

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE CITY COUNCIL

IN-CITY COUNCIL

~~SEP 4 1980~~
READ:

WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.

Rose M. Menck CLERK

PUBLIC HEARING IN RE: *

WRITTEN CHARGES SUBMITTED TO *
CITY COUNCIL BY MAYOR CIANCI *
TO CAUSE REMOVAL OF CLEMENT *
CESARO AS DIRECTOR OF PUBLIC *
WORKS *

August 20, 1980
Providence City Hall
Providence, Rhode Island
7:30 P.M.

BEFORE: City Council Members
Ralph Fagnoli, Presiding

APPEARANCES:

For Mr. Cesaro.....WILLIAM Y. CHAIKA, ESQUIRE

For the Mayor.....VINCENT J. PICCIRILLI, ESQ.

For the City Council.....JOHN ROTONDI, ESQUIRE

ALLIED COURT REPORTERS
115 PHENIX AVENUE
CRANSTON, R. I.
781-1984

1 THE PRESIDENT. The meeting will come
2 to order. Take the roll.

3 ROLL CALL:

4 MR. FARGNOLI: Here.

5 MR. ADDISON: Here.

6 MR. ALMAGNO: Here.

7 MR. BOYLE: Here.

8 MRS. BRASSIL: Here.

9 MR. CIRELLI: Absent.

10 MR. COLA: Absent.

11 MR. DILLON: Here.

12 MR. EASTON: Here.

13 MR. FARMER: Here.

14 MR. FLYNN: Here.

15 MR. GLAVIN: Here.

16 MR. GRIFFIN: Absent.

17 MR. JOHNSON: Here.

18 MR. LYNCH. Here.

19 MR. MANSOLILLO: Here.

20 MR. MOISE: Here.

21 MR. O'CONNOR: Here.

22 MR. PAOLINO: Here.

23 MR. PEARLMAN: Here.

24 MR. PENNINE: Here.

1 MR. PETROSINELLI: Here.

2 MR. SALVATORE: Here.

3 MR. SNOWDEN: Here.

4 MR. STRAVATO: Here.

5 MR. XAVIER: Here.

6 THE PRESIDENT. Twenty-three present;
7 three absent. We have a quorum.

8 Will the Council rise. Councilman Pennine will give
9 the invocation.

10 (INVOCATION GIVEN)

11 (PLEDGE OF ALLEGIANCE)

12 THE PRESIDENT. Will the Clerk read the
13 charges from Mayor Cianci's administration against the
14 Department of Public Works Director.

15 MR. EASTON. Before we read the charges,
16 I'd like to make a motion regarding procedure.

17 THE PRESIDENT. What is your procedure.

18 MR. EASTON. Mr. President and Fellow
19 Council Members, I believe this is a very serious matter
20 that we are considering tonight, and although many people
21 would like to have the thing appear to be a strictly
22 partisan matter, I think it is very important that the
23 Council uphold its own esteem by seeing it is not treated
24 as a partisan matter and that we take the charges seriously

1 and hear them seriously and try to act on them seriously.
 2 Towards that end, it is my belief, although I have immense
 3 respect for Mr. Rotondi, Mr. Rotondi has in the past in-
 4 formed us that it is very difficult for him to act object-
 5 ively on the matter in which his superiors are involved.
 6 Clearly, the City Solicitor's office is bringing this
 7 action and is charged with bringing the charges against
 8 Mr. Cesaro, and therefore I don't see how the City Soli-
 9 citor's office can then turn around and pretend to advise
 10 the Council objectively on how it should proceed. Be-
 11 cause of that, it seems to me we need an independent
 12 legal advisor for this session and I would move that we
 13 appoint Mr. Napolitano, City Treasurer, and he has agreed
 14 to serve in this capacity as the Council's legal advisor
 15 to this matter.

16 MR. JOHNSON. Second.

17 MR. PEARLMAN. Members of the Council,
 18 first of all there is no issue as of yet, and there may
 19 be none this evening, which may require any controversial
 20 ruling of any kind because the procedure on which we are
 21 to proceed is set forth clearly in the Charter by the
 22 framers of the Charter, amongst whom were the Honorable
 23 Dennis J. Roberts, and several other distinguished citi-
 24 zens.

1 My Brother is anticipating what might happen. I
2 think his motion is premature. Furthermore, Mr. Presi-
3 dent, when the City Council decides it wants to get ad-
4 vice, it could then make that decision, and furthermore,
5 it is the duty of the City Council, the City Solicitor,
6 to be available in the event we want his advice. If we
7 want his advice, we'll ask for it. If the President
8 wants his advice, the President of the Council, he indi-
9 vidually can ask whoever he wants, and if the Council
10 feels it is a controversial subject, we have a right to
11 ask for independent advice.

12 I think we are going to lose a lot of time now talk-
13 ing about procedures. Of course we want to be fair to
14 any person who is charged with anything. That is Ameri-
15 can justice, and that's why the Charter provides that
16 anybody charged has a right to have whatever he's charged
17 with put down in writing with specificity, to have its
18 own legal counsel, which he has, an eminent attorney.
19 That is why an independent counsel, Mr. Vincent Picci-
20 rilli is representing the Mayor. And it's been my ex-
21 perience this Council has always been fair to all con-
22 cerned.

23 I urge my Brothers to defer, lay on the table this
24 matter, I'm not saying we should cut him off, let's see

1 what happens. If we get into a problem, then I think we
2 should consider it.

3 I move to lay the motion on the table.

4 MR. FARMER. Second.

5 THE PRESIDENT. Motion made and seconded
6 to lay on the table. All in favor, say Aye?

7 (VOICE VOTE)

8 THE PRESIDENT. No?

9 (VOICE VOTE)

10 THE PRESIDENT. The Ayes have it.

11 MR. EASTON. Wait a minute. There was
12 no second on that motion.

13 MR. FARMER. Yes, there was, I seconded
14 it.

15 MR. O'CONNOR. I move we have a division
16 of the House.

17 MR. EASTON. Second.

18 THE PRESIDENT. It has been stated --

19 MR. O'CONNOR. I move a division of the
20 House, please.

21 MR. EASTON. Second.

22 THE PRESIDENT. The motion that Council-
23 man Easton made is incorrect and I will tell you why it is
24 incorrect; because the charges were brought to this Council

1 by Attorney Piccirilli, and not the City Solicitor's of-
2 fice. So, the City Solicitor's office is representing
3 the Council and we have nothing to do with the Mayor's
4 charges.

5 MR. SNOWDEN. Mr. President.

6 THE PRESIDENT. Yes. Okay, Mr. Moise.

7 MR. MOISE. As a member of the Council,
8 Mr. President, I think my Brother member was absolutely
9 correct in requesting a legal decision -- I want a legal
10 decision on my behalf -- because if I have to make a
11 decision, I'd like a legal decision on my behalf. Now I
12 will have a roll call vote on it.

13 MR. SNOWDEN. Mr. President, can I be
14 seen?

15 THE PRESIDENT. Yes.

16 MR. SNOWDEN. I think the question is not
17 who brought the charges but who has to function under
18 which Act at this point. And on other occasions in the
19 past, I have been aware and made aware I am sure other
20 Councilmen present have been made aware of the fact that
21 the Deputy City Solicitor finds himself in an uncomfort-
22 able situation of having to give legal advice on the
23 actions of or the intentions of his superior, and while
24 I'm not decided whether or not I wish to support Council-

1 man Easton in his endeavor to get legal advice for the
2 Council, I do find that since the charges will inevitably
3 include the City Solicitor, in some fashion of simplicity
4 with Mr. Cesaro on the charges, I would state that in
5 fact the City Solicitor does not represent at that point
6 the City Council, that the City Solicitor or the Deputy
7 there are represented in this room, when in some way
8 represent the City Solicitor in his actions and for that
9 purpose, I would think that in fact the Council at that
10 point would become without representation. Now whether
11 that, as Councilman Pearlman says, begs the issue or be-
12 gins to prejudge whether or not we need it, I think the
13 fact is that it is pretty evident it will occur. Mr.
14 Rotondi will find himself he'll be asking the questions in
15 defense of his own department, and that should allow us
16 the avenue for consultation.

17 THE PRESIDENT. Councilman Xavier.

18 MR. XAVIER. If the Council wants expert
19 advice, hire experts. That will solve all this problem
20 of outside attorney.

21 THE PRESIDENT. The stenographer asked
22 that everyone speak clearly.

23 MR. O'CONNOR. I think in the interest
24 of conducting a proper hearing with dignity and decorum,

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we ought to follow some kind of procedure. What happened just a moment ago, was that there was a motion on the floor by Councilman Easton, and from there I believe that the Chair made a ruling. I move to appeal that ruling.

MR. EASTON. I second that motion.

THE PRESIDENT. The Assistant City Solicitor would like to speak.

MR. ROTONDI. If I can make a statement. First of all, this is an action being brought by the Mayor, not the City Solicitor's office. Secondly, if the Council deems it necessary to obtain counsel of its own, there is a provision for that under the Charter, Section 2.8, which further states that it needs a three-quarters vote of the Council for purposes of hiring someone else to represent them, but I think we are getting far afield in that, as we well know, my opinions if asked for could be accepted or rejected. And you know, it has been the policy of this Council in the past to reject them almost one hundred percent. I don't know where the worrying lies. However, it is the Mayor that is bringing this action, not the City Solicitor's office. So I am bound also, the Charter also states, the section dealing with the City Solicitor's office, that we are responsible to give legal advice and any other aid requested by the

1 Departments of City Government and the Council. So unless,
2 it is my opinion, that unless the Council goes under 2.8
3 with a three-quarters vote, I don't think it would be
4 proper for any other counsel to come up here.

5 MR. LYNCH. Perhaps the Assistant City
6 Solicitor then can enlighten us as to why the Mayor has
7 legal advice that is not of the City Solicitor's office.
8 First of all, we were not talking about hiring an outside
9 attorney tonight. It's my understanding that the attorney
10 that's been mentioned has allowed us he would serve
11 without fee, so we are not hiring anybody. But it seems
12 to me that the Charter states that the City Solicitor's
13 office is to represent the Mayor, or the departments, and
14 the Council, and that in order to avail ourselves, or for
15 anyone to avail themselves of outside legal advice, that
16 it requires action by the Council to do so, so I am just
17 wondering why Mr. Piccirilli is able to represent the
18 Mayor in these proceedings. Perhaps you can tell me that.

19 MR. ROTONDI. Perhaps for the same rea-
20 son that I think the Council passed an ordinance in 1970,
21 if I'm correct, that Mr. Piccirilli represents the City
22 in all labor negotiations. I haven't read the ordinance
23 lately but it could be also his abilities or authorities
24 extend to this area.

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If I can further comment on the fact that you suggest Mr. Napolitano will not charge a fee, it goes beyond the realm of hiring. It is someone else taking the place of the member of the City Solicitor's office. I think that's the intent of the legislature when they drafted this Charter. So I still think before any other attorney can represent this Council, you have to have a three-quarters vote.

MR. MANSOLILLO. Mr. President. I first would like to point out to my Brothers and Sister and Council, that Mr. Napolitano is one of the parties involved in the suit by Mr. Cesaro against Mayor Cianci, and Treasurer Napolitano, and I think since these cases are related, that indeed that even further prejudices my thought against seeking advice from Mr. Napolitano. I don't know what Mr. Easton had in mind but I think it would jeopardize the fair hearing of this case with Mr. Napolitano advising the Council when he is a party in a related suit by Mr. Cesaro.

Also, agreeing with the City Solicitor, I don't think it's improper for us to have other counsel under our Charter, as long as we act within the limits of the Charter to gain that counsel through the three-quarters vote provision for experts. But I see no reason why, if

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that Charter avenue is available to us, that members of this Council might not be willing to consider it, and if they're interested in jeopardizing further this whole proceeding, then I think a vote to put Mr. Napolitano as a legal advisor to the Council, seriously jeopardizes the fairness of these proceedings since he is a party in a case related to this proceeding. So I would urge you not to go that route because you will be defeating the entire purpose of fairness, as Mr. Easton has been speaking about tonight.

THE PRESIDENT. Mr. Easton.

MR. EASTON. Mr. President, I point out to Mr. Mansolillo that I believe as representatives of the City of Providence, since the City of Providence is a party to that separate action, we also are party to that separate action, and therefore you could use that to disqualify the entire Council from considering the matter. Obviously what we have here is an internal city matter and it is impossible, and obviously the framers of the Charter did not foresee the possibility of the City Solicitor's office trying to represent two parties. They do not represent the plaintiffs and clearly Mr. Piccirilli, having been appointed by the City Solicitor, hired by the City Solicitor, and acting for the City Solicitor,

1 obviously the City Solicitor's office cannot also advise
2 the jury as it were, on this matter on how to act. My
3 only intent in offering Mr. Napolitano, and I gave it a
4 lot of consideration, was that I think that most of the
5 members here, virtually all of the members here, con-
6 sider Mr. Napolitano a very fair individual, a very non-
7 partisan individual, at least as the partisans break down
8 in this particular matter, and that Mr. Napolitano is
9 someone we could all agree on has no ax to grind, and no
10 individual side to be favored and would probably be able
11 to offer us good fair advice. My interest is in protect-
12 ing the appearance of these proceedings so that people in
13 the City of Providence will at least be able to say that
14 the City Council did the best job in trying to look over
15 the charges fairly, hear them fairly, and act fairly. We
16 can't do that if we are already suspect from the start if
17 the Solicitor's office tries to fill two rolls, tries to
18 act as both prosecutor and the jury. That's obviously
19 an impossible task. Mr. Napolitano is in no way involved
20 in this action except in his capacity as Treasurer in a
21 whole separate lawsuit. In this action, he has no in-
22 terest, and I think he would give very good representation
23 to this Council and this city in this matter, and I wish
24 we would not be concerned over a large procedural matter

1 like this and allow him to function in a capacity that I
2 think would protect the integrity of these proceedings.

3 THE PRESIDENT. I've come to a conclu-
4 sion and I refuse to entertain your motion because you
5 are out of order, and the Clerk proceed.

6 MR. O'CONNOR. Appeal, appeal.

7 MR. EASTON. Second the motion.

8 THE PRESIDENT. Out of order according
9 to the Charter. His motion is out of order and we will
10 continue.

11 MR. O'CONNOR. State that section of the
12 Charter that refers to the out of order that you just
13 ruled. Would you quote that section, please.

14 MR. ROTONDI. Yes; if you would like an
15 attorney to represent the Council, other than from the
16 staff of the City Solicitor's office, you must get a three-
17 quarters vote. That's the law.

18 MR. EASTON. Is that the ruling of the
19 Chair?

20 MR. ROTONDI. Whether or not the framers
21 of the Charter contemplated that, that's not our problem.
22 If you wish it to be changed, you have to seek legislative
23 change, but to entertain something that is legally wrong
24 is out of order and that is out of order.

1 MR. O'CONNOR. You are rendering an
2 opinion, Mr. City Solicitor, and the Chairman or the
3 President of this City Council issues rulings subject to
4 the appeal of the Council, and I have moved an appeal and
5 it has been seconded. That's the issue that we are argu-
6 ing.

7 MR. JOHNSON. You can overrule the Chair
8 anytime you want; ask for a vote.

9 THE PRESIDENT. I am advised that the
10 Chair rules and we'll continue our meeting.

11 MR. EASTON. Mr. President, that's ab-
12 surd.

13 MR. O'CONNOR. I moved an appeal of
14 your ruling and it has been seconded. Now, if there is
15 an opinion that says a Council member cannot appeal the
16 ruling of the Chair, then I would like to know what the
17 section of the Charter that is.

18 THE PRESIDENT. I come to the conclusion
19 that Councilman Easton's motion is out of order. Accord-
20 ing to the Charter, you need three-quarters vote. If you
21 want to take a vote --

22 MR. O'CONNOR. We are appealing your
23 ruling.

24 MR. EASTON. Second the motion.

1 MR. O'CONNOR. Very simple. The rules
2 of the City Council allow you to obtain opinions from the
3 City Solicitor and make a ruling. The rules of the City
4 Council also apply that the City Council may appeal that
5 ruling. I'm appealing your ruling. Are you saying that
6 I do not have the right to appeal the ruling of the Chair?
7 Is that what you are stating? And if so, would you please
8 quote the section of the City Charter that states that
9 you can do so.

10 MR. ROTONDI. That has already been
11 stated. Case law suggests that the Chairman or the Head
12 of these proceedings, which is the President, can conduct
13 the business in an orderly fashion. Now the motion that
14 has been made is illegal. It's contra to the Charter.

15 MR. O'CONNOR. According to who?

16 MR. ROTONDI. According to the Charter.

17 MR. O'CONNOR. As interpreted by the
18 City Solicitor.

19 MR. ROTONDI. As a result of 2.8. As a
20 result of that he has ordered the meeting to continue.

21 MR. O'CONNOR. As interpreted by the
22 City Solicitor, as interpreted by no one else.

23 MR. ROTONDI. Appeal is something that
24 is not automatic. He ruled that motion out of order

1 because it lacks the legality.. So as a result of that,
2 I agree with him and my opinion --

3 MR. O'CONNOR. Your agreement with this
4 disagreement is not the question here.

5 THE PRESIDENT. The Council will stand
6 at ease.

7 MR. O'CONNOR. You are provided by law to
8 give opinions to the President of the City Council and he
9 makes rulings. You, as the City Solicitor, do not make
10 rulings, only opinions.

11 THE PRESIDENT. The Council will stand
12 at ease.

13 MR. O'CONNOR. If we stand at ease then
14 be at ease, but I am going to continue to talk. Mr.
15 Solicitor.

16 (COUNCIL IS AT EASE 8:10 TO 8:30 P.M.)

17 THE PRESIDENT. Take the Roll.

18 (ROLL CALL: MR. FARGNOLI: Here.
19 MR. ADDISON: Here.
20 MR. ALMAGNO: Here.
21 MR. BOYLE: Here.
22 MRS. BRASSIL: Here.
23 MR. CIRELLI: Absent.
24 MR. COLA: Absent.
MR. DILLON: Here.
MR. EASTON: Here.
MR. FARMER: Here.
MR. FLYNN: Absent.
MR. GLAVIN: Here.
MR. GRIFFIN: Absent.
MR. JOHNSON: Here.

1 MR. LYNCH: Here.
2 MR. MANSOLILLO: Here.
3 MR. MOISE: Here.
4 MR. O'CONNOR: Here.
5 MR. PAOLINO: Here.
6 MR. PEARLMAN: Here.
7 MR. PENNINE: Here.
8 MR. PETROSINELLI: Here.
9 MR. SALVATORE: Here.
10 MR. SNOWDEN: Here.
11 MR. STRAVATO: Here.
12 MR. XAVIER: Here.

13 THE PRESIDENT. Twenty-two Ayes, four
14 absent, we have a quorum. Will the Clerk read the motion
15 that we last heard on appeal?

16 THE CLERK. Councilman O'Connor appealed
17 the ruling of the Chair; that motion was seconded by
18 Councilman Easton and Councilman Moise.

19 MR. EASTON. What was the ruling on that?

20 THE PRESIDENT. I stated it was out of
21 order and they appealed. They want a division vote, a
22 roll call vote on that motion. Repeat your motion.

23 MR. O'CONNOR. I moved to appeal the
24 ruling of the Chair, and as a point of clarification, I
would like the Chair to state what an Aye would mean and
what a No would mean on the motion.

MR. MANSOLILLO. Point of information,
Mr. President.

THE PRESIDENT. That's not clear enough.

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MR. MANSOLILLO. Which ruling of the Chair are we appealing?

MR. O'CONNOR. We are appealing the ruling of the Chair that Councillan Easton's motion was out of order.

THE PRESIDENT. What was your motion?

MR. MANSOLILLO. I say, as a point of order, just for the sake of the record, Mr. Easton made his motion, it was seconded; a subsidiary motion was made to table. The motion was made, seconded, and then by a voice vote, it passed. Some time after that one of the Councilmen asked for a division vote, but clearly, I don't understand what the issue is here, because the Chair -- there was a motion to table Mr. Easton's motion, and that's a subsidiary motion that is proper under Roberts' Rules of Order. It was tabled and then someone asked for a division vote. Now that is about the only thing that is in order, if the Chair will entertain it, a division vote on the tabling, but otherwise, there is --

MR. O'CONNOR. Mr. President, if I may add to, or clarify, from my perspective. Councilman Mansolillo is correct. There was a move to table, it was passed by voice vote, I asked for a division of the House. The Chair did not allow the division of the House, the

1 reason being that Councilman Easton's original motion was
2 out of order, according to the City Solicitor.

3 THE PRESIDENT. According to the Charter.

4 MR. O'CONNOR. According to the inter-
5 pretation of the Charter by the Assistant Solicitor, and
6 that is what I appealed, the ruling of the Chair which
7 negated the vote to table, because the Chair ruled after
8 the fact that the original motion was out of order. The
9 motion that we voted to table was out of order. I am ap-
10 pealing the ruling of the Chair based on that. If that's
11 clear to you. If it is unclear, it probably is to every-
12 one in this room.

13 MR. MANSOLILLO. It is very clear to me
14 the sequence of events began with Mr. Easton's motion.
15 There was a motion following Mr. Easton's motion, a sub-
16 sidiary motion, which is proper under Roberts' Rule to
17 table. That motion was heard by the Chair properly. Now,
18 there is at issue whether or not there should be a divi-
19 sion of the house, but I don't even see how the Chair
20 can decide after something has been tabled, that it is
21 out of order to begin with, and I don't see how you can
22 appeal. You can appeal the ruling of the Chair, but I
23 don't see how that's appealable. I don't understand that.
24 All I'm saying is that in the proper course of things.

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THE PRESIDENT. Councilman --

MR. MANSOLILLO. All I'm saying we should have a division vote on the motion to table before we proceed any further.

THE PRESIDENT. What are you appealing?

MR. O'CONNOR. I agree with Councilman Mansolillo, my original motion was to have a division of the house on the motion to table, since the Chair did not grant that motion which was moved and seconded, and then proceeded to state that the original motion was out of order, I then moved an appeal of the ruling of the Chair, but I agree with Councilman Mansolillo, that the proper procedure at this point would be to call for a division of the house on the motion to table, in which case, if the motion to table did not carry, Councilman Easton's motion would then again be on the floor, at which point the Chair could make the ruling, at which point, I could appeal that ruling.

MR. MANSOLILLO. That's correct.

MR. ROTONDI. Which motion?

MR. O'CONNOR. The motion or the business that is properly before this Council at this present time is a division of the house on the motion to table. A roll call vote.

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THE PRESIDENT. We will have a roll call vote. Now, all in favor of Councilman O'Connor's motion --

VOICES. No.

THE PRESIDENT. Councilman Easton's motion --

MR. O'CONNOR. No, no, incorrect again; we are acting on the motion to table, which was made by Councilman Pearlman, I believe, and seconded by Councilman Farmer. It was a voice vote, the Chair said the Ayes have it. I asked for a division of the house by roll call. That is the business that is before us now. A roll call vote on the motion to table.

THE PRESIDENT. Take a roll call vote. All in favor to table the motion of Councilman Easton, will say Aye -- no, a roll call vote.

MR. MOISE. Mr. Pearlman's motion supercedes Councilman Easton's motion, so we are acting on Councilman Pearlman's motion.

THE PRESIDENT. All in favor of Councilman Pearlman's motion to table, to hire Steve Napolitano, will say Aye. All against will say No. Roll call vote.

MR. ADDISON. I think we'd better redefine that, there seems to be confusion in the house.

THE PRESIDENT. It is very simple.

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MR. ADDISON. I think there should be a clarification.

THE PRESIDENT. All in favor of the motion to table, Mr. Pearlman's motion to table Mr. Easton's motion to hire Steve Napolitano --

MR. ADDISON. Not hire, engage.

THE PRESIDENT. Engage him as counsel will say Aye.

MR. FLYNN. It is only on the table.

THE PRESIDENT. Yes.

MR. ADDISON. All those who do not want the motion to be tabled will say Nay. I think we should have a clarification on that ruling.

(ROLL CALL: MR. FARGNOLI: Aye.
MR. ADDISON: No.
MR. AMALGNO: Aye.
MR. BOYLE: No.
MRS. BRASSIL: No.
MR. CIRELLI: Absent.
MR. COLA: Absent.
MR. DILLON: No.
MR. EASTON: No.
MR. FARMER: Aye.
MR. FLYNN: Not Voting.
MR. GLAVIN: No.
MR. GRIFFIN: Absent.
MR. JOHNSON: No.
MR. LYNCH: No.
MR. MANSOLILLO: Aye.
MR. MOISE: No.
MR. O'CONNOR: No.
MR. PAOLINO: No.
MR. PEARLMAN: Aye.
MR. PENNINE: Aye.

1 MR. PETROSINELLI: No.
2 MR. SALVATORE: No.
3 MR. SNOWDEN: No.
4 MR. STRAVATO: No.
5 MR. XAVIER: Aye.

6 THE PRESIDENT. There were seven Ayes,
7 fifteen No's, one not voting, three absent, the motion
8 is denied.

9 (DENIED)

10 MR. EASTON. Very briefly, my purpose
11 in offering the motion was to preserve tranquility in
12 these proceedings. Obviously that aim has not been
13 achieved, so it would be in the best interest of everyone
14 therefore to withdraw my motion and I do so at this time.

15 MR. MOISE. Withdraw my second, Mr.
16 President.

17 MR. LYNCH. Mr. President, I don't wish
18 to prolong the proceedings any more than I have to, but
19 I do wish to cite a section of the Charter which would
20 seem to support my questioning the ability of Mr. Attorney
21 Piccirilli to represent Mayor Cianci in these proceedings.
22 Section 5.4 of the Charter reads as follows: "No Officer,
23 Board, Commission, Bureau or Department shall have or em-
24 ploy any attorney or counsel at the expense of the City
unless the Council shall have approved such employment in
accordance with the provisions of Section 34, 2.8 thereof.
The City Solicitor shall furnish every such Officer, Board

1 Commission, Bureau, or Department such advice, or legal
2 voice, as Counsel or Attorney in or out of court, as may
3 be required by them." That's the end of the citation.
4 Assistant, or Deputy City Solicitor Rotondi alluded to an
5 agreement that had been reached by the City Council some
6 years back stating that Attorney Piccirilli should repre-
7 sent the City in collective bargaining measures. I am not
8 aware of the scope of the grant as given to Attorney Pic-
9 cirilli in this case and I would appreciate the City
10 Solicitor's office providing me with a copy of the Reso-
11 lution or the action involved, if you would, Jack. My
12 sole purpose in mentioning this is to get this into the
13 proceedings as a matter of record. Thank you very much.

14 THE PRESIDENT. Will the Clerk read the
15 charges?

16 THE CLERK. "In the matter of Clement
17 Cesaro: In accordance with the provisions of 4.30 (a) of
18 the Charter of the City of Providence, I, Vincent A.
19 Cianci, Jr., herewith present to the Honorable City
20 Council written charges against Clement J. Cesaro.

21 The charges are as follows: 1. That Clement J.
22 Cesaro has violated the provisions of 17-7 of the Ordi-
23 nances of the City of Providence in that he is not a
24 resident of the City of Providence. 2. That said

1 Clement J. Cesaro has failed to reduce overtime after
2 being notified on two occasions by the Chief Executive of
3 the City of Providence. 3. That said Clement J. Cesaro
4 has failed to support subordinates in the disciplining of
5 employees of the Wastewater Treatment Plant. 4. That
6 said Clement J. Cesaro has refused to cooperate with the
7 Director of Personnel regarding abuses of sick leave of
8 employees of the Department of Public Works. 5. That
9 said Clement J. Cesaro has failed to properly assign per-
10 sonnel to functions within the Department of Public Works
11 and has not complied with the City Charter and Code of
12 Ordinances by assigning personnel and of classification.
13 6. That said Clement J. Cesaro has failed to attend
14 meetings and to cooperate with the CETA administration
15 regarding the deployment of summer employees under the
16 CETA Act. 7. That said Clement J. Cesaro has refused to
17 cooperate with the Water Supply Board regarding patching
18 of water utility services in roads and sidewalks. 8. That
19 said Clement J. Cesaro has failed to respond to complaints
20 of subordinates and the City Solicitor relative to security
21 at the Port of Providence. 9. That said Clement J.
22 Cesaro has failed to perform duties as required by the
23 Charter Ordinances of the City of Providence. Vincent J.
24 Cianci, Jr., Mayor of Providence, August 7, 1980."

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THE PRESIDENT. Will the Attorney for the Director of Public Works wish to answer the charges?

MR. CHAIKA. Yes, Mr. President. Mr. President, at this point, I'd like to make a few comments and objections known for the record.

THE PRESIDENT. State your name.

MR. CHAIKA. For the record, my name is William Chaika. I'm an attorney licensed to practice in the State of Rhode Island and my offices are located at 925 Reservoir Avenue. I, for the purposes of these proceedings, represent Clement Cesaro, Director of the Department of Public Works.

At this particular point, as a matter of procedure, I would like to ask the Chair a procedural question. One, as to whether or not, and exactly how the Mayor, or any designee of the Mayor, intends to proceed on these charges whether we are going to treat the charges individually, and how the Mayor is going to present evidence upon these charges.

THE PRESIDENT. I will have to ask the Mayor's attorney.

VINCENT J. PICCIRILLI. Members of the Council, there were specifications lodged with the City Council and these charges, the specifications were lodged

1 with these charges and the charging body would rest on
2 those specifications.

3 MR. CHAIKA. Well, I fail to see, from
4 the charges, where the specifications are. Under the
5 Charter, there are definitely three steps outlined by
6 the Charter. The first is a suspension notice which Mr.
7 Cesaro received. The second was the actual charges that
8 are called for under Section 4.30; and these were the
9 charges that were filed at or prior to the last regular
10 Council meeting.

11 The next thing that is supposed to take effect under
12 the Charter is a hearing. This Council set today as the
13 date of the hearing. At the hearing we expect, on these
14 charges, that the Mayor is to present evidence upon these
15 charges. If there is no evidence to be presented before
16 this Honorable body, there is in fact nothing for Mr.
17 Cesaro to defend against.

18 Now, I think Mr. Piccirilli may be referring to some
19 papers that were filed last Friday. The procedure under
20 Section 4.30 of the Charter, makes no mention of any such
21 documents. If any such documents are to even be con-
22 sidered by this City Council in these hearings, they had
23 to have been filed at or prior to the last regular Council
24 meeting. What Mr. Piccirilli may be referring to is

1 nothing more than a pure nullity.

2 MR. PICCIRILLI. Mr. President, Members
3 of the Council, my reading of the Charter indicates the
4 charges must be brought at or before the Council meeting.
5 Those charges were brought. The charging party has the
6 option of furnishing either documentary evidence or other-
7 wise on those charges. As I read the Charter, this hear-
8 ing this evening is for the benefit of Mr. Cesaro; he has
9 an opportunity to respond to them, and after the response
10 thereto, a vote will be taken by the City Council. I see
11 nothing in the Charter requiring the presentation of any
12 evidence, either testamentary or otherwise other than the
13 specifications to the charges, and we will rest on those
14 specifications.

15 MR. SNOWDEN. Mr. President.

16 MR. DILLON. Mr. President. If Mr. Pic-
17 cirilli expects us to take this man's livelihood away
18 from him, he'd better have more than just papers that are
19 not attested to, not notarized and no evidence. I think
20 that's kind of an insult to the City Council to ask them to
21 make a decision based on just no more than a report from
22 the Mayor's office.

23 MR. SNOWDEN. Mr. President.

24 THE PRESIDENT. Mr. Snowden.

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1 MR. SNOWDEN. It was my understanding,
2 and I just want basic reasons and Councilman Easton wanted
3 to have the whole issue of legal opinion open to the
4 Council, what we were to gather here to do, was to hear
5 both sides of this issue, other than the Providence
6 Journal and other than the rumors. Now, if what Mr. Pic-
7 cirilli has stated, is that the extent of what we are to
8 hear was presented to us in these paragraphs on each
9 charge, with no defense, with no further allegations,
10 with no supporting statements, I find it an insult. I
11 question how anybody here, and what we are then told is
12 we vote to remove from office or not to remove from office
13 the Director of Public Works, on a specification.

14 Now, the specification, as Councilman Dillon has
15 already pointed out, is not attested to, is so poorly
16 copied that you couldn't read it if you wanted to in some
17 instances, and unless Mr. Piccirilli is going to make a
18 presentation on each of these specifications, you are
19 asking people to vote basically out of ignorance, and I
20 think it is an affront to the Council if in fact -- at
21 this point, I want to know what Mr. Piccirilli's purpose
22 is here? If he is in fact representing the Mayor and then
23 comes up with the fact that we have been given our state-
24 ments, as again I point out most of them are unreadable,

1 and if he does not intend to present verbal statement
2 about each point, I see no reason for being here.

3 What is to be presented to the Council if it, in his
4 words he states it has already been presented, then I
5 think the whole purpose of a hearing has been subverted.
6 We can't have a hearing on something we have already read
7 and Mr. Cesaro's lawyer is here, standing ready to answer
8 a charge, and basically what you are saying is you are not
9 going to make a charge.

10 MR. CHAIKA. If I can further clarify
11 that point. I find it so against Mr. Cesaro's Constitu-
12 tional rights, protected by the Fourth Amendment, by our
13 Rhode Island State Constitution, to be asked to go through
14 this procedure, to ask all these men here and women here
15 today, to sit and decide upon this case, when there isn't
16 one proponent to be sworn in, to be subject to cross-ex-
17 amination, not one person who will attest to the veracity,
18 the actual authenticity of certain papers that were sur-
19 reptitiously filed with the Clerk's office, it is an in-
20 sult to this Honorable body and it is an absolute affront
21 to any reasonable man's intelligence. A hearing means
22 a place where someone charges somebody with evidence by
23 people under oath with the opportunity to cross-examine,
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1 and you, all of you here, are to sit as judges, to hear
2 and weigh the evidence and to decide something as impor-
3 tant as whether or not Mr. Cesaro should be, and remain
4 in the Department of Public Works as the Director. The
5 procedure that is being asked you people to follow here is
6 completely violative of Mr. Cesaro's basic fundamental
7 protected rights.

8 THE PRESIDENT. I don't see any reason to
9 continue this unless some Councilmen would like to say
10 something.

11 MR. EASTON. Mr. President. I would like
12 to say something.

13 MR. JOHNSON. What I am going to say --
14 it sounds like it might be taken lightly or it might not
15 be -- but what I was hoping was the fact that we would
16 have Mayor Cianci here this evening.

17 (APPLAUSE)

18 MR. JOHNSON. I was hoping, number one,
19 because of the severity of the charges, that he would be
20 here to bring them forth himself. Mr. Cesaro has a job
21 to fulfill. He's been charged by Mayor Cianci. Let Mayor
22 Cianci come into this Chamber, be sworn in under oath, and
23 make these charges against Mr. Cesaro. If this sounds
24 like it might be something that will turn into a soap

1 opera, it is not my intent, but I think I came here with
2 the interest as many other people here, as well as my
3 Brother Councilmen, this would be an opportunity for the
4 two individuals involved to both make the charges or deny
5 the charges. To surreptitiously just send some charges
6 in to this Council as stated by Mr. Cesaro's attorney,
7 I totally concur with him. One, as a Democrat I have heard
8 many times from Brother Pearlman -- he is not here now,
9 I thought he would be here -- that we are looking for a
10 whitewash, I don't want to be accused of a whitewash,
11 absolutely do not.

12 MR. PEARLMAN. I'm here.

13 MR. JOHNSON. I do not want to say as
14 Mr. Cianci said in the paper, and he might allude to in
15 the future, that we as a Council acted, that he could not
16 change the Council's mind if he had a cure for Cancer.
17 Well that stuck in my mind. I would vote against Mr.
18 Cesaro if I thought he was guilty of any offenses, but
19 what chance does he have unless Mr. Cianci comes in here
20 under oath, attests to the fact that Mr. Cesaro did not
21 perform his duties, or whatever other charges are pending,
22 then we can make a decision, that's the only way it should
23 be done, and I think unless anything else is going to be
24 brought forth, the Council should adjourn under those

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circumstances. That is the only way for the decision to be made on my part.

THE PRESIDENT. Councilman Boyle.

MR. BOYLE. I agree with my Brother Councilman. I think the whole thing has been a farce. You know, this is typical of the Cianci administration. I mean, when the Mayor sends his letter out to Mr. Cesaro, he said he is managing his office in a manner detrimental to the City of Providence. Has he looked in his back yard? I mean people who live in glass houses shouldn't throw stones as far as I am concerned.

(APPLAUSE)

MR. BOYLE. The question here is who is responsible? As far as I am concerned, Mayor Cianci is Commander and Chief of this City. He's responsible for this fiasco. You know, the Mayor runs the City in a manner similar to the way the Soviets run their colossal empire in the Soviet Union. Apparently the Mayor feels if anybody speaks out or doesn't pay allegiance, automatically we can throw him out of office. I have been through this once before with Mr. Diamond in the Parks Department. The Mayor feels, 'Well, Mr. Cesaro has spoken out,' so apparently it hurts his Gubernatorial Campaign. You know, the problem is that the Mayor puts his politics

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1 before the city's best interests.

2 (APPLAUSE)

3 I know Mr. Cesaro, I worked with him quite a few
4 times in my ward. I find him a professional, competent
5 director. I feel that the charges are false, and each
6 time the directors were coming down from the Mayor's
7 office, and I don't think it is fair to Mr. Cesaro's
8 integrity. Mr. Cesaro has been doing his job for the
9 benefit of the people of the City of Providence and he's
10 exercised vigilance for the hard working people of the
11 city, taxpayers, and I feel it is not fair, I just say
12 let Mr. Cesaro run his department and leave him alone.

13 (APPLAUSE)

14 MR. PEARLMAN. Looking at the provisions
15 of Section 4.30 of the Charter, it says "At such hearing,
16 the suspended officer shall have the right to appear with
17 counsel and be heard before the Council in his own de-
18 fense." That's in the middle of Paragraph A. Then we
19 turn to Paragraph B. "A copy of the charges shall be
20 filed in all cases of the removal under the provisions of
21 this Section. A copy of the charges against a person
22 sought to be removed shall be filed in the office of the
23 City Clerk at least three days prior to the time fixed
24 for the hearing thereon, and all copies shall be public

1 records."

2 Now, each Councilman has on his desk eight specifi-
3 cations of charges. Presumably they were filed at least
4 three days prior with the Clerk.

5 MR. CHAIKA. Objection, they were not.

6 MR. PEARLMAN. I presume they had been.

7 MR. MOISE. I don't have them.

8 MR. PEARLMAN. One of them is quite spe-
9 cific. It says Mr. Cesaro is not a resident of the City
10 of Providence, and it attaches thereto a sworn -- a docu-
11 ment where Mr. Cesaro swears that he is a resident of the
12 City of Lincoln -- Town of Lincoln. Now, that's quite
13 clear. The question is whether Mr. Cesaro wants to pro-
14 ceed and show that he's either a resident of the City of
15 Providence or the Town of Lincoln. It seems to me we
16 should proceed. As far as this is a farce, I don't think
17 the hearing has really begun.

18 MR. STRAVATO. Mr. President, I think I
19 probably know Clem Cesaro better than anyone on this Council.
20 I go back some 30 years with him and I know Clem to be a
21 very honorable, sincere and honest person. I just want to
22 relate to a comment of the Mayor where he stated several
23 times in the media, where if he had a cure for cancer, as
24 Councilman Johnson said, that he couldn't get the majority

1 vote in the City Council. Well, I want to state in front
2 of everyone, if the Mayor had a cure for cancer, he'd have
3 my vote and I'm sure he'd have every vote of the members
4 of the City Council, and when the Mayor charges Clem of
5 not being a resident of the City of Providence, the Mayor
6 appointed Clem while he was living in Lincoln and the
7 City Charter provides he can live outside of the City of
8 Providence. He appointed Dan Healey, Director of Public
9 Works when he lived in Narragansett, so I don't see where
10 that charge should stand. I think that charge is false.
11 The City Charter specifically states that it entitles him
12 to live outside of the City of Providence. If you read
13 the Charter, you will find that in the Charter.

14 MR. EASTON. Mr. President, Fellow Coun-
15 cilmen, I'm absolutely amazed. I had wondered what the
16 Mayor's strategy was going to be in presenting this matter,
17 and some of the rumors were that the Mayor's best interest
18 was just getting the thing over with, have us vote straight
19 party lines, keep Cesaro in, and then great, see I told
20 you they wouldn't go along with me. Well, for God's sake,
21 does he really expect us to deprive a man of his job with-
22 out even having any charges presented before us. We were
23 brought here tonight with the only legally admissible
24 action having taken place from the eight charges originally

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filed. If he has specifications, at least let him submit those specifications under oath, let Mr. Piccirilli submit them as exhibits so they're at least legally constituted here. Let him at least charge the guy with something. So far he hasn't produced one iota of evidence, and I am beginning to wonder, and it is disturbing to me, and I resisted, and I think many of us have resisted for several weeks, efforts by people all over this city, to say vote for Cesaro, vote against Cesaro, vote this way or that way. I don't want to vote this way or that way, I don't know whether Mr. Cesaro is guilty. I just want to see the evidence. I want somebody to say this is what Clem did, this is why he should be fired, then I will vote. At least give me enough respect that I can hear the charges and decide on them and then vote. This is ridiculous, this is putting me in a position where I have no choice but to vote for Mr. Cesaro because nothing has been presented against him so the Mayor can go on television tomorrow and say, see I told you they would vote that way. How are we to vote? No charges. At least let him present some charges. I beg Mr. Piccirilli to say something, stand up and present something to us. We have nothing before us and yet we are being asked to decide; ridiculous.

(APPLAUSE)

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MR. PICCIRILLI. Mr. President, Members of the City Council, again, as I tried to point out before, my reading of the Charter is that under 4.30, the Mayor must prefer charges against an official whom he wishes to remove. Now, that charge has to be specific enough so that the person charged can answer them. Three days, Friday afternoon, it was filed with the City Clerk's office, specifications on each of these charges. The specifications were issued so that Mr. Cesaro could speak in defense to the charges. This is not a hearing as I read the Charter, the Charter does not require anything other than charges and specifications to be brought. The City Council should act on the written specifications, charges, and Mr. Cesaro's defense thereto.

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I don't read 4.0 of the City Charter to require an adversarial type hearing where the prosecution, so to speak, puts his case on and the defense puts its case on, and the Charter is not so written. If the City Council chooses to have the Charter written that way, I suggest they go to the General Assembly and write it. As I read the Charter, this hearing is an opportunity for Mr. Cesaro to respond to the charges, it is not a hearing where evidence is to be presented.

MR. EASTON. Mr. President.

1 MR. ADDISON. Mr. President.

2 THE PRESIDENT. Mr. Snowden.

3 MR. SNOWDEN. If we are not to hear fur-
4 ther specifications of the charges other than the speci-
5 fications as have been outlined here in a limited support-
6 ive document that go along with them, then it would seem
7 that Mr. Cesaro, through his lawyer, would be the only one
8 actually making a presentation to this body. What would
9 happen at that point if there are questions from one side
10 or the other, would Mr. Piccirilli then answer the ques-
11 tions?

12 MR. PICCIRILLI. Oh yes, if I'm able and
13 capable, I'll answer any questions to the Council. I
14 would be glad to answer any questions of the Council, if
15 I am able to.

16 MR. CHAIKA. Would he answer under oath?

17 MR. PICCIRILLI. Would you?

18 MR. CHAIKA. And subject to cross-examina-
19 tion.

20 MR. PICCIRILLI. If you would, I would.
21 Attorneys don't testify.

22 MR. CHAIKA. I intend to present evi-
23 dence, if this Honorable body thinks it is necessary,
24 with witnesses, who would be subject to cross-examination

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and of course be under oath.

MR. SNOWDEN. I have not finished. I asked the question only to lead up to something. There is a great deal of questioning in my mind about acting on this matter either one way or the other, and without being privy to an open exchange between both sides in this contest that is involved, my inclination would be to move adjournment until we can settle some of these procedural problems. I don't mean we necessarily have to have a legal counsel. I'm just saying unless there is some open give and take between the two parties, I don't find that I can read this, listen to Mr. Cesaro's lawyer and then listen to some statements without any further supporting evidence, without any legality to the whole thing, and make a decision, and I would like to have some of those questions -- at least it wasn't what I understood would happen here -- maybe that was erroneous, but I think we should.

VOICE. Second the motion.

MR. EASTON. Point of order. I think the appropriate motion then would be a recess.

MR. SNOWDEN. All right, not adjourn, I would like to clarify that. I'll entertain a recess until we can then take care of some of the procedural problems.

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1 MR. EASTON. Second.

2 MR. JOHNSON. Call of the Chair.

3 THE PRESIDENT. Motion has been made and
4 seconded.

5 MR. MOISE. Point of order. In response
6 to Mr. Piccirilli, who I have got a lot of respect for
7 as a legal man, but I got to say we were presented charges
8 at the last Council meeting and I want this in response
9 to what you said. In response, we were presented charges
10 at the last City Council meeting of August 7, and I came
11 in and I came in with my colleagues, Brothers and Sisters
12 of the Council, to see evidence tonight. I withheld my
13 decisions based on what I was going to hear. There's two
14 sides to every story. I can see the headlines tomorrow,
15 whether it is just to get his name in the paper, it was a
16 case to present facts here tonight, and I think all my
17 Brothers and Sisters came here tonight for that purpose,
18 to hear facts, see facts and make a decision, honest de-
19 cision. I think we have been denied that. We have got
20 other things to do, I have got fire trucks going out and
21 all kinds of things going on. We've got responsibilities
22 and we are wasting our time here.

23 THE PRESIDENT. Motion has been made and
24 seconded. We are in recess.

(RECESSED AT 9:10 P.M. UNTIL FURTHER
NOTICE)

C E R T I F I C A T E

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I, Elaine T. Grenier, hereby certify that the foregoing
is a true and accurate copy of my notes taken at the
time of the above-entitled hearing.

Elaine T. Grenier, Notary Public
ELAINE T. GRENIER, NOTARY PUBLIC/RPR