purpose of funding a portion of the 2014 Princess Club subject to the approval of the Corporation Counsel as to form.

Councilwoman Ecklund: This is an item that is through the Department of Youth Services that was in our budget. It's for a program through them, through the Youth Bureau.

Carried: 9 ayes, 0 nays

201409A03

BY COUNCILWOMAN ECKLUND:

WHEREAS, the Community Development Block Grant and HOME program were authorized under the Cranston-Gonzalez National Affordable Housing Act of 1990; and

WHEREAS, under the Community Development Block Grant and HOME programs, entitlement communities are allocated funds to implement housing, neighborhood improvement, and economic development activities, as appropriate; and

WHEREAS, the City of Jamestown has been designated an entitlement community and previously notified by the United States Department of Housing and Urban Development that funding in the amount of one million fifty four thousand, six hundred and nine dollars (\$1,054,609) has been allocated to the City during FY 2014 for eligible Community Development Block Grant purposes subject to the City submitting an acceptable, qualifying program of activities; and that funding in the amount of Two Hundred Eighty-One Thousand, Two Hundred and Seventy-Three dollars (\$281,273) has been allocated to the City during FY 2014 for eligible HOME purposes subject to the City submitting an acceptable qualifying program of activities and meeting the local match requirement; and

WHEREAS, the City of Jamestown Department of Development has identified a series of housing and community development needs and objectives to be advanced with the above referenced FY 2014 Community Development Block Grant and HOME program; and

WHEREAS, on June 2, 2014, the Jamestown City Council authorized and directed the Mayor to execute and submit to the United States Department of Housing and Urban

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Development the FY 2014 Consolidated Plan, which outlines proposed uses for the City's FY 2014 Community Development Block Grant and HOME allocation; and

WHEREAS, on August 7, 2014, the City of Jamestown received formal approval of its FY 2014 Consolidated Plan from the United States Department of Housing and Urban Development; now therefore be it

RESOLVED, that the Mayor be and is hereby authorized and directed to enter into an agreement with the United States Department of Housing and Urban Development for the above referenced Community Development Block Grant and HOME awards; and be it further

RESOLVED, that the Mayor be and is hereby authorized and directed to enter into an agreement with the Jamestown Urban Renewal Agency to administer all aspects of said grant awards contingent on the Jamestown Urban Renewal Agency indemnifying and holding the City of Jamestown harmless for any actions resulting from the administration of said grant awards; and be it further

RESOLVED, that the Jamestown Urban Renewal Agency is hereby authorized to retain and utilize in accordance with all applicable Federal regulations any and all administrative funds included in said grant awards for eligible planning and program delivery expenses.

#### **FY 2014 Community Development Block Grant and HOME Programs**

##### **Summary of FY 2014 CDBG Activities:**

##### **Proposed Low-Moderate Benefit Activities = 82.2% of Active Funds:**

<u>Activity</u>	<u>Amount</u>
A.D.A. Improvements—Public Facilities	\$90,000
Neighborhood Target Area Infrastructure Improvement Program	\$155,167
Neighborhood Target Area Demolition Program	\$160,000
Owner Occupied Emergency Repair Program	\$40,000
Downtown Handicapped Accessibility Improvement Program	\$90,000
City-wide Owner Occupied Rehabilitation	\$103,520
Target Area Code Enforcement Officer	\$55,000
<b>SUBTOTAL (Low-Moderate Benefit Activities)</b>	<b><u>\$693,687</u></b>

##### **Proposed Slums and Blight Activities = 17.8% of Active Funds**

<u>Activity</u>	<u>Amount</u>
Downtown Greenlining Façade Improvement program	\$145,000
Planning and Technical Assistance	\$5,000
SUBTOTAL (Slums & Blight Program)	<u>\$150,000</u>
Administration/Program Delivery	<u>\$210,922</u>
<b>TOTAL (CDBG Program)</b>	<b><u>\$1,054,609</u></b>

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**Summary of FY 2014 HOME Program Activities:**

<u>Activity</u>	<u>Amount</u>
Citywide-Owner Occupied Rehabilitation	\$210,955
CHDO Set-Aside (15%)	\$ 42,191
Administration/Program Delivery	<u>\$ 28,127</u>
<b>TOTAL (HOME) Program</b>	<b><u>\$281,273</u></b>

Carried: 9 ayes, 0 nays

201409A04

By COUNCILWOMAN ECKLUND:

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 \$7,595.00 for the purchase of nursery stock, with Russell's Tree and Shrub Farm, East Amherst, New York in the amount of \$3,372.00 for the purchase of nursery stock and Chestnut Ridge Nursery, Inc., Orchard Park, New York in the amount of \$6,550 for the purchase of nursery stock subject to the approval of the Corporation Counsel as to form.

Councilwoman Ecklund: These three nurseries were the ones that did win the bids. There are no local nurseries in Chautauqua County so that's why this is going out of the area and these are businesses that we have done yearly contracts with for the last few years that I can remember and it is a significant amount of trees purchased for that.

Carried: 9 ayes, 0 nays

201409A05

BY COUNCILMAN DOLCE:

RESOLVED, That Lieutenants Andrew Finson, Tim Glenn, Philip Hanlon and Firefighter Shawn Shilling be and they hereby are authorized to attend the Fire Investigation Seminar at the New York State Academy of Fire Science to be held in Montour Falls, New York on November 5-7, 2014, with expenses paid pursuant to Section 77-b of the General Municipal Law.

Carried: 9 ayes, 0 nays

201409A06

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BY COUNCILMAN DOLCE:

WHEREAS, on March 23, 2009 the Jamestown City Council approved a loan for two hundred seventy-five thousand dollars (\$275,000) at a rate of 6% interest for 10 years by the Jamestown Local Development Corporation through the Jobs and Private Investment Loan Program Tier I to Shults Real Estate, LLC Signature Nissan Subaru and on June 13, 2012 the Jamestown City Council approved a loan for two hundred thousand dollars (\$200,000) at a rate of 4.5% interest for 10 years by the Jamestown Local Development Corporation through the Jobs and Private Investment Loan Program Tier I to Ed Shults Chevrolet-Cadillac, Inc. with collateral being a blanket mortgage position behind GMAC on the real properties located at 254 Fluvanna Ave., 300 Fluvanna Ave., 305 Fluvanna Ave., 311 Fluvanna Ave., 316 Fluvanna Ave., and 1315 Washington Street, Jamestown, New York; with additional filings at 880 E. Main Street, Foster Township, PA, 3979 Vineyard Drive, Dunkirk, NY, 3004 W. State Street, Olean, NY, 104 Independence Ave., Olean, NY, 1658 North Market St., Warren, PA, and 824 East Main St, Bradford, PA., and personal guarantees from Edmond R. Shults Jr. and Tim Shults; and

WHEREAS, Shults Real Estate, LLC has requested that the City of Jamestown release its mortgage lien on the 824 E. Main St., Bradford, PA and the 880 E. Main St., Foster Township, PA properties as used for collateral on the above mentioned loan and adopted by City Council Resolution 201407A04; and

WHEREAS, Shults Real Estate Inc. seeks to refinance, modify, continue, or extend a certain loan with Ally Bank in the amount of \$5,675,000 with the condition precedent that a first priority secured mortgage interest in, or deed of trust or similar agreement covering: Land and Buildings of Ed Shults Chevrolet, Inc. and Signature Nissan, Inc. located at 311 Fluvanna Avenue, 300 & 320 Fluvanna Avenue respectively, SBL#s:(370.09-2-24; 370.09-2-25; 370.09-2-15; 370.09-2-16; 370.09-2-17; 370.09-2-18.1; 370.09-2-18.2; 370.09-2-19.1; 370.09-2-19.2; 370.10-1-1.1; 370.10-1-1.2); and have hereby requested a SUBORDINATION AGREEMENT for the above mentioned parcels in the City of Jamestown and would be subject to, secondary to and subordinate to the Ally Mortgages; and

WHEREAS, it has been determined that the remaining collateral and personal guarantees are sufficient to secure the remaining loan; now therefore be it

RESOLVED, that the Jamestown City Council hereby authorizes the Mayor to execute said subordination documents with Ally Bank and Ally Financial Inc. on behalf of the City of Jamestown along with personal guarantees from Edmund R. Shults and Tim Shults shall remain in effect as collateral for the remaining loan balance.

Councilman Dolce: This is just a refinancing of this loan through the JLDC which will help them in their pursuit to further enhance their business and expand.

Carried: 9 ayes, 0 nays

BY COUNCILMAN DOLCE:

REFUNDING BOND RESOLUTION, DATED SEPTEMBER 29, 2014, AUTHORIZING THE ISSUANCE OF REFUNDING SERIAL BONDS OF THE CITY OF JAMESTOWN, IN THE COUNTY OF CHAUTAUQUA, STATE OF NEW YORK, PURSUANT TO SECTION 90.10 OF THE LOCAL FINANCE LAW OF THE STATE OF NEW YORK, PROVIDING FOR OTHER MATTERS AND MAKING CERTAIN DETERMINATIONS IN RELATION THERETO AND PROVIDING FOR THE PAYMENT OF THE BONDS TO BE REFUNDED THEREBY.

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WHEREAS, the City of Jamestown, located in the County of Chautauqua, State of New York (the "City") previously issued \$5,000,000 principal amount of Public Improvement Serial Bonds, Series 2005A (the "Refunded Bonds") pursuant to a certificate of determination of the City Director of Financial Services/City Clerk (sometimes referred to herein as the "Chief Fiscal Officer"), which Refunded Bonds are dated August 1, 2005 and matured or mature in annual installments on August 1 in each of the years 2006 to 2025, inclusive, as follows:

- \$250,000 in the year 2006,
- \$250,000 in the year 2007,
- \$250,000 in the year 2008,
- \$250,000 in the year 2009,
- \$250,000 in the year 2010,
- \$250,000 in the year 2011,
- \$250,000 in the year 2012,
- \$250,000 in the year 2013,
- \$250,000 in the year 2014,
- \$250,000 in the year 2015;
- \$250,000 in the year 2016;
- \$250,000 in the year 2017,
- \$250,000 in the year 2018,
- \$250,000 in the year 2019,
- \$250,000 in the year 2020;
- \$250,000 in the year 2021;
- \$250,000 in the year 2022,
- \$250,000 in the year 2023,
- \$250,000 in the year 2024, and
- \$250,000 in the year 2025

WHEREAS, the Refunded Bonds were authorized pursuant to one or more bond resolutions duly adopted by the Council of the City for the objects or purposes described therein and delegated to the Chief Fiscal Officer the power to prescribe the terms, form and contents of and to sell and deliver such serial bonds of the City; and

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WHEREAS, \$2,750,000 aggregate principal amount of the Refunded Bonds currently remain outstanding and unredeemed as of the date hereof; and

WHEREAS, it is hereby determined to be in the public interest of the City to refund all or a portion of said outstanding Refunded Bonds, by the issuance of the refunding bonds authorized herein pursuant to Section 90.10 of the Local Finance Law; and

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF JAMESTOWN, IN THE COUNTY OF CHAUTAUQUA, STATE OF NEW YORK (BY THE AFFIRMATIVE VOTE OF NOT LESS THAN TWO-THIRDS OF THE VOTING STRENGTH OF THE COUNCIL OF THE CITY), AS FOLLOWS:

Section 1. For the purpose of refunding all or a portion of the \$2,750,000 outstanding principal amount of the Refunded Bonds, providing moneys which, together with the interest earned from the investment of certain of the proceeds of the refunding bonds herein authorized shall be sufficient to pay the refunded principal amount of the Refunded Bonds; (i) the aggregate amount of the unmatured interest payable on the Refunded Bonds to and including the date on which any series of the Refunded Bonds which are callable are to be redeemed prior to their respective maturities in accordance with the Refunding Financial Plan (as hereinafter defined) and attached hereto as Exhibit B and made a part of this Resolution; (ii) the costs and expenses incidental to the issuance of the Series 2014 Refunding Bonds (the "Refunding Bonds") as hereinafter authorized and as described in Exhibit A, including without limitation, the development of the Refunding Financial Plan, costs and expenses of executing and performing the terms and conditions of the Escrow Contract (as hereinafter defined), and any securities supply contract, the premium with respect to any bond insurance policy or policies acquired with respect to the Refunding Bonds (as defined below), discount or compensation of underwriters, fees of bond counsel and financial advisors, rating agency fees, printing and service agency fees and expenses, and fees and charges of the Escrow Holder (as hereafter described); and (iii) the redemption premium, if any, to be paid on any series of the Refunded Bonds which are to be called prior to their respective maturities; there are hereby authorized to be issued in one or more series not exceeding \$3,000,000 aggregate principal amount of refunding serial bonds of the City pursuant to the provisions of Section 90.10 of the Local Finance Law, it being anticipated that the amount of Refunding Bonds actually to be issued will be approximately \$2,715,000 as provided in Section 4 hereof. The proposed principal amounts and dates of maturity of such Refunding Bonds are set forth in the Refunding Financial Plan attached hereto.

Section 2. It is hereby determined pursuant to Section 90.10 that:

(a) the maximum amount of the Refunding Bonds authorized to be issued pursuant to this Resolution does not exceed the limitation imposed by subdivision 1 of paragraph (b) of Section 90.10 of the Local Finance Law with respect to each series of the Refunded Bonds;

(b) the aggregate amount of estimated present value savings computed in accordance with subparagraph (a) of subdivision 2 of paragraph b of Section 90.10 of the Local Finance Law is not expected to be less than three percent (3.0%) of debt service on the Refunded Bonds paid to stated maturity.

(c) The City Director of Financial Services/City Clerk is hereby authorized and directed to enter into an escrow contract (the "Escrow Contract") with a bank or trust company located and authorized to do business in this State as the City Director of Financial Services/City Clerk shall designate (the "Escrow Holder") for the purpose of having the Escrow Holder act, in connection with the Refunding Bonds, as the escrow holder to perform the services described in Section 90.10 of the Local Finance Law. In addition, the Escrow Contract may include a forward

supply or purchase contract or agreement as part thereof or as a separate agreement for the provision of acquiring obligations of the United States of America or unconditionally guaranteed by the United States of America or other obligations or instruments qualified under Section 90.10 of the Local Finance Law or may be necessary for the completion of the Refunding Financial Plan. The Escrow Contract shall contain such terms and conditions as shall be necessary or required, including terms and conditions required for the completion of the Refunding Financial Plan, including provisions for the Escrow Holder, without further authorization or direction from the City Council of the City, except as otherwise provided therein, including, without limitation, (i) to make all required payments of principal, interest and any redemption premiums to appropriate paying agents with respect to the Refunded Bonds, (ii) to pay costs and expenses incidental to the issuance of the Refunding Bonds, including the development of the Refunding Financial Plan, and of executing and performing the terms and conditions of the Escrow Contract by the Escrow Holder, (iii) at the appropriate time or times, to cause to be given on behalf of the City in the manner provided by law the notice of redemption authorized to be given pursuant to Section 8 hereof, and (iv) to invest the moneys held by the Escrow Holder pursuant to the terms of the Escrow Contract and consistent with the provisions of the Refunding Financial Plan. The Escrow Contract shall be irrevocable and shall constitute a covenant with the owners of the Refunding Bonds.

(d) The proceeds, inclusive of any premium, from the sale of the Refunding Bonds, immediately upon receipt, shall be placed in escrow by the City with the Escrow Holder pursuant to the terms of the Escrow Contract. All moneys held by the Escrow Holder shall be invested only in direct obligations of the United States of America, in obligations the principal of and interest on which are unconditionally guaranteed by the United States of America or in obligations or instruments qualified under Section 90.10 of the Local Finance Law, which obligations or instruments shall mature or be subject to redemption at the option of the Escrow Holder not later than the respective dates when such moneys will be required to make payments in accordance with the Escrow Contract and the Refunding Financial Plan. Any such moneys remaining in the custody of the Escrow Holder after the performance in full of the Escrow Contract by the Escrow Holder shall be returned to the City and shall be applied by the City Director of Financial Services/City Clerk to the payment of the principal of or interest on the Refunding Bonds then outstanding, to the payment of any amounts required to be paid to the United States of America in connection of with the refunding of the Refunding Bonds or to the payment of or reimbursement for the costs of issuance or other administrative costs incurred in connection with the issuance of the Refunding Bonds. In connection with the investment of moneys held by the Escrow Holder under the Escrow Contract, the City Director of Financial Services/City Clerk is authorized to execute on behalf of the City any forward purchase or supply contract for the purchase or supply of the securities described in this subsection (d) at a date subsequent to the delivery of the Refunding Bonds, as is needed to accomplish the purposes of the Refunding Financial Plan.

Section 3. It is hereby determined that the maximum period or periods of probable usefulness permitted by law at the time of the issuance of the Refunded Bonds for each of the objects or purposes for which the Refunded Bonds were issued is no less than as shown in the Certificate of Determination of the City Director of Financial Services/City Clerk, incorporated herein by reference, taking into account the earlier of the original date of issuance of any such series of serial bonds or bond anticipation notes funded by such series of Refunded Bonds; and

Section 4. The financial plan for the refunding authorized by this Resolution (the "Refunding Financial Plan"), showing the sources and amounts of all moneys required to accomplish such refunding, the estimated present value of the total debt service savings and the

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basis for the computation of the aforesaid estimated present value of total debt service savings, are set forth in Exhibit B attached hereto and made a part hereof. The Refunding Financial Plan has been prepared based upon the assumption that the Refunding Bonds will be issued in the aggregate principal amount of \$2,715,000 if fully issued and will mature, be of such terms, and bear such interest as set forth in the Refunding Financial Plan. The Council of the City recognizes that the principal amount of the Refunding Bonds, the series, maturities, terms, interest rate or rates borne by the Refunding Bonds, the provisions for redemption thereof prior to maturity and whether or not all of the Refunding Bonds will be insured, and the resulting present value savings are likely to vary from such assumptions and that the Refunding Financial Plan will likely vary from that attached hereto as Exhibit B. The City Director of Financial Services/City Clerk is hereby authorized and directed to determine the principal amount of the Refunding Bonds to be issued, the series and designation or designations thereof, the time or times of the sale thereof, the maturities and terms thereof, the provisions relating to the redemption of the Refunding Bonds prior to maturity, if any, the rate or rates of interest to be borne thereby, whether or not the Refunding Bonds will be insured in whole or in part or uninsured, and to prepare, or cause to be provided, a final Refunding Financial Plan, all in accordance herewith, and all powers in connection therewith may be exercised by the City Director of Financial Services/City Clerk; provided, that the terms of the Refunding Bonds to be issued, including the rate or rates of interest borne thereby, shall comply with the requirements of Section 90.10 of the Local Finance Law. The City Director of Financial Services/City Clerk shall file a copy of a certificate determining the details of the Refunding Bonds and the final Refunding Financial Plan with the City Director of Financial Services/City Clerk within ten (10) days after the delivery of the Refunding Bonds, as herein provided.

Section 5. The faith and credit of the City are hereby irrevocably pledged to the payment of the principal of and interest on the Refunding Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on the Refunding Bonds becoming due and payable in such year. To the extent that the same are not paid from other sources, there shall be annually levied on all the taxable real property in the City a tax sufficient to pay the principal of and interest on the Refunding Bonds as the same become due and payable.

Section 6. Proceeds from the sale of the Refunding Bonds, including any accrued interest and, together with interest earned thereon, which shall be required for the payment of the principal of and interest on the Refunded Bonds, including any redemption or call premiums, in accordance with the Refunding Financial Plan, shall be irrevocably committed and pledged to such purpose and the owners of the Refunded Bonds shall have a lien upon such moneys and the investments thereof held by the Escrow Holder. The pledge and lien provided by this Resolution shall become valid and binding upon the issuance of the Refunding Bonds and the moneys and investments held by the Escrow Holder shall immediately be subject thereto without any further act. Such pledge and lien shall be valid and binding against all parties having claims of any kind in tort, contract, equity, at law or otherwise against the City irrespective of whether such parties have notice thereof. Neither this Resolution, the Escrow Contract, nor any other instrument relating to such pledge and lien, need be filed or recorded.

Section 7. In accordance with the terms of the Refunded Bonds and the provisions of Section 53.00 and of paragraph (h) of Section 90.10 of the Local Finance Law, and subject only to the issuance of the Refunding Bonds, as herein authorized, the City hereby elects to call in and redeem all or a portion of the Refunded Bonds maturing on and after August 1, 2015 on or after October 2, 2014. The sum to be paid therefor on such redemption dates shall be the par value

thereof plus the redemption premium, if any, as provided in the issuance proceedings for the Refunded Bonds and the accrued interest to such redemption date. The Escrow Holder is hereby authorized and directed to cause notice of such call for redemption to be given in the name of the City in the manner and within the times provided in the issuance proceedings for the for the Refunded Bonds. Such notice of redemption shall be in substantially the form attached to the Escrow Contract. Upon the issuance of the Refunding Bonds, the election to call in and redeem the applicable portion of the Refunded Bonds and the direction to the Escrow Holder to cause notice thereof to be given as provided in this paragraph shall become irrevocable, provided that this paragraph may be amended from time to time as may be necessary in order to comply with the notice, requirements of paragraph (a) of Section 53.00 of the Local Finance Law, or any successor law thereto. It is hereby determined that with respect to the series of Refunded Bonds to be called in and redeemed as provided in this Section 7, it is to the financial advantage of the City not to charge, impose and collect or receive from registered owners of the Refunded Bonds mailing, shipping, insurance or other similar charges in connection with such redemption or calls. Accordingly, pursuant to paragraph (c) of Section 70.00 of the Local Finance Law, no such charges shall be so charged, collected or received by the Chief Fiscal Officer, as fiscal agent.

Section 8. The Refunding Bonds shall be sold at either a private sale or public sale, and the City Director of Financial Services/City Clerk of the City is hereby authorized to execute a purchase contract on behalf of the City for the sale of the Refunding Bonds, provided that the terms and conditions of such sale shall be approved by the State Director of Finance and further provided that, prior to the issuance of the Refunding Bonds the City Director of Financial Services/City Clerk shall have filed with the Council of the City a certificate approved by the State Director of Finance pursuant to subdivision 2 of paragraph (g) of Section 90.10 of the Local Finance Law setting forth the present value savings to the City resulting from the issuance of the Refunding Bonds. In connection with such sale, the Council of the City hereby authorizes the preparation of an Official Statement and approves its use in connection with such sale, and further consents to the distribution of a Preliminary Official Statement prior to the date said Official Statement is executed and available for distribution, all in accordance with applicable State and Federal securities laws, rules and regulations.

Section 9 The City Council of the City hereby appoints the law firm of Squire Patton Boggs (US) LLP of New York, New York, as bond counsel in connection with the issuance and sale of the Refunding Bonds. The City Council of the City hereby appoints the firm of New York Municipal Advisors Corp., as financial advisor in connection with the issuance and sale of the Bonds. The power to appoint the Escrow Holder, as that term is referred to herein, and a senior managing underwriter for the sale of the Refunding Bonds if sold at private sale, is hereby delegated to the City Director of Financial Services/City Clerk of the City, as chief fiscal officer of the City.

Section 10. Each of the Refunding Bonds authorized by this Resolution shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law and the Refunding Bonds shall be general obligations of the City, payable as to both principal and interest by a general tax upon all the taxable real property within the City, without limitation as to rate or amount.

Section 11. The City Director of Financial Services/City Clerk, pursuant to Sections 50.00, 90.00, 90.10 and 168.00 of the Local Finance Law, and all other officers, employees and agents of the City are hereby authorized and directed for and on behalf of the City to execute and deliver all certificates and other documents, perform all acts and do all things required or contemplated to be executed, performed or done by this Resolution or any document or agreement approved hereby,

including to correct or amend the documents and certificates authorized to complete the transactions contemplated by this Resolution.

Section 12. All other matters pertaining to the terms, issuance and sale of the Refunding Bonds consistent with the provisions of Section 90.10 of the Local Finance Law shall be determined by the City Director of Financial Services/City Clerk and the powers in connection therewith not otherwise heretofore delegated thereto are hereby delegated to the City Director of Financial Services/City Clerk.

Section 13. The City intends to issue the obligations authorized by this Resolution to finance the costs of the purposes described herein for the completion of the Refunding Financial Plan. The City covenants for the benefit of the holders of the Refunding Bonds that it will not make any use of (a) the proceeds of the Refunding Bonds, any funds reasonably expected to be used to pay the principal of or interest on the Refunding Bonds or any other funds of the City, and (b) the purposes financed with the proceeds of the Refunding Bonds, which would cause the interest on which to become subject to Federal income taxation under the Internal Revenue Code of 1986, as amended (the "Code") (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code, and that it will not take any action or omit to take any action with respect to the Refunding Bonds or the proceeds thereof, if such action or omission would cause the interest on the Refunding Bonds to become subject to Federal income taxation under the Code (except for the federal alternative minimum tax imposed on corporations by Section 55 of the Code), or subject the City to any penalties under Section 148 of the Code. The foregoing covenants shall remain in full force and effect notwithstanding the defeasance of the Refunding Bonds or any other provision hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of the Refunding Bonds may be applied to reimburse expenditures or commitments made for the purposes on or after a date which is not more than sixty (60) days prior to the adoption date of this Resolution by the City.

Section 14. For the benefit of the holders and beneficial owners from time to time of the Refunding Bonds, the City agrees, in accordance with and as an obligated person with respect to the Refunding Bonds under, Rule 15c2-12 promulgated by the Securities Exchange Commission pursuant to the Securities Exchange Act of 1934 (the "Rule"), to provide or cause to be provided such financial information and operating data, financial statements and notices, in such manner, as may be required for purposes of the Rule. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the City Director of Financial Services/City Clerk is authorized and directed to sign and deliver, in the name and on behalf of the City, the commitment authorized by subsection 6(c) of the Rule (the "Commitment") to be placed on file with the City Director of Financial Services/City Clerk, which shall constitute the continuing disclosure agreement made by the City for the benefit of holders and beneficial owners of the Refunding Bonds in accordance with the Rule, with any changes or amendments that are not inconsistent with this Ordinance and not substantially adverse to the City and that are approved by the City Director of Financial Services/City Clerk, on behalf of the City, all of which shall be conclusively evidenced by the signing of the Commitment or amendments thereto. The agreement formed, collectively by this paragraph and the Commitment, shall be the City's continuing disclosure agreement for purposes of the Rule, and its performance shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform thereunder. The City Director of

September 29, 2014

Financial Services/City Clerk is further authorized and directed to establish procedures in order to ensure compliance by the City with its continuing disclosure agreement, including the timely provision of information and notices. Prior to making any filing in accordance with the agreement or providing notice of the occurrence of any material event, the City Director of Financial Services/City Clerk shall consult with, as appropriate, the Corporation Counsel and bond counsel or other qualified independent special counsel to the City and shall be entitled to rely upon any legal advice provided by the Corporation Counsel or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 15. The validity of the Refunding Bonds may be contested only if such obligations are authorized for objects or purposes for which the City is not authorized to expend money, or the provisions of law which should be complied with at the date of the publication of this Resolution, are not substantially complied with, and an action, suit or proceeding contesting such validity, is commenced within twenty (20) days after the date of publication, or if said obligations are authorized in violation of the provisions of the Constitution of New York.

Section 16. When this Resolution takes effect, it shall be published in full by the City Director of Financial Services/City Clerk, together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law, and such publication shall be in *The Post-Journal* a newspaper having a general circulation in the City and which is hereby designated as the official newspaper of the City for such purpose.

Section 17. Pursuant to Section 90.10 of the Local Finance Law, this Resolution shall be effective immediately upon adoption by the City Council, notwithstanding any provision of the City Charter to the contrary as no new indebtedness will be incurred.

Carried: 9 ayes, 0 nays

201409A08

BY COUNCILMAN DOLCE:

RESOLVED, that the following claim be, and hereby is, approved:

Pamela J. Olson	\$2181.50
106 Arcade St.	
Jamestown, NY 14701	Claim #16 of 2014

Carried: 9 ayes, 0 nays



September 29, 2014

Mr. Rabb:                    Sir, if you could do that after the meeting, but I think Mr. Dolce is right, to come to the BPU Board. The Mayor, myself and Councilwoman Jones are there.

There being no further business, the meeting was adjourned.

James N. Olson  
Director of Financial Services/City Clerk