

## CITY COUNCIL MEETING

September 27, 2010

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

PRESENT: Mayor Nelson, Councillors Cilley, Morley,  
Powers, Sholette, Skamperle and Vaugh

ABSENT: None

### PROCLAMATION

1. Mayor Nelson proclaimed October 2010 as Housing America Month.  
(A copy of the Proclamation follows these minutes.)

### PRESENTATION

1. Pat McKeown, Executive Director of St. Lawrence County Chamber of Commerce, Joe Gray, Town of Massena and Don Meisner, Host of Rod and Reel Streamside (PBS television show), addressed Council and outlined the FISHCAP Program. They stated that they would like this program to turn the St. Lawrence River Valley into the fishing capital of the world. The group also stated that they have a goal of raising \$170,000. a year to market this program and asked for City assistance. (A copy of the FISHCAP information follows these minutes.)

2. Director of Planning and Development, Justin Woods addressed Council and provided an overhead presentation regarding an update of the Main Street Program. (A copy of the presentation follows these minutes.)

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### CONSENT AGENDA

Mayor Nelson moved that the claims as enumerated in General Fund Warrant #16-2010 in the amount of \$1,597,855.66 and Library Fund Warrant #16-2010 in the amount of \$24,194.00 and Capital Fund Warrant #16-2010 in the amount of \$209,844.14 and Community Development Fund Warrant #16-2010 in the amount of \$5,598.45 and Community Renewal Fund Warrant #16-2010 in the amount of \$5,346.25 and HOME Fund Warrant #16-2010 in the amount of \$3,200.00 and AHC Funds Warrant #16-2010 in the amount of \$0.00 and RESTORE Program Warrant #16-2010 in the amount of \$0.00 as audited, be and the same are ordered paid and Councillor Vaugh seconded the motion.

The vote was:

CARRIED, AYES ALL

### PERSONAL APPEARANCE

1. Jack McGrath, 1035 State Highway 37, addressed Council regarding rehabilitating Ford Street. Mr. McGrath stated he joined the Chamber of Commerce to help make a difference and assist in creating a Ford Street Committee. Mr. McGrath asked Council to extend the rehabilitation parameters beyond City Hall to redesign Ford Street. Mr. McGrath asked that Council consider a short and long-term strategy to rehabilitate Ford Street, including it's businesses and homes.

### ITEMS FOR COUNCIL ACTION

1. Mayor Nelson moved a resolution authorizing the City Manager to sign a settlement agreement between the Niagara Mohawk Power Corporation and the City of Ogdensburg, and Councillor Morley seconded to wit:

**RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A SETTLEMENT  
AGREEMENT BETWEEN THE NIAGARA MOHAWK POWER CORPORATION  
AND THE CITY OF OGDENSBURG**

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WHEREAS, the City of Ogdensburg's code contains a provision imposing local Gross Receipts Taxes ("Local GRT") pursuant to General City Law §20-b or Village Law §5-530 on certain purchase of certain commodities; and

WHEREAS, when a customer purchases the commodity from an Energy Supply Company ("ESCO"), the commodity is sold by an ESCO, whereas the delivery service is provided by National Grid; and

WHEREAS, in every electric ESCO transaction and in almost every natural gas ESCO transaction, it is National Grid's position that the sale of the commodity to the consumer occurs outside the municipal boundaries; and

WHEREAS, National Grid and the City of Ogdensburg dispute whether Local GRT applies to the delivery portion of ESCO transactions; and

WHEREAS, in December of 2008 National Grid requested refunds of what National Grid considers to be improperly remitted Local GRT which was attributable to delivery of commodities purchased from ESCOs; and

WHEREAS, effective December 2008, National Grid recalculated its reportable revenues and discontinued what National Grid considers to be mistaken and improper payment of Local GRT on the delivery portion of ESCO transactions; and

WHEREAS, National Grid's Tariff leaves in effect in December 2008 did not permit National Grid to recover taxes on the delivery portion of ESCO transactions and, as such, did not remit such payments to local municipalities; and

WHEREAS, National Grid's Amended Tariff leaves were approved effective December 1, 2009, permitting National Grid to collect Local GRT on the delivery portion of ESCO transactions; and

WHEREAS, effective December 1, 2009, National Grid's Electric and Gas Tariffs permit it to collect Local GRT on the delivery portion of ESCO transactions. National Grid is currently collecting such taxes and National Grid is subsequently remitting such taxes "under protest" beginning with the first quarterly payment due in 2010; and

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WHEREAS, the Parties hereto seek to resolve all issues concerning the applicability, assessment, collection and/or payment of the City of Ogdensburg's assessment of Local GRT on the delivery portion of natural gas and electricity ESCO transactions.

NOW, THEREFORE, LET IT BE RESOLVED, in consideration of the mutual promises and agreements made by the Parties herein and other good and valuable consideration, including, but not limited to, the surrender of rights which the Parties may have against each other as set forth herein, the Parties hereby agree to the attached Settlement Agreement.

BE IT FURTHER RESOLVED, that the Ogdensburg City Council hereby authorizes City Manager Arthur J. Sciorra to execute the attached Settlement Agreement with the Niagara Mohawk Power Corporation.

The vote was:

CARRIED, AYES ALL

2. Mayor Nelson moved a resolution introducing an ordinance and providing for public notice and public hearing, and Councillor Powers seconded to wit:

RESOLUTION OF CITY COUNCIL INTRODUCING AN ORDINANCE AND PROVIDING FOR PUBLIC NOTICE AND PUBLIC HEARING

BE IT RESOLVED, that Ordinance \_\_\_ of 2010, regarding an ordinance amending Chapter 97, Fire Prevention and Building Codes Administration, §97.18. entitled "Fees" of the Code of the City of Ogdensburg be and it hereby is introduced before the City Council of the City of Ogdensburg, New York, and

BE IT FURTHER RESOLVED, that the City Council shall hold a public hearing in the matter of the adoption of the aforesaid Ordinance to be held at the Council Chambers in the City of Ogdensburg, New York, on Tuesday, the 12<sup>th</sup> day of October of 2010, at 7:00 p.m., and

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BE IT FURTHER RESOLVED, that the City Clerk give notice of such public hearing by publication in the official newspaper at least seven (7) days before the hearing date of a notice setting forth the time and place and describing the proposed ordinance in summary form.

The vote was:

AYES: Mayor Nelson, Councillors Cilley, Morley  
Powers, Sholette and Vaugh

NAYS: Councillor Skamperle

APPROVED 6 TO 1

### OLD BUSINESS

1. Councillor Morley stated the property at 2 Grove Street should have been torn down instead of being rehabilitated, and asked why we're rehabilitating this building. City Manager Arthur Sciorra stated the project went out to bid.

2. Councillor Morley stated that he was told the City received a purchase offer for the 505 New York Avenue property that is scheduled to be rehabilitated. Mr. Sciorra stated he would check into this and get back to Council.

3. Councillor Morley asked if Council felt charging an admission fee to use the City pool and paying an attendant to collect the fee, was worth it. Councillor Morley asked how much revenue was generated by charging admission and what did it cost the City to administer this program. Mr. Sciorra stated it cost the City a little over \$2,000 for the ticket paper, and the City made around \$9,000.

4. Councillor Powers asked for an update on the demolition of the buildings at the corner of Morris and Knox Streets. Director of Planning and Development, Justin Woods stated an asbestos abatement will be done in the next few weeks, and the buildings are scheduled for demolition the middle of October.

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5. Councillor Cilley stated he will not support a marina fueling station near Kids Kingdom if a resolution is brought before Council.

6. Councillor Cilley asked when the workplace violence policy that was being revised by City staff will be completed. Councillor Skamperle questioned why this policy has been posted on the DPW employee board. Mr. Sciorra stated the policy has not been passed by Council, and the City Attorney and City Clerk are still revising the policy. Director of Public Works, Kit Smith stated he will verify this posting and advise the City Manager.

7. Councillor Sholette stated on June 6th a Mayor's hotline complaint was received regarding a code violation, and since that time there has been dialogue back and forth regarding who is right and wrong. Councillor Sholette added that on August 9<sup>th</sup> Mr. Rose received a letter asking him to sign a compliance agreement. Councillor Sholette stated the City Attorney has since found that Mr. Rose is in compliance with the type of covering he has on his house and Mr. Rose would like a letter from the City stating he is in compliance as this has been ongoing for four months. Councillor Sholette also stated now that State code says he is right and our code says he is in compliance, he would like Mr. Rose to receive the letter he is requesting. City Manager, Arthur Sciorra stated he is not aware of this new information from the City Attorney or State Code. Councillor Sholette stated that Fire Chief Steven Badlam also stated Mr. Rose is in compliance. Mayor Nelson advised Council is not able to discuss issues governed by attorney-client privileges. Councillor Sholette questioned when this issue will be resolved. Mr. Sciorra stated Chief Badlam and Mr. Rose reached an agreement. Councillor Sholette stated he would like something in writing for Mr. Rose.

Councillor Sholette also stated he has been told by City employees that they are not allowed to talk to City Councillors. Mr. Sciorra explained the City has a chain of command and all employees should attempt to speak to their supervisor first with complaints. Councillor Sholette stated he felt he should be able to speak to any employee as a citizen.

8. Councillor Skamperle asked if the parking spots at the boat ramp will be blacktopped before winter. Director of Public Works, Kit Smith stated they will after the City streets are paved. Councillor Cilley stated the parking spots do not appear to be long enough for a truck and boat trailer.

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Kit Smith stated that once this area is paved and striped, there should not be a problem. Councillor Skamperle asked where the Border Patrol parking will be and Mr. Smith stated they will be moved into their designated, confined area. Councillor Skamperle asked if the signs denoting boaters should park in the mall parking lot can be taken down once this paving project is completed. Mr. Smith stated both parking areas are being utilized; but if Council wishes, the signs can be taken down.

### NEW BUSINESS

1. Councillor Skamperle asked to have an open dialogue regarding the relationship between Council and City employees. Councillor Skamperle asked if there is a written policy restricting employees from speaking with City Council. Mr. Sciorra stated there is not a written policy; although in the police department, which is a paramilitary organization, they follow a strict chain of command while other departments follow a chain of command also. Councillor Skamperle stated he feels that open dialogue between City employees and Council should be allowed because employees can often offer suggestions to better carry out policies and procedures. Councillor Skamperle stated it is important for contact to be conducted carefully. Mayor Nelson stated that if Council is contacted by an employee, they need to make the Manager aware of any issues to help resolve the problems.

2. Councillor Skamperle stated a resident contacted him about a dog situation in their neighborhood. Councillor Skamperle added that they called the Police and were told the Dog Control Officer was away and no officers were available. Councillor Skamperle stated the resident wanted an officer to come and witness the situation, but they refused. Councillor Skamperle questioned if the Police Department has a procedure in place to address issues such as these if the Dog Control Officer is away. City Manager, Arthur Sciorra stated the police may have been attending other matters, but generally there is a procedure in place. Mr. Sciorra also suggested Councillor Skamperle contact him at the time of the problem and not wait for a meeting to address it.

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3. Councillor Morley stated he received a call from the Chamber of Commerce requesting City staff's assistance in writing a grant to help them fund a free-standing building on Route 37. Mr. Sciorra stated he will have staff look at the list of available grants to assist the Chamber.

4. Mayor Nelson stated the North Pole Satellite Office which was located at the Main Street, Flat Iron Park last year has requested operate there again this year. Mayor Nelson requested this information be provided to Council in the their update.

5. Mayor Nelson stated the Ogdensburg Bridge and Port Authority celebrated the 50<sup>th</sup> anniversary of the Ogdensburg/Prescott International Bridge today, and wished them many more.

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