

PRESENT: Acting Mayor Russ Southard
Council Member Maureen Hennessy
Council Member Larry Malone
Council Member David Rissberger
Council Member Michael E. Lynch, Jr.
Council Member Madolyn Palmer
Council Member Bob Brzozowski (left the meeting at 6:47 pm)
Council Member Chip Holmes

ABSENT: None.

Acting Mayor Southard called the Special Meeting to order at 6:30 pm and asked the Clerk to call the roll.

MOTION, made by Council Member Lynch and seconded by Council Member Hennessy, that the Common Council approve the following resolution:

WHEREAS, pursuant to section C-16(A.) of the Charter of the City of Oneonta, NY the City Manager serves at the pleasure of the Common Council, and

WHEREAS, Section C-16(E.) of the Charter of the City of Oneonta authorizes the Common Council to suspend the City Manager by passing a resolution to that effect stating its intent to remove him and setting forth the reasons therefore; and

WHEREAS, the Common Council has lost trust and confidence in City Manager Martin Murphy and his ability to satisfactorily perform his duties and responsibilities;

NOW THEREFORE IT IS

RESOLVED that pursuant to Section C-16(E.) of the City Charter, City Manager Martin Murphy is hereby suspended from his duties as City Manager and shall have no power to act in that capacity; and it is further

RESOLVED that pursuant to Section C-16(E.) of the City Charter, the Common Council states its intent to remove City Manager Martin Murphy from that office for the reasons set forth above; and it is further

RESOLVED that pursuant to Section C-16(E.) of the Charter, Mr. Murphy shall have 15 days to reply in writing to this Resolution and to indicate in writing whether he wishes to exercise his right to a public hearing before the Common Council; and be it further

RESOLVED that the City Clerk shall immediately certify a copy of this Resolution and that a copy of this Resolution shall be placed upon the desk of the City Manager and that a copy be mailed to him by both Certified Mail and regular first class mail; and be it further

RESOLVED that the Common Council shall take such further action as may be necessary upon either the passage of 15 days from the date of this Resolution or immediately after a public hearing held on this matter pursuant to the provisions set forth herein.

Acting Mayor Southard asked for discussion.

Council Member Holmes asked whether public comment would be heard. City Attorney Merzig advised that, as a motion had been made and seconded, that the Council would need to table that motion before allowing public comment.

MOTION, made by Council Member Holmes and seconded by Acting Mayor Southard, to table the resolution on the floor.

The Acting Mayor asked the Clerk to call the roll.

Voting Ayes: Acting Mayor Southard
Council Member Rissberger
Council Member Brzozowski
Council Member Holmes

Noes: Council Member Hennessy
Council Member Malone
Council Member Lynch
Council Member Palmer

Absent: None.

MOTION TO TABLE FAILED, 4-4

Acting Mayor Southard asked for discussion on the motion on the floor.

Council Member Rissberger read the following statement:

I'd first like to acknowledge the fact that the last 8 months have been very difficult for all of us. The residents of Oneonta, the council and all City employees have been placed under a serious amount of stress but I believe, with time, we will heal and move forward. During our emergency Common Council meeting in April to address employee complaints we, the council, agreed to complete a "360" review of our City Manager. In addition, it was agreed that we would review the progress the City Manager had made in achieving his annual goals as well as prepare our individual assessment of Martin's job performance. The various interviews I had done in March and April followed by the recent 360 review revealed poor moral across all departments and serious concerns as a result of reported managerial style. That being said, I am very distressed by the chosen process of this council in recent months leading up to today's vote.

1. Most City Manager forms of government work with a "committee of the whole"; the entire council has 1 or 2 working sessions before having another session where voting takes place. This council continues to use a committee system, 2 committees of four council members each. Too many times items have passed through a committee only to be shot down later in the full council meeting. This makes planning difficult when you can't predict whether a resolution will pass and no one is pushing for consensus among all council members beforehand.

2. As with any CEO, a new City Manager should establish a set of goals with the Council and then establish sub goals with his/her department heads that help the initial goals be accomplished. This council never established goals for the City Manager. When I went looking for them in February for a review, I discovered that Martin took some established goals for various departments and expanded on them.

3. I first heard complaints in February of this year while speaking with 2 department heads. We never held a session with Martin to address the complaints or to verify what had been reported. When I mentioned this on Wednesday, I was shocked to hear two council members say, "Why would we do that? He would just lie!"

4. A complaint was made by at least one council member claiming Martin "pushed through" the hiring of our Community Development Director with very little input from the Council. The discussion took place to put this position in the 2015 budget and the budget was passed by us. Martin provided us a job

description which we had the opportunity to amend and he hired Bill with our consent. The charter clearly states: "The City Manager shall appoint all department heads, officers, and employees of the City except as provided otherwise in this Charter or by applicable law, with the approval of the Common Council". I fail to see why this is a valid complaint.

5. Other complaints by council members have been made, blaming Martin for placing items on the Consent Agenda instead of the Discussion Agenda as well as calling for two disputable executive sessions. These are prime examples of how disorganized this council has been these last few months and if anyone wants to point fingers, they should point them no further than in a mirror.

Martin's performance, according to his contract, "shall be evaluated no less than annually by the Employer in a manner consistent with the provisions of the City Charter." "No less than annually" to me means that Martin's performance shouldn't have been evaluated before October, a year after his hiring. In April, 6 months after he was hired, I agreed to participate in the 360 review process with my colleagues due to employee concerns. I was led to believe that the review process would be a litmus test from which a corrective action plan could be established for the next 2-3 months. I realized this would be a performance review as well so I insisted that his goals be reviewed.

I later learned from Robert McAvoy, who sits on the board of the International City Manager's Association (ICMA) and helped develop the 360 Review Process, that a 360 review should be done for CREDENTIALING purposes only and not during the first year of a new job. Typically, an independent review board is established to complete a 360 review to prevent it from being used for a political lynching. According to Bob, it should never be used as a performance review; a performance review should be done annually and should consist of a review of the City Manager's goals and department goals and their subsequent completion or lack thereof.

We PARTIALLY completed a 360 Review that was written by Councilman Malone and everyone was asked to provide a memo of our assessment of Martin's job performance. When I asked about reviewing Martin's goals, I was told I could review them if I wanted to. When I asked on what was I supposed to base my assessment of his job performance when no one was evaluating his goals as we had agreed to do, I was told in an email dated June 22 from my colleague Mr. Lynch, "As we agreed, the memos were to be based on whatever the individual council member chose. The memo allows each council member the opportunity to provide input beyond what was being delivered by the other three components (ie 360 review, assessment of goals and summative response/input from Marty). It's a great opportunity to collect observations from throughout the year. (Dave) I disagree with your characterization of the 360 as a "small piece" (of the review). It's absolutely central in assessing executive performance." No goal review was completed, no input from Martin was provided and, according to the ICMA, Mr. Lynch's characterization of a 360 review is false.

While I am deeply concerned about the reports given to us from city employees and feel action is needed, the process we have followed over the last 8 months to educate and review our City Manager has been disgraceful, with no objective measures in place, councilmembers disregarding agreed upon procedural agreements on the review process and ignoring ICMA guidelines and advice. This vote has been based purely on emotion with no discussion of behavioral complaints with Martin or any history of a corrective action plan put in place over the last 8 months. Like any city employee, he deserves the opportunity to defend himself and receive a chance to improve his performance and we failed to provide either."

Council Member Holmes stated that back in April when Council Member Lynch played his cards, Council knew where this was headed. Council Member Holmes also recalled that Council Member Malone had guaranteed that the 360° Review was not intended to lead to this result.

Council Member Holmes stated that he was unable to attend the Special Meeting on July 15 and was surprised and amazed to find that tonight's meeting had been called for this purpose. He noted that Council has spent more time discussing chickens then working on helping the City Manager.

Council Member Brzozowski stated that this Council seems intent on chewing up and spitting out a second City Manager. He asked whether it was Martin's responsibility to get the Council's house in order. He indicated that he supports keeping City Manager Murphy in office.

Hearing no further discussion, the Acting Mayor asked the Clerk to call the roll.

Voting Ayes: Acting Mayor Southard
Council Member Hennessy
Council Member Malone
Council Member Lynch
Council Member Palmer
Noes: Council Member Brzozowski
Council Member Holmes
Abstentions: Council Member Rissberger
Absent: None.

MOTION CARRIED, 5-2 with 1 abstention

Following the vote, Council Member Brzozowski left the meeting. Council Member Hennessy then offered the following motion.

MOTION, made by Council Member Hennessy and seconded by Council Member Lynch, that the Common Council authorize the payment of a severance compensation package to the City Manager consistent with the provisions of paragraph 7 of his Contract of Employment with the City of Oneonta, contingent upon a voluntary resignation by the City Manager being submitted in writing to the City Clerk no later than the close of business on July 21, 2015. Said severance package shall include the same provisions provided if the City Manager had been removed from that office by a vote of the Common Council.

Council Member Holmes asked how much money the proposed severance package represents. Council Member Lynch stated that it would amount to \$27,500 in salary.

Hearing no further discussion, Acting Mayor Southard asked the Clerk to call the roll.

Voting Ayes: Acting Mayor Southard
Council Member Hennessy
Council Member Malone
Council Member Rissberger
Council Member Lynch
Council Member Palmer
Council Member Holmes
Noes: None.
Absent: Council Member Brzozowski

MOTION CARRIED, 7-0 with 1 absence

Discussion followed concerning Acting Mayor Southard's expected absence from the regular July 21 Council meeting. Upon advice from the City Attorney, the following motion was offered.

MOTION, made by Council Member Malone and seconded by Acting Mayor Southard, that the Common Council suspend the appointment of Council Member Southard as Acting Mayor during his absence from the City and appoint Council Member Hennessy to serve as Acting Mayor until Council Member Southard's return to the City.

Hearing no discussion, Acting Mayor Southard asked the Clerk to call the roll.

Voting Ayes: Acting Mayor Southard
Council Member Hennessy
Council Member Malone
Council Member Rissberger
Council Member Lynch
Council Member Palmer
Council Member Holmes

Noes: None.

Absent: Council Member Brzozowski

MOTION CARRIED, 7-0 with 1 absence

There being no further discussion and business to come before the Common Council, Acting Mayor Southard adjourned the special meeting at 6:52 p.m., until Tuesday, July 21, 2015 at 7:00 p.m.

I, DOUGLAS KENDALL, City Clerk and Clerk of the Common Council, DO HEREBY CERTIFY that the foregoing is a true and correct report of all Motions, Resolutions and Ordinances passed or enacted, and all other procedures had and taken by the Common Council at the Special Meeting held on July 17, 2015.

DOUGLAS KENDALL, City Clerk

I, MAUREEN HENNESSY, Acting Mayor of the City of Oneonta, New York, DO HEREBY AFFIX my name and seal of the City of Oneonta, New York this 21st day of July, 2015, approving the foregoing procedures had and taken by the Common Council at the Special Meeting held on July 17, 2015.

MAUREEN HENNESSY, Acting Mayor