

May 24, 2010

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, May 24, 2010 at 7:30 p.m.

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

Others Present: Mayor Sam Teresi, Director of Financial Services/City Clerk James N. Olson, Corporation Counsel Marilyn Fiore-Lehman, Director of Public Works Jeff Lehman, Director of Development Steve Centi, General Manager Board of Public Utilities David Leathers, Captain Barry Swanson, Deputy Fire Chief Chet Harvey and Executive Assistant to the Mayor Matt Hanley

Council President Rabb called the meeting to order.

Councilwoman Rev. Maria Jones gave the invocation.

The minutes of the April 26, 2010 meeting were approved.

20100524B00.01

MESSAGES FROM THE MAYOR

Mayor Teresi: My office recently has received a few disturbing phone calls from members of the public. We've also had a concern forwarded to our office through Councilman Dolce from constituents of his regarding some alleged 2010 census activity that has been occurring in the community. I'd like to take this opportunity to relay to the members of the City Council and the public what is and isn't the case with the census process. Apparently the nature of the concerns is that there apparently have been telephone calls that have been placed by people that are representing themselves as census workers or contacts over the internet or individuals attempting to gain information door-to-door and I want to assure members of the public that the census process does not work through the telephone. Census workers do not place telephone calls to people at their homes. The U.S. Census and census workers do not attempt to gain census information through email communications over personal computers. Census workers do not ask probing questions and try to obtain information that would be considered highly personal or intrusive or proprietary such as Social Security numbers and census workers never attempt to gain entry to the private residence of citizens in this community or any community. What census workers do undertake on a daily basis is showing their identification when they're at someone's door and asking only the ten questions that were on the U.S. Census Form that was mailed hopefully to each and every household here in the City of

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Jamestown. If anything more than that is happening, I can assure you that it's not a representative of the U.S. Census Bureau or one of their employees that they've hired to work in the City of Jamestown, the Greater Jamestown Area, Chautauqua County or anywhere in New York or this country. If somebody has any doubts, close your door. Hang up the telephone. Don't respond to the email. Ask to see people's identification when they come to your door and if anybody asks for personal information such as a social security number, under no circumstance should that be given particularly if it's being asked for under the guise of the 2010 census process. So again, I just wanted to use this opportunity to help get that information out. Councilman Dolce contacted my office with a couple of incidents up in his ward and wanted to share it with the rest of you. If you've heard anything similar, please help us to get this information out and I'd also ask if anybody is encountered with a situation like this, to contact the Census Bureau; to contact the Police Department immediately; contact my office – it's a definite sign that something is wrong. Thank you.

President Rabb: Thank you. I would just like to take the opportunity this evening to welcome to our first voting session Deputy Chief Harvey and congratulate him on his appointment and look forward to working with you as I'm sure does the entire Council. The other thing I would like to take note of is also to congratulate Mayor Teresi on his selection as President of the New York Conference of Mayors last Monday and the opportunity to attend and see the work that goes on there, so congratulations Mayor.

OPPORTUNITY FOR PERSONS TO ADDRESS THE COUNCIL

2010052400.02

James Slagle, 110 W. 3rd Street: Again, I want to compliment the Police Department in the City of Jamestown. I think they're doing a fantastic job and I hope they keep it up. I hear it on my scanner at home and they're involved in a few things, but I'm real proud of them. Another thing – when are we going to get Second Street paved? That's what I'd like to know. That's one street I'll tell you shakes you to death. Michael – I want to ask you, remember we were talking about getting 4th Street into a two-way? How are we coming on that?

Councilman Taylor: I do believe that right now with the bridge out, with so much of the traffic around the City being rerouted, it's more or less, it would be revisited. The study that was performed last year, I'm assuming it would be looked at when things calm down a bit, the bridge is done, and the traffic patterns of the City do go back to normal.

Mr. Slagle: Capt. Barry Swanson – I want to ask you a question. Mayor was telling me a few minutes ago that they're going to have the basketball again downtown in front of our buildings. Would you kind of have your police officers contain our buildings pretty often because last year we had a couple of incidences where they were coming in, using our facilities, going down into the basement and using our bathrooms. Them bathrooms are not public bathrooms. They're for our use only. I want to talk to Jeff. I'm an ex-Deputy Sheriff. I am going to ask him if I can be Security Guard for them two days – what is it, two days, they're going to have it Mayor? Is it two days?

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Mayor Teresi:

The first weekend in June, I think.

Mr. Slagle: Well, I'm going to ask Jeff if I can be down around our building because we have older people who've got wheelchairs and it's hard for them to get out. They stand in front of our doors and we can't get in and out of them and Capt. Barry Swanson, if you can do that for us, we'd appreciate it. That'd keep down a lot of commotion and if I can be security guard in our building, I hope Jeff lets me, because we can keep a lot down and keep communicating with your men and I'm sure we can get something done. Again, when I was talking to the Mayor a little while ago, we need to get people to come back downtown Jamestown again. I drive down there Saturday and Sunday – it's like a ghost town and you almost can take a U-turn around the streets here if you don't get caught by the Police. I got one more thing to say. This parking for the handicapped – when I was in Tennessee the handicapped parking downtown in any of the cities was free to the handicapped persons. I think, Mayor, that downtown especially around our building or any handicapped parking meters, I think they should be free for the disabled and handicapped. Sometimes they can't park where the handicapped is because somebody else in there that might take more than two hours in there. We need some more accessible for the handicapped downtown because that's all we've got downtown and I thank you again.

Mayor Teresi: Thank you Mr. President. I know it's a little bit out of order here, but since Mr. Slagle is still here, I'd like to respond to his question regarding the condition of East Second Street. I think most of you know, because it appeared on the 2010 Street Improvement Program Report, but after considerable effort with the State Department of Transportation, they've agreed to resurface the entire length of East Second Street from the City Line at Tiffany Avenue down to 4th Street in downtown Jamestown. The City will be resurfacing the portion from Prendergast Avenue to 4th Street, so virtually the entire length of East Second Street is on the schedule for this year. Mr. Slagle, I'm sorry I'm not sure when the DOT will get around to doing it, but it's on their 2010 calendar, so your patience is much appreciated for a little while longer and in addition to that, the entire length of Washington Street in the City from West Second Street out to Fluvanna Avenue – we've also been able to prevail upon the DOT to put that on their calendar for 2010 as well. We don't know at what point during the construction season it will happen, but it's on the schedule and we're looking forward to that moving forward. Thank you.

2010052400.03

Peter Morgante, 134 Euclid Avenue: It boggles my mind that the federal government, the state government, the County government and the school boards and everybody else – their biggest concern is property taxes for the people and we hear nothing out of the City of Jamestown on the concerns about the property taxes that is killing the people. Something is wrong. I was just wondering if City Council and the administration knows what's going on. Now enough of that. Now we had a meeting here with that new development or whoever was with you Mr. Rabb that you chaired (Charles Buki) and I want to congratulate you. You allowed me two questions and you allowed me the last question of the day and I saved it for the last thing and I could not hear the answer – I didn't think anybody gave it and nobody responded to it.

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And I asked him, after he gave his presentation that the majority of the people of Jamestown have lost 20% of their property values because of the neighborhood blight and all that kind of crap and we should help our neighbor and fix up their houses so that we could increase or preserve our property tax rate. And I asked him “you’ve been all over our City – do you think that we are over-taxed on our property taxes and should we get a reduction?” If everybody’s losing 20% of their property values because of the neighborhoods, and it’s all over the City the same way, shouldn’t we have a new property evaluation because that’s what they were talking about? Now did you hear...I don’t know...I didn’t get the report...I haven’t read it...they never talked about it. Any chance that you know anything about it Mr. Rabb? Because you’ve read the program, I think.

Council President Rabb: In answer to that question, or...a specific answer to that question about property taxes?

Mr. Morgante: Yes – should we get a reduction? If all the property in Jamestown has lost its value by at least 20%, then the people should get a new rate.

Council President Rabb: I don’t think the report says that all the property values in Jamestown have gone down by 20% so that would be my first response.

Mr. Morgante: Okay. If that’s what you think.

Council President Rabb: Well, I think that’s what the report does not say that.

Mr. Morgante: I just wondered if anybody else had any opinions on that. The way he was talking though that the whole City’s that way and it is.

Council President Rabb: I don’t think that’s what he or the report was saying though.

Mr. Morgante: Well, thank you.

Council President Rabb: Thank you.

STANDING COMMITTEES

FINANCE COMMITTEE

20100524B01

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 \$5,332,077.10 in accordance with the period ending May 21, 2010,

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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 \$3,604,557.64, investments in the total amount of \$700,000.00 and payrolls in the total amount of \$1,027,519.46, 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

20100524A02

BY COUNCILMAN DOLCE:

BOND RESOLUTION, DATED MAY 24, 2010, AUTHORIZING THE ISSUANCE OF UP TO \$3,000,000 AGGREGATE PRINCIPAL AMOUNT SERIAL BONDS OF THE CITY OF JAMESTOWN, COUNTY OF CHAUTAUQUA, STATE OF NEW YORK, PURSUANT TO THE LOCAL FINANCE LAW, TO FINANCE THE COSTS OF A GAS FIRED HOT WATER GENERATOR, CONSTITUTING THE ACQUISITION, CONSTRUCTION AND RECONSTRUCTION OF IMPROVEMENTS TO ELECTRIC LIGHT, POWER AND NATURAL GAS PRODUCING FACILITIES OF THE CITY OF JAMESTOWN, ACTING BY AND THROUGH ITS BOARD OF PUBLIC UTILITIES.

WHEREAS, the City Council of the City of Jamestown (the "City"), located in the County of Chautauqua, State of New York, has taken appropriate action to determine to finance through borrowing the costs of a gas fired hot water generator, constituting the acquisition, construction and reconstruction of improvements to electric light, power and natural gas producing facilities of the City, acting by or through the City's Board of Public Utilities (the "BPU") for which the City is authorized to by statute to expend public funds; and

WHEREAS, the City Council of the City hereby determines that it is in the public interest of the City to finance such costs of the acquisition, construction and reconstruction of improvements to electric light, power and natural gas producing facilities of the City, acting by or through the BPU, at a total estimated cost not to exceed \$3,000,000, in accordance with the Local Finance Law; and

WHEREAS, the City Council has not taken any action or adopted any local law which would require the effectiveness of this bond resolution be subjected to a permissive or mandatory referendum,

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Jamestown, County of Chautauqua, State of New York, as follows:

Section 1. There is hereby authorized to be issued serial bonds or bond anticipation notes issued in anticipation of the issuance of such serial bonds, of the City, in the aggregate principal amount of up to \$3,000,000 pursuant to the Local Finance Law, in order to finance the costs of a gas fired hot water generator, constituting the acquisition, construction and reconstruction of improvements to electric light, power and natural gas producing facilities of the City, acting by

and through the BPU, including any machinery, apparatus or equipment, land or rights-in-land necessary therefor and any preliminary and incidental costs related thereto (the "Project").

Section 2. The City Council has ascertained and hereby states that (a) the estimated maximum costs of the Project are not to exceed \$3,000,000; (b) no money has heretofore been authorized to be applied to the payment of the costs of the Project; (c) the City Council plans to finance the costs of the Project from the proceeds of the serial bonds or bond anticipation notes issued in anticipation of such serial bonds authorized herein; (d) the maturity of such serial bonds authorized herein may be in excess of five (5) years; and (e) on or before the expenditure of moneys to pay for any item with respect to the Project for which proceeds of the obligations authorized herein are to be applied to reimburse the City, the City Council of the City took "official action" for federal income tax purposes to authorize the capital financing of such item.

Section 3. It is hereby determined that the Project is a specific object or purpose, or of a class of object or purpose, described in subdivision 5 of paragraph a of Section 11.00 of the Local Finance Law and that the period of probable usefulness of the Project is thirty (30) years. The serial bonds authorized herein shall have a maximum maturity of thirty (30) years computed from the earlier of (a) the date of the first issue of such serial bonds, or (b) the date of first issue of bond anticipation notes issued in anticipation of the issuance of such serial bonds.

Section 4. Subject to the terms and conditions of this bond resolution and the Local Finance Law, including the provisions of Sections 21.00, 30.00, 50.00 and 56.00 to 60.00, inclusive, the power to authorize serial bonds and bond anticipation notes issued in anticipation of the issuance of such serial bonds authorized herein, including renewals thereof, and the power to prescribe the terms, form and contents of such serial bonds and such bond anticipation notes and the power to issue, sell and deliver such serial bonds and such bond anticipation notes are hereby delegated to the City's Director of Financial Services/City Clerk, as chief fiscal officer of the City (the "Director of Financial Services/City Clerk"). The Director of Financial Services/City Clerk is hereby authorized to execute, on behalf of the City, all serial bonds issued pursuant to this bond resolution and all bond anticipation notes, including renewals thereof, issued in anticipation of the issuance of such serial bonds, and the Director of Financial Services/City Clerk of the City is hereby authorized to affix the seal of the City (or a facsimile thereto) to or on all such serial bonds and all such bond anticipation notes and to attest such seal. Each interest coupon, if any, representing interest payable on such serial bonds shall be authenticated by the manual or facsimile signature of the Director of Financial Services/City Clerk.

Section 5. When this bond resolution takes effect, the Director of Financial Services/City Clerk of the City shall cause the same, or a summary thereof, to be published together with a notice in substantially the form prescribed by Section 81.00 of the Local Finance Law in The Post-Journal, a newspaper having a general circulation in the City. The validity of the serial bonds authorized herein and of bond anticipation notes issued in anticipation of the issuance of such serial bonds may be contested only if such obligations are authorized for an object or purpose, or class of object or purpose, for which the City is not authorized to expend money, or the provisions of law, which should have been complied with as of the date of the publication of this bond resolution, or a summary thereof, are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or if such obligations are authorized in violation of the provisions of the Constitution of the State of New York.

Section 6. The faith and credit of the City are hereby and shall be irrevocably pledged for the punctual payment of the principal of and interest on all obligations authorized and issued pursuant to this bond resolution as the same shall become due.

Section 7. The City hereby declares its intention to issue the obligations authorized herein to finance the costs of the Project. The City covenants for the benefit of the holders of such obligations that it will not make any use of the proceeds of such obligations, any funds reasonably expected to be used to pay the principal of or interest on such obligations, or any other funds of the City, and will not make any use of the Project which would cause the interest on such obligations 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 such obligations, the proceeds thereof or any objects or purpose financed thereby, if such action or omission would cause the interest on such obligations 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 serial bonds authorized herein or any other provisions hereof until the date which is sixty (60) days after the final maturity date or earlier prior redemption date thereof. The proceeds of any obligations authorized herein may be applied to reimburse expenditures or commitments of the City made with respect to the Project on or after a date which is not more than sixty (60) days prior to the date of adoption of this bond resolution by the City. The City may expend general funds or other available moneys for the Project which shall be reimbursed from the proceeds of such obligations.

Section 8. Prior to the issuance of obligations authorized by this bond resolution, the City Council of the City shall comply with all relevant provisions prescribed in Article 8 of the Environmental Conservation Law, all regulations promulgated thereunder by the New York State Department of Environmental Conservation, and all applicable Federal laws and regulations in connection with environmental quality review relating to the Project (collectively, the "environmental compliance proceedings"). In the event that any of the environmental compliance proceedings are not completed, or require amendment or modification subsequent to the date of adoption of this bond resolution, the City Council of the City covenants that it will re-adopt, amend or modify this bond resolution prior to the issuance of the obligations authorized herein upon the advice of bond counsel. It is hereby determined by the City Council of the City that the Project will not have significant impact or effect on the environment.

Section 9. For the benefit of the holders and beneficial owners from time to time of the serial bonds authorized herein or bond anticipation notes issued in anticipation of such serial bonds, the City agrees, in accordance with, and as an obligated person with respect to the obligations 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 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 Director of Financial Services/City Clerk, which shall constitute the continuing disclosure

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agreement made by the City for the benefit of holders and beneficial owners of such obligations authorized herein in accordance with the Rule, with any changes or amendments that are not inconsistent with this bond resolution and not substantially adverse to the City and that are approved by the 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 the costs the City would be required to incur to perform thereunder. The Director of 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 Director of Financial Services/City Clerk shall consult with, as appropriate, the Corporation Counsel of the City 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 of the City or such bond counsel or other qualified independent special counsel in determining whether a filing should be made.

Section 10. In the absence of the Director of Financial Services/City Clerk, the Comptroller of the City is hereby authorized to exercise the powers referred to in Sections 4 and 9 herein.

Section 11. This bond resolution shall take effect immediately upon its adoption by the City Council of the City.

Carried: 9 ayes, 0 nays

20100524A03

BY COUNCILMAN DeJOY:

RESOLVED, That the Mayor of the City of Jamestown be, and he hereby is, authorized to enter into an agreement with Highmark Insurance Company, for a specific excess stop-loss insurance policy for the period June 1, 2010 through May 31, 2011 in the amount of one hundred fifty thousand dollars (\$150,000) for specific deductible, maximum two million dollars (\$2,000,000), at a cost of \$42.19 per covered individual, subject to the approval of the Corporation Counsel as to form.

Carried: 9 ayes, 0 nays

20100524A04

BY COUNCILMAN DeJOY:

WHEREAS, the Jamestown Gateway Station Intermodal and Riverwalk Connector Trail (the "Project"), is eligible for funding through Federal Transit Administration grant numbers NY-04-0039-02, NY-55-0005-01 and NY-85-X002-01 under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% Federal funds and 20% non-federal fund; and

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WHEREAS, the City of Jamestown desires to advance the above project by making a commitment of 100% of the federal and non-federal share of the costs of the Construction of Jamestown Gateway Station Intermodal and Riverwalk Connector Trail, and

WHEREAS, any State matching funds to this Federally-funded project may be used to fund up to 50% of the non-Federal share of federally-funding projects, but not to exceed 10% of the project costs, and

WHEREAS, the City of Jamestown entered into Contract Number K006913 with the New York State Department of Transportation on January 9, 2009 for 50% of the non-Federal share of the federally funded "project" to complete the final design; said contract now being amended for the project construction, and

WHEREAS, any Transit State Dedicated Fund aid may not be used to fund the non-Federal share of federally-funding projects, now therefore be it

RESOLVED, that the City of Jamestown hereby approves the above-subject project; and it is hereby further

RESOLVED, that the City Council hereby authorizes the Comptroller of the City of Jamestown to pay in the first instance 100% of the federal and non-federal share cost of Construction work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$4,855,026 is hereby appropriated and made available to cover the cost of participation in the above phase of the Project; and it is

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the City of Jamestown shall convene as soon as possible to appropriate said excess amount immediately upon the notification by the New York State Commissioner of Transportation, and is further

RESOLVED, that the Mayor of the City of Jamestown be and is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid on behalf of the City of Jamestown with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the Grantee's first instance funding of Projects costs and permanent funding of the local share of federally-aid-eligible Project costs and all Project costs within appropriations therefore that are not so eligible, and is it further

RESOLVED, that a certified copy of this resolution be filed with the New York State Department of Transportation by attaching any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

Carried: 9 ayes, 0 nays

PUBLIC WORKS

20100524A05

BY COUNCILMAN SPITALE:

RESOLVED, that the Mayor be, and he hereby is, authorized to execute Change Order #1 to the RUSSELL E. DIETHRICK, JR. PARK ROOF REPLACEMENT contract with

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Jamestown Roofing, Inc., 117 Clifton Avenue, Jamestown, NY 14701 (authorized by Resolution 201003B14), to include changes as follows:

DEDUCT the sum of \$5,200.00 for costs associated with removal and disposal of existing roof system

for a total decrease to the contract of Five Thousand Two Hundred Dollars (\$5,200.00).

Carried: 9 ayes, 0 nays

NEW BUSINESS/ANNOUNCEMENTS

Councilman Dolce: I just want to thank the Mayor for addressing the concern that was brought to me by a constituent about the census and it's nice to get the information out to the public. I know that the workers are out there and we certainly want to get our fair share of everything. We want to have an accurate count. We want to make sure that we can get what we deserve here in Jamestown so I'd encourage all the residents to cooperate, but make sure that it's on the up and up and if they have any questions to call one of us or the Mayor's Office to answer those concerns or questions. Thank you.

There being no further business, the meeting was adjourned.

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