

SPECIAL CITY COUNCIL MEETING

December 19, 2011

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Mayor Nelson called the meeting to order and asked the Clerk to call the roll:

PRESENT: Mayor Nelson, Councillors Ashley, Cilley,
Morley, Powers, and Skamperle

ABSENT: Councillor Vaugh

Mayor Nelson moved to adjourn to executive session, and Councillor Morley seconded the motion.

The vote was:

CARRIED, AYES ALL

Upon returning from executive session, all members were still present.

ITEMS FOR COUNCIL ACTION

1. Councillor Powers moved a preliminary resolution to suspend and remove Arthur J. Sciorra as City Manager, and Councillor Cilley seconded to wit:

PRELIMINARY RESOLUTION TO TERMINATE
CITY MANAGER ARTHUR J. SCIORRA FOR CAUSE

WHEREAS, Section 2 of the 2006 City Manager Employment Agreement between the City of Ogdensburg and Arthur J. Sciorra, the current City Manager, (the "Employment Agreement") states City Manager Sciorra was and is employed to perform the functions and duties specified in the City Charter, the Municipal Code of the City of Ogdensburg and the Administrative Regulations, promulgated pursuant thereto; and

WHEREAS, under Section 2 of the Employment Agreement City Manager Sciorra was and is required to perform his duties in an efficient and conscientious manner, exercising his discretion, judgment, and authority in the best interest of the City; and

WHEREAS, in relevant part, § C-19 of the City of Ogdensburg City Charter states:

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The City Manager shall be the chief executive officer and chief administrative officer of the City and shall:

(1) Be responsible to the City Council for the administration of all City affairs placed with the City Manager by or under [the] Charter, by action of the City Council or otherwise by law;

(2) After consulting with the City Council, appoint and, when necessary for the good of the City, suspend or remove any City department head...;

(3) Direct and supervise the administration of all departments, offices and agencies of the City...;

(4) See that all laws, provisions of [the] Charter, resolutions, ordinances, local laws and acts of the City Council, subject to enforcement by the City Manager or by officers subject to the City Manager's direction and supervision, are faithfully executed;

(5) Make other reports as the City Council may require concerning the operations of the City departments, offices and agencies subject to the City Manager's discretion and supervision; and

(6) Recommend to the City Council such measures as deemed necessary or expedient; and

WHEREAS, in 2011, both the City Council and the citizens of the City of Ogdensburg had numerous question and concerns with respect to the City of Ogdensburg's Neighborhood Stabilization Project, a program over which City Manager Sciorra had administrative control; and

WHEREAS, pursuant to § C-14 of the City Charter, the City Council adopted a resolution directing the City Attorney to investigate and respond to questions the City Council had with respect to the Neighborhood Stabilization Project (the C-14 Report); and

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WHEREAS, the City Council has had the opportunity to review and discuss the C-14 Report and other issues and concerns related to the conduct and performance of Mr. Sciorra as City Manager; and

WHEREAS, Section 10(b) of the Employment Agreement acknowledges and confirms the City Manager may be terminated with cause; and

WHEREAS, in relevant part, the Employment Agreement states:

“Cause shall mean proof by substantial persuasive evidence that the employee: (1) is guilty of willful misconduct, habitual neglect of duty, incompetence, conduct incompatible with his duties ...”;
and

WHEREAS, § C-20 of the City Charter states in its entirety as follows:

The Council may remove the City Manager from office in accordance with the following procedures:

A. The City Council shall adopt by an affirmative vote of a majority of all of its members, a preliminary resolution which must state the reasons for removal and may suspend the City Manager from duty for a period not to exceed 45 days. A copy of this resolution shall be delivered promptly to the City Manager.

B. Within 5 days after a copy of the resolution is delivered to the City Manager, he or she may file a written request for a public hearing with the city council. This hearing shall be held at a City Council meeting not earlier than 15 days and no later than 30 days after the request is filed. The City Manager may file with the City Council a written reply not later than five days before the hearings.

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C. The City Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all of its members at any time after 5 days from the date when a copy of the preliminary resolution was delivered to the City Manager, if he/she has not requested a public hearing or at any time after the public hearing if he/she requested one.

D. The City Manager shall continue to receive compensation until the effective date of a final resolution of removal. The action of the City Council in suspending or removing the City Manager shall not be subject to review by any court or agency.

NOW BE IT RESOLVED that the City Council has determined that Mr. Sciorra may be terminated for cause in that he is guilty of willful misconduct, habitual neglect of duty, incompetence, and conduct incompatible with his duties as specified in the City Charter, the Municipal Code of the City of Ogdensburg and the Administrative Regulations, promulgated pursuant thereto, and the Employment Agreement, in that Mr. Sciorra:

1. Willfully, and with habitual neglect and incompetently failed to direct and supervise the administration of all departments, offices and agencies of the City in an efficient and conscientious manner, exercising his discretion, judgment, and authority in the best interest of the City in that, all with respect to 819 Knox Street, on November 3, 2008, he was informed of the need to have a tax sale and potentially evict the then Knox Street tenants; on April 16, 2009 he was informed the occupants of 819 Knox Street had not vacated and he responded, in writing, that that circumstance was "wrong"; on September 22, 2009 he was informed, in writing, that the occupants of 819 Knox Street continued to occupy the premises and the then City Planner did not want to give the occupants a lease. He replied in writing that he and others needed to discuss the issue with the then City

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Attorney; on January 7, 2010 he stated, in an exchange of e-mails, that the occupants of 819 Knox Street should be paying rent and water and sewer fees and taxes; not until June 10, 2010 is there any evidence that he communicated with and asked the then City Attorney about the status of 819 Knox Street; on August 16, 2010 he e-mailed the then City Planner and asked to be reminded what the Knox Street issue was all about; there is no evidence that he took any further steps to supervise, direct or manage staff with respect to 819 Knox Street and the wrongs and issues he stated had to be addressed and resolved or with respect to the need for a lease with and the payment of rent, fees and/or taxes by the occupants of Knox Street;

2. Willfully, and with habitual neglect and incompetently failed to direct and supervise the administration of all departments, offices and agencies of the City in an efficient and conscientious manner, exercising his discretion, judgment, and authority in the best interest of the City in that, with respect to 819 Knox Street, he has stated that he did not see anything in the e-mail exchanges concerning 819 Knox Street that the then City Planner followed the instructions that he gave, yet he took no action to insure that his instructions were followed; and

3. Willfully, and with habitual neglect and incompetently failed to manage city affairs placed under his control in an efficient and conscientious manner, exercising his discretion, judgment, and authority in the best interest of the City in that despite his being informed on multiple occasions regarding issues related to 819 Knox Street as detailed in paragraph 1 above, he has acknowledged and admitted the issues surrounding Knox Street “fell through the cracks”; and

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4. Willfully, and with habitual neglect and incompetently he chronically delegated his responsibility and regularly failed to ultimately direct and supervise the administration of all departments, offices and agencies of the City; and

5. Willfully, incompetently, and in a manner incompatible with his duties as specified in the City Charter, the Municipal Code of the City of Ogdensburg and the Administrative Regulations, promulgated pursuant thereto, and the Employment Agreement, he provided false and misleading reports to the City Council and/or its members in that he stated at the October 24, 2011 City Council meeting that he made false statements to a City Councilor and the City Council; and

6. Willfully, incompetently, and in a manner incompatible with his duties as specified in the City Charter, the Municipal Code of the City of Ogdensburg and the Administrative Regulations, promulgated pursuant thereto, and the Employment Agreement, he provided false and misleading reports to the public and the press concerning his involvement with respect to matters related to 819 Knox Street in that despite the multiple communications detailed above in paragraph 1 above and his statements, in paragraph 2 above that his directions were not followed, he stated on or about August 17, 2011 that “I had no idea about this situation.”;

NOW BE IT FURTHER RESOLVED that that the Council adopts this preliminary resolution to terminate Mr. Sciorra’s Employment Agreement as City Manager for cause in conformance with the requirements and procedures set out in the City Charter (the “Preliminary Resolution”);

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NOW BE IT FURTHER RESOLVED that given the above findings and Preliminary Resolution, effective immediately the City Council suspends Mr. Sciorra from each and every of his duties and responsibilities as City Manager under the terms of the City Charter, the Municipal Code of the City of Ogdensburg and the Administrative Regulations, promulgated pursuant thereto, and the Employment Agreement; and

NOW BE IT FURTHER RESOLVED that the above suspension shall be effective through and until the date and time that the City Council adopts a final resolution of removal or otherwise resolves the issues addressed and related to this Preliminary Resolution, but in no case for a period of greater than forty-five (45) days;

NOW BE IT FURTHER RESOLVED that within 5 days after a copy of this Preliminary Resolution is delivered to Mr. Sciorra, he may file a written request for a public hearing with the City Council. If so requested, the hearing shall be held at a City Council meeting not earlier than 15 days and no later than 30 days after the request is filed. The City Manager may file with the City Council a written reply to this Preliminary Resolution not later than five days before the hearing; and

NOW BE IT FURTHER RESOLVED that the City Council may adopt a final resolution of removal, which may be made effective immediately, by affirmative vote of a majority of all of its members at any time after 5 days from the date when a copy of this Preliminary Resolution was delivered to Mr. Sciorra if he has not requested a public hearing or at any time after the public hearing if he has requested a public hearing; and

NOW BE IT FURTHER RESOLVED that the City Clerk is directed to immediately deliver a copy of this Preliminary Resolution to Mr. Sciorra.

Councillor Skamperle stated that he doesn't agree with this resolution because Art Sciorra has done a little negligence of duty, but not willfully. Councillor Skamperle said he gave orders and staff didn't follow through. Councillor Skamperle said Mr. Sciorra made mistakes, but he didn't see where he did anything willfully wrong. Councillor Skamperle added that he will not vote for this because Council hasn't gone through the C-14 report and the report shows he was intentionally duped by a staff member.

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Councillor Powers stated that this issue has gone on for two and one-half years and Mr. Sciorra tried to shift the issue to different department heads. Councillor Powers admitted that Mr. Sciorra did good things for the City, but there was no accountability and Mr. Sciorra admitted that this issue fell through the cracks. Councillor Powers added that Mr. Sciorra didn't remove the Planner when Council directed him to and he disagrees with Councillor Skamperle that the report speaks for itself, our recommendations weren't followed.

The vote was:

AYES: Mayor Nelson, Councillors Ashley, Cilley,
Morley and Powers

NAYS: Councillor Skamperle

CARRIED, 5 TO 1

2. Councillor Cilley moved a resolution to appoint an Interim City Manager, effective December 19, 2011, and Councillor Powers seconded to wit:

RESOLUTION TO APPOINT AN ACTING CITY MANAGER

WHEREAS, on December 19, 2011 the City Council passed a Preliminary Resolution to Terminate City Manager Arthur J. Sciorra for cause ("Preliminary Resolution"); and

WHEREAS, by said Preliminary Resolution, City Manager Arthur J. Sciorra was suspended from each and every of his duties and responsibilities as City Manager through and until the date and time that the City Council adopts a final resolution of removal or otherwise resolves the issues addressed and related to the Preliminary Resolution but in no case for a period greater than forty-five (45) days; and

WHEREAS, § C-21(B) of the City Charter for the City of Ogdensburg provides that the Assistant City Manager may serve as Acting City Manager in the City Manager's absence.

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NOW BE IT RESOLVED, that the Assistant City Manager is appointed as Acting City Manager for the duration of City Manager Arthur J. Sciorra's suspension, but in no case for a period greater than forty-five (45) days.

The vote was:

CARRIED, AYES ALL

On a motion duly made and seconded, the meeting was adjourned.