

CITY COUNCIL MEETING  
May 28, 2019  
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Mayor Ashley called the meeting to order and asked the Clerk to call the roll:

PRESENT: Mayor Ashley, Councillors Davis, Kennedy,  
Price, Skamperle and Stevenson

ABSENT: Councillor Powers

Councillor Stevenson said Councillor Powers asked to be excused. There was a consensus of Council to excuse Councillor Powers.

PUBLIC HEARING

1. A public hearing regarding the disapproval of a registration statement for sound amplifying equipment for Everything 4 Entertainment, LLC was held.

The following people spoke in support of approval of the registration statement:

- Tony Carro, Montgomery Street
- Douglas Sholette, Hilton, NY

CONSENT AGENDA

Mayor Ashley moved that the claims as enumerated in General Fund Warrant #09-2019 in the amount of \$881,344.87 and Library Fund Warrant #09-2019 in the amount of \$24,871.02 and Capital Fund Warrant #09-2019 in the amount of \$41,603.71 and Community Development Fund Warrant #09-2019 in the amount of \$0.00 and Community Renewal Fund Warrant #09-2019 in the amount of \$1,126.50 as audited, be and the same are ordered paid and Councillor Stevenson seconded the motion.

The vote was:

CARRIED, AYES ALL

ITEMS FOR COUNCIL ACTION

1. Councillor Price moved a resolution to thank Governor Andrew Cuomo and the Department of Corrections for the decision to keep our correctional facilities open, and Councillor Skamperle seconded to wit:

A RESOLUTION TO THANK GOVERNOR ANDREW CUOMO AND THE  
DEPARTMENT OF CORRECTIONS FOR THE DECISION TO KEEP OUR  
CORRECTIONAL FACILITIES OPEN

Whereas, New York Governor Andrew Cuomo recently announced that the two prisons in the City of Ogdensburg and the prison in the Town of Gouverneur, all of which provide outstanding careers for members of over 1,000 families across St. Lawrence County, will remain open to serve the people of the State of New York; and

Whereas, the correctional facilities provide more than a \$100 million in payroll, provide quality employment and improve the quality of life for citizens across Northern New York; and

Whereas, the Ogdensburg City Council passed a resolution in February and the St. Lawrence County Legislature passed a resolution in March formally asking the governor to remember the promise he made in the summer of 2010, while he was marching in the Seaway Festival Parade, that he felt the State of New York owed a debt of gratitude to the citizens of the Maple City for that community's decision in the early 1980s to accept a prison at a time when other communities across the state were protesting and objecting to the location of correctional facilities in New York City, Long Island and elsewhere; and

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Whereas, then candidate Cuomo recalled how the Ogdensburg community helped his father, Governor Mario Cuomo at a time when the state was facing a crisis, and promised that if he was elected governor, he would keep the Ogdensburg prisons off any future closure lists because the City had set an example for other communities across the State of New York by working hand in hand with the Department of Corrections to provide a place where inmates could be treated with dignity and respect while paying their debt to society; and

Whereas; the citizens of Ogdensburg again helped the State of New York in the late 1980s when New York City faced another severe jail crisis, by accepting the construction of Riverview Correctional Facility at a time when the citizens of the state's largest city again were refusing to allow the construction of a new jail to house their own citizens who were facing unsafe conditions in the metropolitan area's overcrowded and dangerous jail system; and

Whereas; the citizens of Gouverneur also offered to accept a prison and even offered to provide financial assistance to the State of New York to help facilitate the location of a medium security prison, and later agreed to help the State of New York provide facilities for some of its most troubled inmates by agreeing to accept the construction of a Secure Housing Unit within the facility to provide a safe place where people could serve their sentences; and

Whereas, Northern New York's prisons have repeatedly demonstrated they are less costly to operate than downstate prisons, result in fewer injuries to staff and inmates, result in higher vocational and academic graduation rates and are more efficient in terms of their operation; and

Now, therefore, be it resolved, that the Ogdensburg City Council thanks Governor Andrew Cuomo and the Department of Corrections for the decision to keep our correctional facilities open and for remembering how the people of St. Lawrence County have a long history of helping the people of the State of New York and the City of New York when they have faced a crisis and needed a helping hand; and

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Be it further resolved, that copies of this resolution be forwarded to Governor Andrew Cuomo, Senator Joseph Griffo, Senator Elizabeth Little, Senator Patty Ritchie; Assemblyman Mark Walczyk, Assemblyman Billy Jones, Assemblyman Robert Smullen and Assemblyman Ken Blankenbush as well as the leaders of Senate and Assembly.

The vote was:

CARRIED, AYES ALL

2. Councillor Kennedy moved a resolution declaring the opioid epidemic a public nuisance and seeking municipal opioid cost recovery, and Councillor Skamperle seconded to wit:

RESOLUTION DECLARING THE OPIOID EPIDEMIC A PUBLIC NUISANCE  
AND SEEKING MUNICIPAL OPIOID COST RECOVERY

I. Purpose and intent.

WHEREAS, the opioid epidemic is sweeping the country. Indeed, addiction to and abuse of opioids is one of the greatest challenges facing the City of Ogdensburg. A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioids were sold, distributed, and prescribed in the City of Ogdensburg over the past several years, and this is an ongoing problem. The selling, distributing and prescribing of large amounts of opioids in our community has created a public health and safety hazard affecting the residents of the City of Ogdensburg. This crisis has devastated families, wreaked havoc on our economy, and produced a generation of narcotic dependence. As a result of the opioid epidemic, costs related to healthcare, family and social services, criminal justice, addiction and rehabilitation, and many other areas have significantly increased. Many of these costs are paid by the City of Ogdensburg; and

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WHEREAS, the purpose and intent of this Resolution is to allow the City of Ogdensburg to recover these costs, despite the existence of the common-law municipal cost recovery rule (a.k.a. free public services doctrine) and declare the opioid epidemic and its effects on the City of Ogdensburg a public nuisance. Specifically, the City of Ogdensburg provides services related to the opioid epidemic, which are funded by tax revenues. This Resolution clarifies that reimbursement may be sought for the costs of providing such services, whenever practicable, from the responsible party. To accomplish this, the City of Ogdensburg establishes this cost recovery procedure and declares the opioid epidemic and its effects on the City of Ogdensburg a public nuisance.

### II. Definitions.

WHEREAS, “costs” mean all expenditures related to the opioid epidemic that directly or indirectly arise from the City of Ogdensburg’s response to a responsible party’s action or inaction; and

WHEREAS, “responsible party” means any person or corporation whose negligent, intentional, or otherwise wrongful conduct causes the incident resulting in the City of Ogdensburg incurring costs, or who is found liable or made responsible by a court for the costs incurred by the City of Ogdensburg in the form of damages, regardless of the cause of action.

### III. Governmental function cost recovery.

WHEREAS, the City of Ogdensburg may recover the costs of governmental functions related to opioids marketed, sold, manufactured, dispensed, prescribed, and/or distributed by the responsible party. If a responsible party fails to pay the costs demanded, the City of Ogdensburg may initiate and recover costs through administrative, civil, and/or criminal action against the responsible party. In that case, the City of Ogdensburg also may recover attorney’s fees, interest, and any other payment or type of damages the court deems proper.

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IV. Effect of criminal or civil proceedings on governmental function cost recovery.

WHEREAS, the initiation of administrative or civil proceedings for governmental function cost recovery does not bar the criminal prosecution of a responsible party or any associated violation. Similarly, criminal prosecution does not bar civil collection of costs for the violation giving rise to the criminal prosecution.

V. Public nuisance.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Ogdensburg hereby finds and declares the following:

- 1) That addiction to and abuse of opioids is one of the greatest challenges facing the City of Ogdensburg;
- 2) A cause of this increasing crisis is the overabundance of prescription opioids. Vast amounts of prescription opioid pain pills were sold, distributed and prescribed in the City of Ogdensburg over the past several years, and this is in an ongoing problem;
- 3) There is evidence showing that approximately four in five heroin users began their addiction by first using and then misusing prescription pain medications containing opioids;
- 4) The selling, distributing and prescribing of large amounts of opioid pain pills in the City of Ogdensburg has created a public health and safety hazard affecting the residents of the City of Ogdensburg, resulting in devastation to City of Ogdensburg families, a negative effect on the City of Ogdensburg economy, wasted public resources, and a generation of narcotic dependence;
- 5) That selling, distributing and prescribing of prescription opioid pain pills is a hazard to public health and safety, which has created a public nuisance to the citizens of the City of Ogdensburg, and said nuisance remains unabated;

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- 6) That, in addition to all other powers and duties now conferred by law upon the City of Ogdensburg, the Ogdensburg City Council is authorized to enact resolutions and take other appropriate and necessary actions for the elimination of hazards to public health and safety, and to abate or cause to be abated anything which the Ogdensburg City Council determines to be a public nuisance;
- 7) That manufacturers of prescription opioids and those in the chain of distribution have wrongfully abused the privilege of selling and/or providing medication to our residents and must be held accountable; and
- 8) That it is the duty of the City of Ogdensburg to vindicate the rights of its citizens and take action to abate this public nuisance.

AND BE IT FURTHER RESOLVED, that this resolution applies retroactively.

The vote was:

CARRIED, AYES ALL

3. Mayor Ashley moved a resolution to adopt an updated City of Ogdensburg Health and Safety Manual, and Councillor Price seconded to wit:

RESOLUTION TO ADOPT AN UPDATED CITY OF OGDENSBURG  
HEALTH AND SAFETY MANUAL

WHEREAS, Federal and State Health and Safety regulations require that the City of Ogdensburg maintain an up-to-date Health and Safety Manual for the City's operations and facilities; and

WHEREAS, the Development Authority of the North Country has completed updating the City's Health and Safety Manual,

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NOW, THEREFORE, BE IT RESOLVED, that the Ogdensburg City Council hereby adopts the attached City of Ogdensburg Health and Safety Manual, updated as of May 16, 2019, and be it further

RESOLVED, that a copy of this resolution be given to the Development Authority of the North Country.

The vote was:

CARRIED, AYES ALL

4. Councillor Stevenson moved a resolution authorizing the City Manager to sign a First Amendment to a Lease Agreement with New Cingular Wireless PCS, LLC, and Councillor Skamperle seconded to wit:

RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A FIRST  
AMENDMENT TO LEASE AGREEMENT

WHEREAS, the City and New Cingular Wireless PCS, LLC desire to modify the rental terms of the existing Lease Agreement for the use of space on the Ogden Street water storage tank, and

WHEREAS, the Amendment to accomplish this modification been approved as to form by the City Attorney,

NOW, THEREFORE, BE IT RESOLVED, that the City Manager is hereby authorized to sign said Amendment.

The vote was:

CARRIED, AYES ALL



OLD BUSINESS

1. Councillor Skamperle said he would like to discuss the disapproval of a registration statement for sound amplifying equipment for Everything 4 Entertainment, LLC. Councillor Stevenson asked what options Council has available. City Manager Sarah Purdy said Council could bring a resolution from the floor to overturn the denial, but that action has no power. Ms. Purdy explained Council does not have the statutory authority to overrule its own ordinances, but the Zoning Board of Appeals does. Ms. Purdy said Council could also begin the process to amend the Municipal Code.

Councillor Skamperle made a motion to approve the registration statement, and Councillor Price seconded the motion. Councillor Stevenson said she would not support the motion but would support a change in the noise ordinance. Mayor Ashley suggested Council work on an option supported by the majority of Council. Councillor Kennedy asked for a timeline on changing the Municipal Code. Ms. Purdy said a public hearing would need to be held, and Council could hold a special meeting if desired.

Councillor Price made a motion to table Councillor Skamperle's motion, and Councillor Skamperle seconded the motion.

The vote to table the motion was:

CARRIED, AYES ALL

2. Councillor Stevenson asked if restaurants are personally notified of the hydrant flushing schedule. Fire Chief Michael Farrell said in addition to the publication of the schedule, businesses are called on the actual day of the flushing.

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### NEW BUSINESS

1. Mayor Ashley said City Assessor Suzanne Arquette recently reassessed one neighborhood and is doing a great job. Mayor Ashley suggested a set of guidelines establishing the frequency of revaluations. Councillor Price said the issue was raised a few years ago, and it was suggested that revaluations be done more frequently. Councillor Kennedy asked what schedule other municipalities use. Councillor Stevenson said the State sets strict rules and regulations with respect to revaluations. City Manager Sarah Purdy suggested staff review the regulations and schedules other municipalities follow and then provide Council with an update. City Assessor Suzanne Arquette said the City condensed from seven neighborhoods to five a few years ago. Mrs. Arquette said she will forward the map depicting the neighborhoods to Council. Mrs. Arquette explained it is important to stay at 100% equalization and keep exemptions at full value. Mrs. Arquette said there are 4,063 parcels in the City, and she completed 950 parcels this year. Councillor Skamperle asked if it would help if one neighborhood was evaluated each year. Mrs. Arquette said one neighborhood has been done every year since 2014. Councillor Stevenson suggested reducing the number of neighborhoods to increase frequency. Mrs. Arquette said she will review that possibility and noted some of the properties completed this year had not been done in 9 or 11 years. Councillor Stevenson suggested reviewing the cost of having an outside firm complete a City wide revaluation. Mrs. Arquette said she is familiar with a community using an outside firm and will advise Council of the cost to that community.

2. Councillor Skamperle said under Watertown's noise ordinance a permit can be issued to exceed the noise level. Councillor Skamperle distributed a proposed ordinance to Council members and made a motion to call for a public hearing to be held regarding an amendment to Ogdensburg Municipal Code Chapter 143 entitled "Noise", and Councillor Price seconded to wit:

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

BE IT RESOLVED that Ordinance No. \_\_\_ of 2019, entitled an Ordinance to Amend Ogdensburg Municipal Code Chapter 143 entitled “Noise” to allow registered and approved applicants to exceed the maximum allowable noise level for events that have been granted permission by the City manager, upon approval by Ogdensburg City Council, 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 10<sup>th</sup> day of June, 2019 at 7:00 p.m., and be it further

RESOLVED, that the City Clerk give notice of such public hearing by publication in the 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.

After review of the proposed changes, Mayor Ashley said he was not comfortable with authority being taken away from the Chief of Police. Councillor Price said the proposal does not take away the Police Chief’s authority to enforce the noise ordinance. Councillor Skamperle said the City Manager enters into contracts and agreements on behalf of the City, and the Chief of Police would still handle the law enforcement aspect. Mayor Ashley asked how loud 105 decibels is. Councillor Price said 15 decibels is just over a whisper, a rock concert is 120, a symphony is 100, a snowmobile is 100 and the band that played at the Memorial Day parade was 115.

City Manager Sarah Purdy said the end goal is to find a solution to process these types of requests so Council has the final say and questioned why responsibility would be changed from the Chief of Police to City Manager. Councillor Skamperle said it would eliminate some steps. Ms. Purdy explained it would be the exact same process and said she is uncomfortable with that aspect of the proposed amendment.

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Mayor Ashley and Councillor Stevenson agreed. Councillor Price said the idea was that the City Manager acts as an agent when signing agreements and contracts. Councillor Skamperle said the Police Chief did his job perfectly with respect to the application. Councillor Stevenson said she will support the proposed change if the responsibility remains with the Chief of Police, and Mayor Ashley agreed.

### ITEMS FOR DISCUSSION

1. Councillor Price said he understands the inconvenience of the orange cones and milled streets throughout the City, but the DPW guys are doing a great job.

### CITIZEN PARTICIPATION

1. Joe Howe, Everything 4 Entertainment, LLC, suggested the concert be held and used to conduct a study because he plans to bring in equipment to measure the sound levels. Councillor Skamperle said the amendment to the noise ordinance is not only being done for the concert.

2. Douglas Sholette, Hilton, NY, asked why Council cannot just vote to change the Charter since a public hearing was just held. Councillor Skamperle said a different public hearing must be held regarding changing the section of the Municipal Code. Mr. Sholette asked if Council can make the change at the next Council meeting, and Councillor Skamperle said yes.

3. Eric Howe, 319 Clark Street, said he has a decibel reader and explained a 22 caliber gun from 10 feet away is 97 decibels and talking is 56.

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