

**REGULAR MEETING OF THE COMMON COUNCIL  
OF THE CITY OF PLATTSBURGH, NEW YORK**

March 14, 2019

**5:30 P.M.**

**AGENDA**

**Pledge of Allegiance**

(RC)

**Present:** Mayor Colin Read, Councilors Rachelle Armstrong (W1), Mike Kelly (W2), Elizabeth Gibbs (W3), Peter Ensel (W4), Patrick McFarlin (W5), Jeff Moore (W6)

**Absent:**

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**MAYOR'S COMMENTS:**

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**1. MINUTES OF THE PREVIOUS MEETING:**

**RESOLVED:** That the Minutes of the Regular Meeting of the Common Council held on February 28, 2019 are approved and placed on file among the public records of the City Clerk's Office.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_  
(All in Favor/opposed)

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

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**2. PAYROLLS OF VARIOUS DEPARTMENTS:**

**RESOLVED:** That the payrolls of the various Departments of the City of Plattsburgh for the week ending March 13, 2019 in the amount of \$\_\_\_\_\_ are authorized and allowed and the Mayor and the City Clerk are hereby empowered and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_  
(All in Favor/opposed)

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

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**3. REPORTS OF CITY OFFICES & COMMITTEE REPORTS:**

- Report of Fire and Ambulance Responses for the week of March 5-11, 2019
- Minutes from the Governance, Strategy & City Operations Committee held on March 7, 2019

**• COUNCILOR/DEPARTMENT CHAIR COMMITTEE REPORTS:**

**Governance, Strategy, and City Operations-** Chair Councilor Armstrong

**City Infrastructure** – Chair Councilor Moore

**Finance and Budget** – Chair Councilor Kelly

**Public Safety** – Chair Councilor Gibbs

**Plattsburgh Public Library** – Chair Councilor Ensel

**MLD - MLD Board President** Councilor McFarlin

**RESOLVED:** That the reports as listed are hereby ordered received and any written reports are placed on file among the public records of the City Clerk’s Office.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

(All in Favor/opposed)

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

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**4. CORRESPONDENCE OR RECOMMENDATIONS FROM BOARDS: None**

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**5. AUDIT OF CLAIMS:**

**RESOLVED:** That the bills Audited by the Common Council for the week ending March 8, 2019 in the amount of \$ **1,050,211.41** are authorized and allowed and the Mayor and City Clerk are hereby authorized and directed to sign warrants drawn on the City Chamberlain for the payment thereof.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

(All in Favor/opposed)

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

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**6. PERSONS ADDRESSING COUNCIL ON AGENDA ITEMS ONLY:**

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**7. OTHER ITEMS:**

**A. RESOLVED:** In accordance with the request therefore the Common Council approves that the Common Council agrees to accept the \$758,000 Incentive Proposal from Empire State Development for upgrading the WRRF dewatering system and chemical building relocation and that the Mayor is authorized to execute all necessary documents to accept the award and request reimbursement.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**B. ADOPTION OF LOCAL LAW P-2A OF 2019:** A local law renaming, amending and restating in its entirety Chapter 241, Section 5 of the City Code of the City of Plattsburgh.

Whereas, the Plattsburgh Common Council finds that the health of employees and the public is seriously threatened by exposure to environmental tobacco smoke, also known as secondhand smoke and other types of tobacco products; and

Whereas, this finding is supported by the United States Environmental Protection Agency and reliable studies of the impacts and effects of environmental tobacco smoke, as well as the US Surgeon General's Report on the Health Consequences of Smokeless Tobacco Use; and

Whereas the US Surgeon General has concluded that there is no risk-free level of exposure to secondhand smoke; and the 2006 US Surgeon General's Report on Involuntary Exposure to Secondhand Smoke concludes that even brief exposures to secondhand smoke may increase the severity of asthma attacks and lower respiratory tract infections, especially in children, and have adverse effects on the heart; and secondhand smoke is responsible for approximately 47, 400 deaths among nonsmokers each year in the United States; and

Whereas, the US Surgeon General also cautions against the use of e-cigarettes because this use poses health risks to both users and those around them, finding that, "even breathing e-cigarette aerosol that someone else has exhaled poses potential health risks . . ." because the smoke or vapor " . . . can contain harmful and potentially harmful chemicals, including nicotine, ultra-fine particles that can be inhaled deep into the lungs; flavoring such as diacetyl, a chemical linked to a serious lung disease; volatile organic compounds such as benzene, which is found in car exhaust; and heavy metals, such as nickel, tin, and lead;" and

Whereas the Plattsburgh Common Council recognizes the value and benefits resulting from eliminating the exposure of City employees and the general public to unwelcome secondhand smoke from tobacco products on City property; and

Whereas the Plattsburgh Common Council finds that the need to breathe air free of the disease causing toxins present in secondhand smoke should have priority over the desire and convenience of smoking on real property owned or leased by the City of Plattsburgh;

Be it enacted by the Common Council of the City of Plattsburgh as follows:

§ 241-5 REGULATING THE USE OF TOBACCO PRODUCTS UPON PUBLIC PROPERTY

**1. Definitions.** The term "Public Property" means public buildings and adjacent grounds, streets, sidewalks, parks, and other publicly owned property, including vehicles owned by the City of

Plattsburgh. The term "Tobacco Product" means cigarette, cigar, pipe tobacco, snuff, chewing tobacco, electronic nicotine delivery system (e-cigarettes, vaping, hookahs) in which tobacco or electronically delivered nicotine is the main ingredient that are intended for human consumption or use.

2. It shall be a violation for any person, including any person under the age of eighteen years, to use a tobacco product or electronic nicotine delivery system (e-cigarettes, vaping, hookahs) on public property.

3. Each instance of Smoking or Tobacco Product use in violation of this Law shall constitute a separate violation. An offense may be prosecuted by the issuance of an appearance ticket under §150.20 of the Criminal Procedure Law.

4. A violation of any provision of this Local Law shall constitute a violation, and upon conviction thereof, subject the violator to a fine not to exceed One Hundred Dollars (\$100).

5. Any peace officer or code enforcement official may enforce this Law. For the purpose of this Local Law, the term "enforcement officer" shall mean a police officer or code enforcement official. This Local Law shall take effect upon approval by the Mayor and filing with the New York State Secretary of State.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**C. ADOPTION OF LOCAL LAW P-3 OF 2019:** Amending, Re-Naming and Re-Statting Chapter 206 "Noise" of the City Code of the City of Plattsburgh.

A local law amending, re-naming and re-statting in its entirety Chapter 206 "Noise" of the City Code of the City of Plattsburgh.

This Local Law shall take effect immediately upon approval by the Mayor and filing with the New York Secretary of State. The entire text of which has been distributed to and read by the members of the Common Council, is hereby enacted without the reading thereof and a copy of said local law is made part of the minutes of this meeting.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**D. RESOLVED:** In accordance with the request therefore the Common Council approves Contract # 2019-02 "Liquid Alum for the Water Resource Recovery Facility" be awarded to Chemtrade Chemicals

U.S. LLC for the amount of \$458/dry ton or \$22,213 total average annual usage of 48.5 drytons.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**E. RESOLVED:** In accordance with the request therefore the Common Council approves Contract #2017-16 “Sodium Thiosulfate for Water Resource Recovery Facility” be awarded to Thatcher Company of NY for an estimated sum of \$71,392.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**F. RESOLVED:** In accordance with the request therefore the Common Council approves the Mayor to sign an access agreement with Prime Companies to allow for soil boring operations, assessments, and related work activities to be performed upon the City properties known as the Durkee Street parking lot and the old Highway Oil Site. The Common Council also approves the temporary closure of roughly 25 parking spaces on the Durkee Street parking lot from Monday, March 18, 2019 through Friday, March 22<sup>nd</sup>, 2019 to allow Prime to proceed with soil boring operations, assessments, and related work.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**G. MAYOR SHALL CREATE FULL TIME COMMUNITY ENGAGEMENT COORDINATOR IN THE OFFICE OF THE MAYOR UPON RATIFICATION BY THE COUNCIL**

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**H. RESOLUTION BY THE CITY OF PLATTSBURGH COMMON COUNCIL OUTLINING ACCEPTABLE TERMS FOR THE RECONSTRUCTION AND CONVEYANCE OF TITLE FOR THE SARANAC RIVER (aka WEBB ISLAND) PEDESTRIAN FOOTBRIDGE BY THE PLATTSBURGH CITY SCHOOL DISTRICT**

WHEREAS, the Plattsburgh City School District (“District”) is the title owner of a pedestrian footbridge (“Footbridge”) over the Saranac River running generally from Waterhouse Street on the east to George Angell Drive on the west, sometimes referred to as the “Webb Island Pedestrian Bridge”; and

WHEREAS, certain matters relating to the funding, development, construction, and maintenance of the Footbridge were the subject of an Agreement for Public Improvements between the City of Plattsburgh (“City”) and the District, made on and dated as of August 20, 1981; and

WHEREAS, in November of 2017, the City provided written notice to the District that the aforementioned 1981 Agreement is cancelled, null and void for the reasons set forth in that written notice; and

WHEREAS, the Footbridge has been and could remain a valuable public resource benefitting the residents of the City and students and staff who attend the District; and

WHEREAS, engineering reports completed in the fall of 2017 indicate that the Footbridge is in need of significant repairs in order to render it safe for pedestrian use and to extend its useful life; and

WHEREAS, based on the engineering reports, the District closed the Footbridge in approximately December of 2017 and the Footbridge has not been used or maintained since its closure by the District; and

WHEREAS, it is the wish and intent of the City and District to work cooperatively in order to preserve the continued availability of the Footbridge as a public and student resource; and

WHEREAS, the District must make a decision to demolish or repair the Footbridge; and

WHEREAS, the District must begin the necessary administrative actions so that work to repair or demolish can be accomplished as early as possible in the spring of 2019; and

WHEREAS, State Senator Little has secured up to \$400,000 in Dormitory Authority of the State of New York (DASNY) funding to support the District’s repair and/or reconstruction of the Footbridge, for which the parties are most grateful; and

WHEREAS, both parties recognize the urgency of applying the secured DASNY funding and to avoid any unnecessary delays in accessing these funds, and

WHEREAS, State Assemblyman Jones has secured \$50,000 in member-item appropriations to support the repair and/or maintenance of the Footbridge, for which the parties are most grateful, and

WHEREAS, the City and the District are willing to schedule a special meeting for the purpose of formalizing an agreement in accordance with terms outlined herein.

**NOW, THEREFORE, WE, THE COMMON COUNCIL, CITY OF PLATTSBURGH, HEREBY MAKE THE FOLLOWING GOOD FAITH OFFER TO THE PLATTSBURGH CITY SCHOOL DISTRICT BOARD OF EDUCATION:**

**I. DISTRICT REACQUISITION OF EASEMENT**

The District received an Easement dated as of April 29, 1983 from the State of New York for the construction and maintenance of a portion of the Footbridge across the Saranac River at the southerly end of Webb Island. The express terms of the Easement stated that it was granted for a term of 25 years and that in the event of non-use or a lack of maintenance for over a one year period, the Easement shall be automatically extinguished. Since more than 25 years have passed, and in light of the non-use and lack of maintenance since December of 2017, the Easement has been extinguished. As a condition precedent to Section III “Transfer of Ownership” the District shall, at no cost to the City of Plattsburgh, reacquire an Easement of similar description from the State of New York with the intention of assigning that reacquired Easement to the City.

**II. FOOTBRIDGE REPAIRS BY DISTRICT**

The Plattsburgh City School District shall, at **no cost to the City of Plattsburgh**, retain appropriate contractor(s) to perform and complete such repairs to the Footbridge as may be necessary to remediate the conditions identified in the inspections and reports prepared by MJ Engineering and Land Surveying, P.C., and BCA Architects and Engineers in September, 2017 and November, 2017, respectively. In the event that the Footbridge has further deteriorated since the fall of 2017, the District shall perform and complete such other necessary repairs. Upon the completion of such necessary repairs, the District shall provide a written certification to the City from its contractors and engineers. The City reserves the right to obtain additional engineering reports upon receipt of the written certification from the District in order to evaluate the useful life expectancy for the Footbridge. In the event the engineering reports fail to certify a probable useful life expectancy of at least \_\_\_ years, or other material defects are described therein, the City reserves the right to refuse to accept the “Transfer of Ownership” of the Footbridge as described in Section III.

The District’s willingness to perform and complete the repairs specified in this section is subject to the District receiving funding through Dormitory Authority of the State of New York (“DASNY”) in an amount of up to \$400,000 to be applied toward the cost of repairs. If either (a) DASNY funding is not available to be applied toward the cost of repairs, or (b) the cost of repairs exceeds the amount of any available DASNY funding, this Offer shall be null and void and the District and City shall have no further obligations hereunder.

**II. TRANSFER OF OWNERSHIP**

A. Within ninety (90) days of the District providing written certification of the necessary repairs specified in Section II above, and in the event the City does not exercise its right to refuse transfer of ownership based on an identified material defect or deficient useful life, the District shall convey to the City, and the City shall accept, all of the District’s right, title, and interest in the Footbridge and underlying real property. **The City shall not make any payment** to the District as consideration for this conveyance.

B. Such conveyance from the Plattsburgh City School District to the City of Plattsburgh shall include the transfer and/or assignment from the District to the City of the following interests: (a) the District’s interest in a lot located on Waterhouse Street, being the same property conveyed to the District via Deed executed by Dorothy (Delisle) Farber dated December 15, 1982; (b) the District’s interest in a Permit for Access

dated March 25, 1983 and executed by John W. Delisle, Jr.; and (c) the District's interest in an Easement dated as of April 29, 1983 and granted by the State of New York, or any re-acquired easement as described in Section I, above. The District shall provide an abstract of title for these parcels and easements demonstrating no encumbrances, liens or other clouds on title and that any such easements remain valid. The District shall prepare the conveyance documents (i.e. deeds, TP-584; RP-5217).

C. Such conveyance from the District to the City shall also include an assignment to the City of the District's rights and obligations under a certain Bridge Crossing License Agreement entered into between the District and New York State Electric & Gas Corporation dated as of August 22, 1996, inclusive of any possible amendments.

D. The District and City shall mutually cooperate in the preparation and execution of all documents as may be necessary to effectuate the foregoing conveyances. The District shall be responsible for payment of any abstract/title costs and transfer taxes for the parcels described in Section III.B. The City shall be responsible for payment of any recording fees.

E. Upon completion of the conveyance of all of the District's right, title, and interest in the Footbridge, the **District shall pay to the City of Plattsburgh the sum of \$62,500**, in consideration of the City's assumption of responsibility to maintain the Footbridge and/or demolish the Footbridge in the future. Notwithstanding the foregoing, such funds may be used and applied by the City for any purpose within the City's sole discretion. This \$62,500 payment from the District to the City, which primarily is to be secured via a member item grant through Assemblyman Billy Jones, shall be made within sixty (60) days of the City's recording of the conveyance documents.

F. The City acknowledges that the District's performance of the repairs specified in Section II will be undertaken in express reliance on the City's agreement to accept title to the Footbridge upon completion of the repairs and satisfactory engineer's certification. As noted above, in the event the engineering reports fail to certify a probable useful life expectancy of at least \_\_\_ years, or other material defects are described therein, the City reserves the right to refuse to accept the "Transfer of Ownership" of the Footbridge.

G. Following the conveyance of the Footbridge to the City as provided herein, and upon receipt of the \$62,500 payment, the City will be the fee owner of the Footbridge and will have no further obligation to the District. Following the conveyance, any and all decisions regarding the use, operation, maintenance or demolition of the Footbridge will remain within the sole discretion of the City.

H. Following the conveyance of the Footbridge, notwithstanding the absence of any continued obligation amongst the parties, the District and the City recognize that they are both members of the same community and will use their best efforts to maintain open lines of communication and act with goodwill with respect to the Footbridge.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**8. TRAVEL REQUEST:**

**A. RESOLVED:** In accordance with the request therefore the Common Council approves Environmental Manager Jon Ruff to attend “2019 American Water Works Association Conference” from April 16-18, 2019 in Saratoga, NY. The estimated cost is \$950.

By Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Discussion:

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**ACTION TAKEN:** Adopted \_\_\_\_\_ Defeated \_\_\_\_\_ Withdrawn \_\_\_\_\_ Tabled \_\_\_\_\_

Follow up Action:

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**9. RESOLUTIONS FOR INITIAL CONSIDERATION: None**

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**10. NEW BUSINESS AND COUNCILOR REPORTS:**

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**11. CLOSING PUBLIC COMMENTS ON ANY TOPIC:**

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Motion to Adjourn by Councilor \_\_\_\_\_; Seconded by Councilor \_\_\_\_\_

Roll call: Councilors Armstrong, Kelly, Gibbs, Ensel, McFarlin, Moore

**MEETING ADJOURNED:** \_\_\_\_\_