

CITY COUNCIL MEETING

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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, Skamperle and Vaugh

ABSENT: None

PRESENTATION

1. Donald Hooper, of Pinto Mucenski Hooper VanHouse and Company, addressed Council and presented the results of the 2010 City Audit. (A copy of the report follows these minutes.)

2. Andrea Smith, Planning and Development Program Manager, presented Council with an update on the City's Area-wide/BOA and LWRP. (A copy of the report follows these minutes.)

PERSONAL APPEARANCE

1. Joe Franche, Oddfellows Social Club, advised Council that their building has had a rusty water problem for the last couple years and National Grid does too. Mr. Franche stated that Kit Smith came to look at it and said he could put a smaller line in. Mr. Franche said he doesn't think that will correct the problem. Mayor Nelson turned this over to the City Manager and staff for their review and recommendation.

2. Sandra Gooshaw, 310 Seymour Street, stated that she requested to buy a ten foot piece of property owned by the City that was adjacent to her Hamilton Street property. Mrs. Gooshaw said she received a letter that said the property can't be subdivided and if she wants the ten foot section she must buy the entire lot. Mayor Nelson turned this over to the City Manager and staff for their review and recommendation.

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3. John Oakes, 718 Canton Street, stated that due to Council arguing and fighting it is almost dysfunctional. Mr. Oakes said two weeks ago someone on Council took pictures of the report and sent them to the press. Mr. Oakes questioned if Council has called the Knox Street residents. Mr. Oakes said he's not here to make the Council look bad and congratulated the newly elected Council members.

4. Richard Fisher, 901 New York Avenue, stated that he has attended several meetings regarding the NSP Program. Mr. Fisher stated that at the 11/1/11 meeting he overheard a verbal exchange between Councillors Morley and Skamperle regarding the alleged forgery and fraud of communication records emailed from Justin Woods to Council and members of the press. Mr. Fisher said Councillor Skamperle cited the existence of significant differences contained in Mr. Woods' emails after his comparison of the C-14 records. Mr. Fisher added Councillor Morley asked if Councillor Skamperle could prove the fraud or forgery and Councillor Skamperle said yes. Mr. Fisher said no one asked for resolution in public and this was dropped. Mr. Fisher urged Council to review the communication records sent from Mr. Woods and the records in the report prepared by Attorney Silver. Mr. Fisher requested a criminal or another C-14 investigation into this.

ITEMS FOR COUNCIL ACTION

1. Councillor Vaugh moved an ordinance to lease City-owned property located at 819 Knox Street to Barbara Seguin, and Councillor Skamperle seconded to wit:

ORDINANCE # of 2011

AN ORDINANCE TO LEASE CITY OWNED PROPERTY

BE IT ORDAINED AND ENACTED by the City Council of the City of Ogdensburg, New York, as follows:

ITEM ONE: An ordinance to authorize a lease of municipal property located at 819 Knox Street to Barbara Seguin.

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ITEM TWO: The City Manager has presented the attached proposed agreement to lease 819 Knox Street. The lease shall immediately terminate in the event that lessee purchases the property.

ITEM THREE: The City Manager is hereby authorized to execute the attached lease agreement, hereby made part of this ordinance.

ITEM FOUR: Passage of this ordinance shall be by a vote of three-fourths (3/4) of all members of the City Council.

ITEM FIVE: This ordinance shall take effect ten (10) days after publication of notice that shall give the title and describe same in summary form.

Councillor Vaugh stated the City Council requested a lease, we have a legal lease, we held a public hearing. Councillor Vaugh added in the short term, we need to collect money as this family has lived in this too long for free. Councillor Vaugh said for the long term the policies of this Council enacted with the lottery and the disposal of this property need to be followed. Councillor Vaugh said he will support this lease.

Councillor Morley said the Charter says the City Manager negotiates the lease, brings it to Council for approval, the City Manager signs it and collects the money. Councillor Morley said a $\frac{3}{4}$ affirmative vote of Council is required to lease municipal property, but the lease agreement has already been signed. Councillor Morley asked City Manager Arthur Sciorra if the tenants have already paid and Mr. Sciorra said yes, September and October. Councillor Morley said we've already gone against the Charter and collected rent, he won't support this lease because it was signed before the public hearing was held and Council approved it. Councillor Morley added one of the terms of the lease is they'll pay rent until they buy it, which could be indefinite and no lottery will be held.

Councillor Powers said he was appalled at this situation. Councillor Powers stated Council passed a resolution in June to support the NSP program, had this in place and worked on it for years but was circumvented by the Planner and administration.

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Councillor Powers said Council wanted checks and balances because we couldn't qualify for housing program funding due to the way it was administered three years ago. Councillor Powers stated that he can't support this lease because we put a policy in place that wasn't adhered to and now it's being circumvented to save face.

City Manager Arthur Sciorra said Council asked the City Attorney to draft a lease and he delivered that lease to him on 9/21/11. Mr. Sciorra said he emailed Council with a copy of the lease and said attached is the lease you requested Andy to prepare. I received it this morning, I will sign it and serve it to the residents of 819 Knox Street. Mr. Sciorra stated that he received a reply back from the Mayor asking if they signed it yet. Mr. Sciorra said Council was aware that you requested the lease be prepared by Andy and at the meeting in September he was asked if they had started paying yet. Mr. Sciorra said the answer was yes, the process was started. Mr. Sciorra stated that Council asked for a lease, it was prepared and delivered, and now it's time for you to follow through with what was requested. Mr. Sciorra added that if you don't approve this lease, we should now speak with our attorney as to whether the money should be returned and we'd have to start eviction proceedings. Mr. Sciorra stated he doesn't understand why Council won't follow through with what they requested.

Councillor Morley stated that nowhere in the Charter says collect rent money before Council approves the lease. Mr. Sciorra stated that he believed the City Attorney already addressed this when you asked that question the month before. Councillor Morley asked Mr. Sciorra why he didn't come up with a lease in 2008 when you knew those people were living in the house. Mr. Sciorra said that's the subject of the C-14 and is a different matter than what's before you here. Mr. Sciorra added that Council requested this lease, Andy prepared it, and he signed and sent it out. Mr. Sciorra stated that Councillor Morley asked him in September if it was being done and I said yes. Mr. Sciorra said Council seemed to be satisfied that what you asked for was being carried out, that's separate from the C-14 investigation.

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City Attorney Andy Silver said that there's a provision in the lease agreement that says either party may terminate the current tenants agreement or end the lease agreement with a different direction. Mr. Silver said he doesn't know if that changes the discussion, but it's important to know what the lease does and what outs it gives the property owners and Council. Mr. Silver said because of that uncertainty at the time the lease was requested, as to what was going to happen to this property, that's why the 30 days termination provision was put in there. Mr. Silver stated it's in effect a month to month lease.

Councillor Cilley said while he's not happy with how this has played out, he believes the residents of 819 Knox Street have done what the City has asked them to do and the moral thing to do is approve this lease. Councillor Cilley stated that we asked that a lease be negotiated and it was, they've already paid two months rent. Councillor Cilley said he believes the direction from our attorney was that he felt this was a valid lease. Councillor Cilley stated we need to move forward either with the lottery or with selling this property to get it done and behind us. Councillor Cilley said we need to determine if our policy was or wasn't followed and who was responsible for that not happening. Councillor Cilley said he will supports this lease.

Councillor Skamperle stated he agrees with Councillor Cilley. Councillor Skamperle stated that on 9/6/11 City Council sat in executive session and everyone of us told Art to get a lease as soon as possible. Councillor Skamperle said here we are with a NSP program on hold, people are living in the house and we don't know what we're going to do with this property. Councillor Skamperle asked why shouldn't we collect money on this property, the only thing he sees illegal is that we didn't come out of executive session and carry out a vote, that's the problem. Councillor Skamperle stated that's where it starts, with us and Mr. Oakes was right, we're dysfunctional and not following procedures.

Councillor Powers said the fact that we didn't act on it after the executive session reverts back to the program we enacted which is the NSP Program, those restrictions should be adhered to.

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Councillor Skamperle said he is going to support this lease, some money is better than none until we figure out where the NSP program is going and if we sell the house to those people and under what terms. Councillor Powers said we have a program and it's that our NSP program isn't going anywhere, we've got one in place but it's not being administered or run the way we passed the resolution to have it run. Councillor Skamperle said it's not being administered because it's on hold. Councillor Powers said we passed the resolution in June to support the NSP program, we've worked on it for 1 ½ years.

Councillor Vaugh stated the report said Justin Woods and CW Augustine didn't believe in the lottery, that's the problem and they didn't come back to us to say the lottery system doesn't work, but they didn't try it. Councillor Vaugh said right now we need to collect money on this property.

Councillor Powers said we administered a policy, put them in place, pass them by resolution and support them. Councillor Powers said but when our departments aren't running them, we're the ones taking the brunt of it and have to answer to the people. Councillor Powers added we put the policy in place and followed and mirrored a federal program and here we are because we didn't follow policy. Councillor Powers said we didn't move on it after executive session because we have a policy in place and wanted the policy in place. Councillor Powers said it sat in litigation from 2008-2010 and it's out there even though he hasn't seen it in print yet. Councillor Powers said we have a policy and need to adhere to the policy in place. Councillor Vaugh stated we need a 3/4 affirmative vote. Councillor Morley said he's not changing his vote.

Councillor Powers said we have a policy and he is not going to evict anybody. Councillor Powers added that we have a clause that protects them for the time being and if they're capable of paying the lease, they're capable of being in the program and applying for the lottery.

Councillor Skamperle said the purpose of the lease is to collect money while we work out the issues of whatever policy we're going follow. Mayor Nelson added it's a month to month lease.

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City Attorney Andy Silver stated it's a thirty day period of time and the only question is if Council votes to decline the lease, it raises a couple issues on what the City position is. Mr. Silver questioned how we proceed with the people occupying 819 Knox Street if the lease is voted down, are they then occupying the property lawfully. Mr. Silver said the answer is no because if you're not approving the lease agreement, you're not approving the tenancy of the property either.

Councillor Morley questioned if they have occupied the property legally through this process. Mr. Silver said that's an issue that's been hotly debated but the question now is can we cure or stop the bleeding. Mr. Silver explained if the lease is not approved tonight, the question is what the City's next move is, and is that move to evict the people at 819 Knox Street and return their rent to them. Mr. Silver advised Councillor Morley that at the end of the day he agrees, the lease is not valid and the City is not a lawful landlord until Council approves the lease. Mr. Silver stated if you decide not to approve this lease tonight, you're faced with two issues; refunding of the money to these people, and whether or not they're allowed to remain on the property and not paying rent, which has been a hotly debated topic.

Councillor Morley stated we're not going with the process outlined in the Charter which tells you how to do things. Councillor Morley stated the City Manager negotiates the lease and brings it to us for our approval, it requires a $\frac{3}{4}$ vote to approve it and then after we approve it he and the other party sign it and the lease becomes legal. Councillor Morley stated that you don't start collecting rent money before hand, it's not legal and the process has been altered. Councillor Morley said he also complained in August about the process used to sell City-owned property which was also against the Charter selling and leasing City property.

Councillor Skamperle asked Councillor Morley if he's against it, why did you vote for the NSP. Councillor Morley stated he voted for it two years ago.

Councillor Vaugh asked Councillor Morley why he didn't object to the lease when it was emailed to him.

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Mayor Nelson said this isn't the NSP program, it's a lease that we as Council did ask for because we all discovered the individuals were living there for free and not paying taxes. Mayor Nelson added that we asked the City Manager and Attorney to come up with a lease so we could start getting rent coming in, it does do that but also states the renter shall pay charges for water, electricity, heating oil, gas and all the real estate taxes prorated monthly as billed by the lessee. Mayor Nelson said it says rent, all those utilities that are there right now and that everyone in the City of Ogdensburg is paying. Mayor Nelson said we all agree that this wasn't how to follow procedure; 819 Knox Street was a mess from day one. Mayor Nelson said it also does something else about the fact of liability for accidents as we have individuals living there and have liability issues. Mayor Nelson added the fact that they are not paying rent, taxes, water and sewer; this lease puts in place protections for the citizens of Ogdensburg that we need to have in place to address this. Mayor Nelson said he doesn't agree with the process of the lease but thinks we all agree with that, but this whole house with people living there when we didn't know about it. Mayor Nelson said the fact is that it's a thirty day lease is critically important as it allows us to collect rent and gives us the protection and liability for accidents as well as collect the other costs associated with the building, the water, sewer and taxes until we determine if we're putting it in the lottery or selling to someone else. Mayor Nelson added nothing in the lease commits us to sell the house to them. Mayor Nelson stated it does say if they come up with financing for the house, then the lease is terminated, but there's nothing in this that commits us to selling the house.

Mayor Nelson said the next step is what we want to do with the disposition of the house, sell or whatever, that's a decision we'll have to make. Mayor Nelson added that none of us agrees with this process which is what we asked our attorney to do but it gives us the ability to collect the money and put the protections in place that we really need to have in place until we can determine what we're going to do with the individuals living there and the property.

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Councillor Morley stated that he doesn't support the lease even after the Mayor's explanation. Councillor Morley stated if we vote on this it will go down with his negative vote.

City Manager Arthur Sciorra asked City Attorney Andy Silver to explain lease section 11.2(b), which says A lease of City-owned property may, at the election of the City Council of the City of Ogdensburg, be done in accordance with the following regulations. Mr. Silver said there are two sections of the Charter that deal with a lease; C-17 discusses the fact that it requires an ordinance by Council to validate a lease and a second session, 11.2(b) says the lease of City-owned property may at the election of City Council in accordance with the following regulations. Mr. Silver said the word may is discretionary and then it lays out the requirements to validate that lease. Councillor Morley questioned if he was saying he can do this without Council approval. Mr. Silver said there are inconsistencies within the Charter; it next says a vote is required. Mr. Silver said it reads that no lease shall be made or authorized except by $\frac{3}{4}$ vote of all members of City Council. Mr. Silver said those two provisions conflict with each other because it says you may lease as a discretionary act if you decide to lease a piece of property, but then it also seems if you go down that road it won't be approved unless you have a $\frac{3}{4}$ vote. Mr. Silver stated that it's a confusing section of the Charter, but at the end of the day it lands you at a $\frac{3}{4}$ vote. Councillor Morley asked if he meant this may appear in section B, a lease of City-owned property may at the election of City Council, and questioned if that was what he was saying. Mr. Silver said you may decide to lease property. Councillor Morley said that's right, a vote has to be taken and it has to be by a $\frac{3}{4}$ vote. Mr. Silver said if you decide to lease the property, that lease must be approved by a $\frac{3}{4}$ vote. Councillor Morley questioned if there's no way to get around this.

Mr. Silver said the decision is whether you decide to lease the property is yours, to begin with that's where may comes from. Councillor Skamperle said a $\frac{3}{4}$ vote is 5 votes. Mayor Nelson said no a $\frac{3}{4}$ vote is 6 votes.

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Councillor Cilley asked Councillor Morley what scenario he sees playing out if the lease is not approved. Councillor Morley said he doesn't know, it's not his job. Councillor Morley said he knows you can't put a lease before us after the fact and he doesn't plan on voting after the fact. Councillor Morley added if he had brought this up the Council can still table it and let them do it the right way. Councillor Cilley questioned at this point, what is the right way. Councillor Morley said get a lease negotiated, come back and give it to us, we'll call a public hearing and after the public hearing we'll have a vote. Councillor Cilley said we had a public hearing on this. Councillor Morley stated that it wasn't a legal lease to start with. Councillor Cilley said you asked for a lease and now we have a lease and you don't want it. Councillor Morley stated that he didn't say he didn't want the lease, he wants a legal lease. Councillor Morley stated that we've been collecting rent for two months without a lease, and it's not legal until we approve it. Councillor Vaughn asked where it says you can't do that. Mayor Nelson stated that by passing it tonight it's a legal lease back to the date of signing, we all agreed we wanted money coming in to the taxpayers. Councillor Morley questioned if we want to start the whole process over. Councillor Cilley questioned if he would feel better if we approved this lease and refunded the past two months' rent. Councillor Morley stated that he would feel better if Council took this lease and start the process right now without collecting rent money. Councillor Morley said call for a public hearing. Mayor Nelson said we held the public hearing back in October for the lease and then if we approve the lease tonight, we're saying it's retroactive back. Councillor Morley questioned why don't we just give them the house now and we won't have to worry about selling it to them two years from now. Mayor Nelson said that's two different things. Councillor Morley said we have a Charter to go by. Mayor Nelson said we're trying to correct the deficiencies one step at a time and the first step is to put a legal lease in place, retroactive back. Councillor Morley said call for a public hearing on this lease. Mayor Nelson said we did hold a public hearing.

Councillor Morley said he already stated that he won't recognize that as a public hearing, it wasn't a legal lease when you're already collecting money on it and we hadn't approved it.

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Councillor Powers said he will support the lease with the fact that the whole thing is reviewed again and put in line with the program and lottery for others to be involved as well. Councillor Powers said this property was never put out for the lottery for any other individuals to be involved, and then it was held up in litigation and lost in the cracks and now it's before us. Councillor Powers stated that he supports the lease as long as we fall back into the policy we put in place for all NSP programs. Councillor Powers said he doesn't care about the last two months and isn't going to kick someone out during the holiday season. Councillor Powers said we have to move on and have to fall back to regulations for administering that Council put in place. City Manager Arthur Sciorra stated that one of the recommendations the City Attorney put in the C-14 report was cleanup the way which the policy reads the Manager can sign a purchase agreement which is contrary to how the Charter reads so he and the attorney have been talking about how that part of the NSP policy needs to be re-aligned with the Charter. Mr. Sciorra stated that we weren't able to get that done by tonight's meeting, but will have it by the next meeting. Mr. Sciorra said we will have an amendment to the original policy that will be more in line with what the Charter section 11.2(b) is drafted and needs to be changed as Councillor Morley has pointed out. Mr. Sciorra said order is important and in this instance 11.2(b) says "may", but on a sale in the NSP policy, we're looking to align the way the Charter is supposed to read that wasn't correct first time out, i.e. the Manager signing the contract before Council approved the lease and we're going to reverse that order. Mr. Sciorra said the Mayor's correct, Council asked for this to stop the circumstances which the current residents were living to get them paying rent but also signing a lease and making sure liability is properly taken care of and we've billed them for water and sewer. Mr. Sciorra said as to the issue of the full grant for people who've always paid something, they're living arrangements are part of the policy that needs to be looked at as well. Mr. Sciorra added that we are there to implement this program as it was intended but the idea that other individuals as well who are in similar circumstances having this opportunity should not be left to feel somebody who's lucky in the lottery ends up not having to pay mortgage, that's not appropriate so there's a lot of things that still need to be looked at in that policy as it was originally set up and not followed, but has some flaws we're trying to correct.

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Councillor Morley asked Mr. Sciorra if the tenants are paying pro-rated amount for taxes and rent right now. Mr. Sciorra said he wasn't sure if we can bill for a portion of taxes. Mr. Sciorra said we bill people for taxes according to a schedule that Phil Cosmo uses for all tax payments. Mr. Sciorra said we don't accept partial payment for taxes, they are pro-rated for a whole year, and it would be different if they only lived there for a portion of the year, but doesn't think that happens on a monthly basis. Mayor Nelson said there's a provision in the lease that addresses that.

Councillor Morley suggested holding another public hearing. Councillor Morley said he won't vote on this and suggested tabling it and start the process over for the next meeting. Mayor Nelson questioned what needs to change. Councillor Morley said do this in the right order. Councillor Skamperle advised Councillor Morley that he voted yes on the public hearing. Councillor Morley stated that he's asking for a lease that Art isn't already collecting rent money on, even if he has to re-negotiate this lease before the public hearing. Mayor Nelson said we need money in the City coffers and liability is addressed. Mayor Nelson asked what if we call for a public hearing regarding a lease to start 12/1 lease, but pass this one tonight for the 9/29/11 through 11/30/11 period. Councillor Morley said we let the process go astray last August and didn't follow the Charter.

Councillor Skamperle asked City Attorney Andy Silver if we don't approve this lease tonight and somebody gets hurt on this property tomorrow, who is liable. Mr. Silver said it depends on who's at fault. Mr. Silver said you only have to pay for something you do negligently, intentionally or recklessly. Mr. Silver added that if there is any injury on that property, a house fire or some horrific accident, he's sure one of the named defendants would be the City of Ogdensburg as we're the owner of the property. Mr. Silver said the Mayor is correct that one of the benefits of the lease agreement is that it defines the liability and the responsibility between the parties. Mr. Silver said it's the tenants obligation to make sure that they use and occupy the property or if someone gets hurt and it's not the result of City negligence or intentional wrong doing, it's the tenants responsibility not ours, but without the Council ratifying the lease agreement, then we don't have a lease agreement and it isn't a valid tenant.

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Mr. Silver said the proposed contract has been executed by the City Manager, but that contract doesn't become valid until Council passes it with a vote.

Mr. Silver said ultimately we will get to the issue of the sale of the property itself, and despite the fact that the NSP policy says the City Manager has the authority to sign the contract procedurally, he had the authority to sign the contract but the sale doesn't move forward until Council says it moves forward, which is the position we're in now. Councillor Morley asked if one of the provisions of the lease was that these people have liability insurance. Mr. Silver explained they can't insure property for loss as they don't own it. Mr. Silver said the lessee shall assume all liabilities for injury or damage that may arise from any accident that occurs on the property and that the tenants identify the landlord and holds harmless the landlord or City for any accidents of that type. Councillor Morley said we're stuck in the middle, they should have their own insurance. Mr. Silver stated that anybody who's renting should maintain a renter's policy that covers loss of their personal property belonging to them and any injury that may happen to their invites or guests on the property. Councillor Morley asked if the lease indemnify us from anything that happens there, as it's our property. Mr. Silver said we're indemnified by the occupant contracting so if occupant is sued and the City gets sued, one of our defenses is that it's not our liability to plaintiff; they are suing the wrong the wrong party. Mr. Silver added that contractually there's been an assignment of responsibility and that assignment falls on the tenant. Mr. Silver also said there's no guarantee the City won't get sued for anything it does. Mr. Silver added the question is if there is a contract in place that will help assign some of that liability in every standard lease agreement assigns some of that liability to the tenant. Councillor Morley said with or without this lease, we're still responsible in the end, right now.

Mr. Silver stated no, you have more protection if you enter into a lease agreement and allow them to stay than if you don't enter into the lease agreement and they're still out there. Mr. Silver said you have more protection with a lease. Councillor Morley said he wants to see another public hearing in two weeks.

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Councillor Cilley said he doesn't understand where Councillor Morley is coming from, we already had a public hearing on this same lease and we're going to have again and this doesn't make sense as it's a legal lease. Councillor Morley said it's not legal until we approve it. Councillor Cilley said approve the lease and make a motion to refund rent money that they've already paid and move forward. Councillor Morley said he wants the process done right. Councillor Cilley said it's too late to do process right, let's fix it and get on with business.

The vote was:

CARRIED, AYES ALL

2. Councillor Powers moved a resolution authorizing the City Comptroller to transfer \$15,000. in funds from the General Fund to Public Works, Shade Trees, as in the City's cash match for the Urban Forestry Grant project, and Councillor Vaugh seconded to wit:

RESOLUTION AUTHORIZING TRANSFER OF FUNDS

WHEREAS, Ogdensburg is a Tree City USA; and

WHEREAS, on January 24, 2011, the City Council approved a resolution authorizing the submission of an Urban Forestry Grant application to the NYS DEC; and

WHEREAS, the City has been awarded a grant in the amount of \$25,000.; and

WHEREAS, the \$25,000 match will consist of a maximum of 20% or \$10,000 of in-kind services, including assistance in plan preparation, GIS mapping, urban design assistance & community outreach; and

WHEREAS, the 50% match was to consist of in-kind staff services and cash from other grant funds available for planning; and

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WHEREAS, the Urban Forestry Grant contract stipulates that Federal and State grant funds cannot be utilized as a match for the cash portion of this program;

NOW, THEREFORE BE IT RESOLVED, that the City Comptroller is hereby authorized to transfer \$15,000 in funds from the General Fund - Fund Balance to Public Works – Shade Trees – A8560.515.

The vote was:

CARRIED, AYES ALL

3. Councillor Skamperle introduced a resolution to authorize the City Clerk to release the C-14 investigation report into the NSP program effective immediately for public review, and Councillor Vaugh seconded to wit:

Resolution to Release the C-14 Investigation of the
Neighborhood Stabilization Program (NSP) to the Public

WHEREAS, the City Council conducted an investigation regarding potential problems in the NSP program in which they requested six questions be addressed and;

WHEREAS, there has been much controversy and mixed interpretations of events surrounding the administration of the NSP program and;

WHEREAS, this report represents many facts surrounding the NSP program and should be understood as a whole and;

WHEREAS, there is a desire in the community of Ogdensburg to gain a better insight into the administration of the NSP program from the beginning and;

WHEREAS, the City of Ogdensburg Council seeks to have more transparency in government and;

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NOW, THEREFORE BE IT RESOLVED, that the C-14 investigation report into the NSP program be released effective immediately for public review with one copy available in the Ogdensburg Public Library and one copy in the City of Ogdensburg, City Clerk's office.

City Attorney Andy Silver stated this Council needs another set of eyes on this report who didn't draft it. Mr. Silver said it's not appropriate for him to advise Council on whether you should be releasing it or not tonight. Mr. Silver said there are a number of issues that the report is going to bear on; whether to release the report, what particularly is done with that report and is it going to be used toward anybody in City employment. Mr. Silver said those issues need to be addressed by outside counsel and he appreciates Council's desire to release the report and the public's desire to review it but before Council makes a decision on releasing the report that they have the advice of the individual who didn't draft the report but is looking down the road as to what potential the report can and can't be used for until you have all that information and had someone analyze it which would include the Journal's FOIL request. Mr. Silver said it's premature to make that decision. Mr. Silver said he understands Council's desire to release this information, but advised it will be best for Council and the citizens of Ogdensburg to seek outside counsel's opinion unbiased report.

Mayor Nelson said we all want to release this report but at the last meeting we asked for our attorney's recommendation and after obtaining it all agreed to seek outside counsel. Mayor Nelson said the next step is to review the proposals from the two firms who have offered their services and he has their information for Council to review. Mayor Nelson said we can interview them by phone or have them attend a special Council meeting.

Councillor Vaughn stated that he has three questions for Andy that result from his viewing of the report and he's not done with this investigation. Councillor Vaughn said we haven't discussed the report yet and questioned when we are going to do that. Mayor Nelson said our attorney recused himself and suggested we get outside counsel to advise us and walk us through those steps.

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Councillor Vaugh said he can't recuse himself when there are additional questions from his report and he needs to meet that obligation. Mayor Nelson said we're going to have those questions answered from this outside counsel.

Councillor Powers said Mr. Silver was given direction from us and he did what we told him, but he can't be the jury and the executioner. Councillor Powers said this is no different from the lease agreement we just went through as far as liability; we need to protect the City. Councillor Vaugh asked then why did the mayor have a resolution to terminate an employee. Councillor Powers questioned if we acted on it. Councillor Vaugh said there was a consensus of Council to hire an outside attorney to review multiple things including look at the City Manager's contract. Councillor Skamperle said there was no resolution to hire an outside counsel. Mayor Nelson said we're not hiring anyone at this point, just reviewing proposals. Councillor Skamperle questioned if we need a motion to do that. Councillor Skamperle said earlier Councillor Morley stated that the Charter wasn't being followed and agrees we made decisions in executive session but if you look at the 10/27/11 Council meeting minutes, there was no action taken other than adjourning. Councillor Skamperle said we have a report and haven't taken any official action on it and we haven't taken a vote to keep the report confidential. Councillor Powers asked Councillor Skamperle if he had questions on this report for the attorney, and added he has a list of them himself. Councillor Powers asked don't you want legal representation before you release this information to the public.

Mayor Nelson said at the advice of our attorney who gave us the next steps to follow, we are seeking outside counsel to review this report. Mayor Nelson said we have two proposals to review, and explained there is nothing in the Charter requiring a resolution to seek proposals. Vaugh doesn't support the resolution the Mayor brought forth and if it wasn't for Andy saying hold on a second who knows what would have happened.

Councillor Morley moved to table this resolution and Councillor Powers seconded the motion.

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The vote to table was:

AYES: Mayor Nelson, Councillors Cilley, Morley and Powers

NAYS: Councillors Skamperle and Vaugh

TABLED, 4 TO 2

4. Mayor Nelson moved a resolution introducing an ordinance to offer for sale three specific parcels of City-owned real property acquired by tax foreclosure and to establish conditions of sale, and Councillor Morley seconded to wit:

RESOLUTION INTRODUCING AN ORDINANCE
AND PROVIDING FOR PUBLIC NOTICE
AND PUBLIC HEARING

BE IT RESOLVED, that Ordinance No. ___ of 2011, entitled “An Ordinance to Offer for Sale Specific Parcels of City Owned Real Property Acquired by Tax Foreclosure and to Establish Conditions of Sale”, 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 the 28th day of November, 2011, at 7:00 p.m., and

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:

CARRIED, AYES ALL

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5. Mayor Nelson moved a resolution to accept the 2012 preliminary budget and direct that the preliminary budget be filed with the City Clerk and the Comptroller of the City of Ogdensburg, and Councillor Morley seconded to wit:

RESOLUTION TO ACCEPT THE 2012 PRELIMINARY BUDGET

WHEREAS, as required by the City Charter, the City Manager has submitted a preliminary budget for fiscal year 2012 to the City Council on or before November 1, 2011,

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby accepts the preliminary budget and directs that the preliminary budget be filed with the City Clerk and the City Comptroller, and

BE IT FURTHER RESOLVED, and noted, that the preliminary budget is a public record and is available for inspection by the general public at the Office of the Comptroller.

The vote was:

CARRIED, AYES ALL

6. Mayor Nelson moved a resolution to establish a public hearing date for the preliminary 2012 budget for the City of Ogdensburg, and Councillor Powers seconded to wit:

RESOLUTION ESTABLISHING A PUBLIC HEARING
FOR THE 2012 PRELIMINARY BUDGET
OF THE CITY OF OGDENSBURG

BE IT RESOLVED, that the Ogdensburg City Council hereby establishes a public hearing on the Preliminary Budget of the City of Ogdensburg for 2012, said public hearing to be held at 7:00 pm on December 5, 2011 in the City Council Chambers, City Hall, and

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BE IT FURTHER RESOLVED, that the City Clerk give notice of such public hearing by publication, in the newspaper so designated for the publication of legal notices, at least seven days before the hearing date, of a notice setting forth the time and place and describing the proposed resolution in summary form.

The vote was:

CARRIED, AYES ALL

OLD BUSINESS

1. Mayor Nelson stated he would like to discuss Mrs. Gooshaw's request to purchase a Hamilton Street lot. Mayor Nelson asked if the ten foot section she's interested in is connected to the other parcel or is it a stand alone parcel.

Planning and Development Program Manager, Andrea Smith stated she spoke with Mrs. Gooshaw and sent her a letter advising her that the corner lot on Ford and Hamilton Street is not owned by the City of Ogdensburg. Mrs. Smith said it's privately owned and the old Wimpy's property is L shaped with frontage on both Hamilton and Ford Streets.

Councillor Morley said we have a piece of property that we can do nothing with because it's not legally big enough to build on, and she only wants the part on Hamilton Street. Mrs. Smith explained as per our code you cannot subdivide it. Councillor Cilley said this appears to be a separate parcel on the tax map, the ten foot wide section and the eighty-four foot long section. Councillor Cilley asked if the L shaped lot was ever combined and how it was combined. Mrs. Smith stated that according to our tax maps they are combined.

City Manager Arthur Sciorra asked if this property was privately owned could it be sub-divided. Mrs. Smith said yes, privately owned property can be sub-divided. Mrs. Smith added the City can't further divide a lot that is non-conforming.

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Councillor Cilley questioned if Mrs. Gooshaw and the adjacent property owners could purchase this property and subdivide it. Mrs. Smith said yes, but the lot will have to be sold at public auction.

Mr. Sciorra said another option under Real Property Law, Section 12.11, would allow us to sell this directly to an individual because it was taken by tax foreclosure.

Mayor Nelson said Council has requested a list of City owned properties and not received them. Mr. Sciorra said a list has been compiled and we are looking at the disposition of each one and should have it completed in a couple weeks.

2. Councillor Skamperle asked if anyone had compared the fraudulent emails that were such a controversy the last two weeks. Councillor Skamperle stated that he sent out an email describing the specific exhibits and words mentioned that were left out intentionally; why it's important, and he can tell Council right now what they were or you can answer Mr. Fisher's questions. Councillor Skamperle asked if anyone has bothered to compare them yet.

Councillor Vaugh stated that there's no question, the email's are different. Councillor Powers stated the emails that are different were sent out by an individual and it's not what's different in the report. Councillor Powers said they are different but it was a man who was running at that point, in his opinion. Councillor Powers said the emails sent out were not complete to say they were fraudulent may be misleading because not all documented evidence was presented in the emails. Councillor Powers stated they were exchanges back and forth between two or three parties, with pages of separate emails, forwarding and compiling. Councillor Powers said what we didn't get was all of it.

Councillor Skamperle stated we started a C-14 investigation on those emails basically at the time Mr. Woods indicated that Art Sciorra was on board with the decision making on 819 Knox Street. Councillor Skamperle said the exhibits he's presenting were clearly different.

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Councillor Skamperle said Mr. Woods' presentation in the sense that there were things left out that he's sure Mr. Woods had. Councillor Cilley said that was the purpose of the investigation and we asked Mr. Silver to look into those investigations and he did. Councillor Cilley said he assumed his report contains the entire chain of those emails. Councillor Skamperle said that's right. Councillor Cilley said he can't say that's forgery or fraud even though the intent may have been to intentionally mislead. Mayor Nelson said the C-14 investigation was not predicated by the emails from Justin, that was due to all the 819 Knox Street issues, like when we discovered that someone was living there for free. Councillor Vaugh stated that Justin Woods called for the C-14. Mayor Nelson said we all agreed to find out what happened at 819 Knox Street. Councillor Skamperle said the emails Justin Woods sent Council with information omitted, is that criminal? Councillor Skamperle stated that had we read the complete emails the C-14 investigation might not have happened. Councillor Powers stated those are questions for an outside attorney and shouldn't be aired now.

Councillor Skamperle asked City Attorney Andy Silver if altering emails is considered forgery. Mr. Silver stated he discussed this with Police Chief Rick Polniak and they don't believe it's forgery. Mr. Silver said he and the Police Chief will continue their dialogue on this and the day will come to answer these questions, but not tonight.

3. Councillor Skamperle questioned if the Oddfellows Club water lines are rusty because it's the end of the line. Kit Smith, Superintendent of Public Works, stated they are close to the end of the line but have oversized steel lines with sediment accumulating in them. Mr. Smith suggested the least costly thing to do would be to loop the system and their cost to the City would be \$3300. for our materials and time. Mr. Smith said there may be a cheaper way to correct this by sleeving a one inch pipe through their four inch line. Councillor Skamperle asked where is the end of the line. Mr. Smith responded the hydrant is the end of the line and that's where we flush their line from. Mr. Smith also said even with looping their system he can't guarantee it will get rid of the sediment in the pipes.

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NEW BUSINESS

1. Mayor Nelson stated he met with the Disabled American Veterans and they are in desperate need of drivers to take veterans to Massena and Syracuse veterans' hospitals. Mayor Nelson stated that Mert Haines is the local contact.

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