

CITY COUNCIL MEETING

May 11, 2009

Page 101

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

PRESENT: Mayor Nelson, Councillors Hannan,
Powers, Morley, Sholette and Vaugh

ABSENT: Councillor Flynn

Mayor Nelson thanked Recreation Director Phil Clemens and Public Works Director Kit Smith for renovating the baseball fields at Montroy Park and said they did a fantastic job at the field. Mayor Nelson added that earlier this evening the Kiwanis Club dedicated the fields for Russ McDonald.

City Manager Arthur Sciorra updated Council on Recreation Director Phil Clemens' medical condition. Mr. Sciorra stated that Phil has been in the hospital 16 days but he received an update today from Karen Kitchen that Phil was awake and feeling better.

PUBLIC HEARING

1. A public hearing regarding Sale of City-Owned Property in the Ogdensburg Empire Zone.

Wally Hunter, 706 Rensselaer Avenue, advised Council that Mendy Bistrisky was unable to attend this meeting. Mr. Hunter urged Council to approve this sale and added 52 employees are back working at the plant.

Samuel Goichman, SCG Capital Corporation, read a prepared statement. Mr. Goichman stated that his company leased equipment to the Cheese Plant and urged Council to suspend talks on the sale of the plant to Tubroburg until claims on their leased equipment have been satisfied. (A copy of Mr. Goichman's statement follows these minutes.)

CITY COUNCIL MEETING

May 11, 2009

Page 102

Mayor Nelson introduced Steve Hunt from the Governor's Office and Edward Gaffney from Senator Aubertine's Office. Mayor Nelson stated both of these offices were instrumental and extremely helpful in reopening the Cheese Plant. City Manager Arthur Sciorra added that in addition to these offices, County Legislator Burns and Councillor Powers and Sholette also helped reopen the plant.

Mayor Nelson stated there is a need for Council to adjourn to Executive Session to discuss the sale of City-owned property in the Empire Zone and moved to amend the agenda, Councillor Vaugh seconded the motion.

The vote was:

CARRIED, AYES ALL

Upon returning from Executive Session, all members of Council were still present.

CONSENT AGENDA

Mayor Nelson moved that the claims as enumerated in General Fund Warrant #9-2009 in the amount of \$1,367,058.25 and Library Fund Warrant #9-2009 in the amount of \$23,657.59, Capital Fund Warrant #9-2009 in the amount of \$7,981.31 and Community Development Fund Warrant #9-2009 in the amount of \$9,542.60 and Community Renewal Fund Warrant #9-2009 in the amount of \$8,325.10 and HOME Fund Warrant #9-2009 in the amount of \$27,335.00 and AHC Funds Warrant #9-2009 in the amount of \$29,295.12 and RESTORE Program Warrant #9-2009 in the amount of \$7,700.00, as audited, be and the same are ordered paid and Councillor Vaugh seconded the motion.

The vote was:

CARRIED, AYES ALL

APPOINTMENTS

1. Mayor Nelson moved the re-appointment of Barbara Williams to the Ogdensburg Pride and Beautification Commission, term to expire 12/31/12, and Councillor Powers seconded the motion.

The vote was:

CARRIED, AYES ALL

2. Mayor Nelson moved the re-appointment of Barbara Barlow to the Ogdensburg Pride and Beautification Commission, term to expire 12/31/12, and Councillor Morley seconded the motion.

The vote was:

CARRIED, AYES ALL

ITEMS FOR COUNCIL ACTION

1. Councillor Sholette moved a resolution authorizing the City Manager to sign a Purchase Agreement between the City of Ogdensburg and Tubroburg, LLC, and Councillor Powers seconded to wit:

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO SIGN A PURCHASE AGREEMENT BETWEEN
THE CITY OF OGDENSBURG
AND TUBROBURG, LLC

WHEREAS the City has filed deeds to the property at 30 Main Street, commonly known as the "Cheese Plant" resulting from tax lien foreclosure and has taken ownership of the same; and

CITY COUNCIL MEETING

May 11, 2009

Page 104

WHEREAS it is deemed desirable to continue to operate the facility and maintain the jobs at the cheese plant operation; and

WHEREAS there is a buyer willing to purchase the property and equipment at the facility for a sum of \$900,000; and

BE IT RESOLVED, Tubroburg, LLC have the right to occupy the property prior to closing for the purpose of conducting cheese making operations for a fee of \$12,000 per month prior to the closing, and that closing shall not occur later than June 1, 2010, 5:00 p.m.

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute on behalf of the City a purchase and sale agreement, for the Cheese Plant located at 30 Main Street and the equipment therein, between the City of Ogdensburg and Tubroburg, LLC, Hewlett Neck, New York 15598.

The vote was:

CARRIED, AYES ALL

2. Mayor Nelson moved a resolution calling for a Public Hearing and Public Notice regarding an Ordinance amending Chapter 73 of the Municipal Code of the City of Ogdensburg, and Councillor Morley seconded to wit:

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

BE IT RESOLVED, that Ordinance No. 4 of 2009, entitled, Ordinance Amending Chapter 73 entitled "Animals", Article II entitled "Dog License Fees, Section 73-3 entitled "License fees" 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 Council Chambers in the City of Ogdensburg, New York, on Tuesday, the 26th day of May, 2009 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

3. Councillor Powers moved a resolution declaring the Wastewater Treatment Plant Energy Efficiency Improvement Project as a Type II Action in accordance with SEQR, and Councillor Vaugh seconded to wit:

RESOLUTION DECLARING THE
WASTEWATER TREATMENT PLANT
ENERGY EFFICIENCY IMPROVEMENT PROJECT
AS A TYPE II ACTION IN ACCORDANCE WITH SEQR

WHEREAS, the Wastewater Treatment Plan (WWTP) energy efficiency improvement project, to be funded in part by the NYSEFC CWSRF, has been determined to be in the public interest; and

WHEREAS, the WWTP energy efficiency improvement project will positively affect the environment; and

WHEREAS, the project will result in a reduction of energy usage and cost at the WWTP, and;

CITY COUNCIL MEETING

May 11, 2009

Page 106

WHEREAS, the Wastewater Treatment Plant (WWTP) energy efficiency improvement project, to be funded in part by the NYSEFC CWSRF, has been determined to be a Type II action pursuant to 6-NYCRR Part 617,

NOW, THEREFORE, BE IT RESOLVED, that the Ogdensburg City Council hereby declares that the WWTP energy efficiency project is a Type II action under 6-NYCRR Part 617.

The vote was:

CARRIED, AYES ALL

4. Councillor Morley moved a resolution authorizing the City Manager to enter into agreements with chemical supply companies, and Councillor Vaughn seconded to wit:

A RESOLUTION TO AWARD
CONTRACTS TO SUPPLY CHEMICALS

WHEREAS, the City uses a number of chemicals in its various operations at the Water, Wastewater, and pool facilities, and

WHEREAS, each year the City bids out the supplying of said chemicals, and

WHEREAS, on April 23, the City received and opened bids for the chemicals,

NOW, THEREFORE, BE IT RESOLVED that the City Manager is authorized to enter into agreements with; Slack Chemical to provide chlorine, sodium hypochlorite, and perlite; Amerex for diatomaceous earth, hydrofluosilic acid, citrus degreaser, and potassium permanganate; Cleanwaters for polymer.

The vote was:

CARRIED, AYES ALL

5. Councillor Vaugh moved a resolution authorizing the City Manager to enter into agreements with a concrete supply company, and Councillor Hannan seconded to wit:

A RESOLUTION TO AWARD
CONTRACTS TO SUPPLY CONCRETE

WHEREAS, the City uses concrete for various projects throughout the year, and

WHEREAS, each year the City bids out the supplying of concrete, and

WHEREAS, on April 23, the City received and opened bids for concrete,

NOW, THEREFORE, BE IT RESOLVED that the City Manager is authorized to enter into an agreement with Graymont Materials, as the lowest overall bidder, to supply concrete for 2009.

The vote was:

CARRIED, AYES ALL

OLD BUSINESS

1. Councillor Morley stated that he questioned the Municipal Code regulations prohibiting bonfires in the City at the last meeting and asked if there has been a clarification. Mayor Nelson requested Fire Chief Steve Badlam address this issue at the next meeting. City Manager Arthur Sciorra said that the Fire Chief will do a press release.

2. Councillor Morley stated that Joe Basta gave Council a list of questions at a previous meeting regarding the Standard Shade Roller Property and American Communities project, and asked if we have answered those questions. City Manager Arthur Sciorra stated that staff is completing the chronology.

CITY COUNCIL MEETING

May 11, 2009

Page 108

Mayor Nelson stated after Mr. Sciorra reviews this information, staff will do a presentation at the next meeting and send Mr. Basta a letter answering his questions.

3. Councillor Morley questioned the Shade Roller engineering cost estimates and asked how long the grant funds are available. Mr. Sciorra stated staff is working on the cost estimates for asbestos removal and added that the grant funds are good for two years. Director of Planning and Development Justin Woods stated that the previously proposed estimates are \$900,000 short and we have two years from the date the State issues the contract to use these grant funds. Mr. Sciorra stated that we are trying to find fund sources and have submitted an application for RESTORE NY 3 funds to cover the \$1.7 million dollar cost for the entire project.

Councillor Morley questioned if we have secured the Shade Roller Building. Mr. Sciorra stated we are looking at fencing all four sides of the property and boarding the 1st floor windows.

4. Councillor Powers stated that he read in the paper that money from the federal level were being released to the State Housing Trust Fund and questioned Director of Planning and Development Justin Woods if monies were ready to be released for the \$4,500,000.00 Main Street programs. Mr. Woods stated we have submitted applications for the 2009 CDBG and Main Street and have been funded for the 2008 Neighborhood Stabilization Program.

NEW BUSINESS

1. Councillor Sholette asked City Manager Arthur Sciorra how many properties the City owns in lieu of taxes and if there are plans to hold an auction. Mr. Sciorra advised that staff is compiling a list of the City-owned property to auction and he will provide Council with this information.

CITY COUNCIL MEETING

May 11, 2009

Page 109

2. Councillor Sholette congratulated the Planning Department, Mark Jacobs and Cindy Ghize for receiving \$650,000. in funding for the Morris and Knox Street area. Councillor Sholette asked if the funds can only be used for demolition and reconstruction, or if private citizens can use the money to renovate their properties. City Manager Arthur Sciorra stated the money could be used by individuals to rehabilitate their properties. Councillor Sholette requested a list of income eligible guidelines in the next Council update. Mayor Nelson directed staff to place a link to this information on our website.

3. Councillor Powers questioned if the City will be applying for the federal Small Cities Community Block Grant. Director of Planning and Development Justin Woods stated that Ogdensburg is too small and this grant is for cities larger than 40,000 residents.

4. Councillor Powers stated he read in the update that a letter was sent to Senator Aubertine's Office on Alliance Energy and questioned if we have heard anything. Mr. Sciorra said that he spoke with Senator Aubertine's Office on Friday and they requested additional information. Mr. Sciorra stated that this information will lead to identifying the appropriate governmental agencies to deal with this issue of the steam contract to provide steam to the Psychiatric Center and prisons. Mr. Sciorra stated that we are trying to assist Alliance Energy in renegotiating a steam contract through Senator Aubertine's Office and the state. Councillor Powers suggested reaching out to Assemblywoman Addie Russell who sits on the Energy Commission.

ITEMS FOR DISCUSSION

1. Comptroller Philip Cosmo stated that there have been several articles in the local paper regarding the City's financial condition and how we are faring with St. Lawrence County and the School District. Mr. Cosmo stated that last Friday we mailed a \$1 million dollar check to the County and if Council wishes to go forward with the TAN we will pay them the \$1 million balance owed for 2008.

CITY COUNCIL MEETING

May 11, 2009

Page 110

Mr. Cosmo explained the cash flow problem is caused by several large entities like Alliance Energy (\$1.6 million), Cheese Plant (\$700,000. - \$800,000.) owing us large sums of money and slow State reimbursements (\$800,000.) for grant projects we fronted to move them along. Mr. Cosmo said another cause for our cashflow problem is that we are the tax collecting agent for the School and County and by law must make them whole, despite not receiving the taxes. Mr. Cosmo explained TAN process is to contact our bond council, they will prepare a resolution for Council to pass and they will complete paperwork to go out to bid. Mr. Cosmo read a memo he sent to Mr. Sciorra explaining this process. (A copy of which follows these minutes.)

After much discussion amongst Council, there was a consensus to direct the City Manager and Comptroller to proceed with the TAN process.

2. Councillor Morley stated that he received an email from Mr. Sciorra regarding the Municipal Home Rule and questioned if we should get more information from NYCOM. Mr. Sciorra stated that Attorney Andrew Silver and Comptroller Philip Cosmo are researching Municipal Home Rule to address specific questions.

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

Memo

To: City Manager
From: Phil Cosmo
Date: 5/7/09
Re: Tax Anticipation Note (TAN)

Art,

I've been in contact with Ben Maslona, of Fiscal Advisors, and he indicates that if we are going to do a Tax Anticipation Note we can expect a rate in the 1-2% rate. He is also recommending that we do the note for one year, as that will get us a better rate. In doing so we will have higher administrative cost, those cost should be offset by the lower rate.

The process would be for us to give our bond counsel, Orrick Harrington, the amount that we would like to borrow, at this time I would recommend the \$2,000,000.00 that we are behind on with the county; Orrick Harrington would then prepare the resolution needed for the City Council to pass in order to allow us to borrow the funds. Once the resolution is passed it will take 6-8 weeks to finalize the process. We would then receive the funds and use them to pay our expenses.

Let me know if you have any questions.

Members of the city council, thank you for permitting me the opportunity to speak. My name is Sam Goichman and I am speaking on behalf of SCG Capital Corporation with regard to the proposed sale of assets, Property, Plant and Equipment to Toobro.

SCG is a privately held, family owned leasing company headquartered in Connecticut. We have been leasing equipment to mid-sized and large companies for over 30 years. We understand the importance of the Ogdensburg plant to the city. This is a plant that will maintain and create jobs and revenue for the community if the appropriate operator is found.

However, an essential component of every business's success over the long term is the quality of their product and their fair dealing with vendors and customers. SCG has worked in good faith with the past owners of the plant and their employees to encourage growth and offer financing when available. SCG has leased vital equipment to cheese manufacturing to the Ogdensburg plant. Unfortunately, the past and future owners have not responded to our numerous requests for payment or provide us access to collect our equipment. SCG has not received a payment on our equipment since May of 2007 and received a judgment in the state of Connecticut and the judgment is being Domesticated to the state of NY. SCG has a judgment, liens and clear title to specific equipment within the plant and the proposed acquirers' have failed to acknowledge our rights and interests.

In an effort to expedite the transfer of assets without properly informing the current owners, Toobro has set the stage for this new operator to meet a similar fate as those who came before them. You can not begin a new business on a weak foundation and expect it to thrive. If SCG's rights have been ignored, there is no doubt other companies who will bring similar claims and actions against the new owners.

Although the proposed sale would not provide any representations and warranties from the city, therein limiting Ogdensburg's liability, this still leaves TooBro open to defend any actions from creditors and lien holders, which could immediately hamper the operation of the plant. Since the success of the Ogdensburg plant is the ultimate goal, I am asking for the city of Ogdensburg to suspend further talks with regards to the sale of the Cheese Plant's Property, Plant and equipment until the

proper due diligence can be performed. It is only once all potential claims have been address, will the business be free to grow and add value back to the community.



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