

HEARING RELATIVE TO THE SUSPENSION OF

CLEMENT CESARO

DECEMBER 15, 1980

8:00 O'CLOCK P.M.

CITY COUNCIL CHAMBER

IN CITY COUNCIL
FEB 5 1981READ:
WHEREUPON IT IS ORDERED THAT
THE SAME BE RECEIVED.*Rose M. Mendonca* CLERK

The Clerk is directed to Call the Roll to Ascertain if there is a quorum present.

Present: Council President Fargnoli and Councilmen Addison, Almagno, Boyle, Councilwoman Brassil, Councilmen Cirelli, Cola, Dillon, Easton, Farmer, Flynn, Glavin, Moise, O'Connor, Paolino, Pearlman, Pennine, Petrosinelli, Salvatore, Snowden, Stravato and Xavier - 22.

Subsequently, the following Council Members join the Hearing: Councilmen Griffin, Johnson, Lynch and Mansolillo - 4.

Council President Fargnoli states there is a quorum present.

COUNCILMAN MOISE: I would like the Stenographer to read off the last few minutes of the meeting held December 8, 1980. Where is the Stenographer?....

CLERK: She was unable to be present due to a previous commitment.

COUNCIL PRESIDENT FARGNOLI: Rose the City Clerk will read the motion that is on the floor.

COUNCILMAN PEARLMAN: Mr. President, if there is no Stenographer here and no record, I move that we adjourn and set a future date for a Hearing.

COUNCIL PRESIDENT FARGNOLI: We have the tape recorder here.

COUNCILMAN FARMER: I second that motion.

COUNCIL PRESIDENT FARGNOLI: A motion is made and seconded, all in favor - Aye, All opposed - No.

The "No" votes carry and the motion to adjourn is defeated.

COUNCIL PRESIDENT FARGNOLI: Clerk, will you read the motions.

CITY CLERK MENDONCA: A motion was made on December 8, 1980 by Councilman O'Connor, seconded by Councilman Stravato and Councilman Boyle, to dismiss the charges and reinstate Clement J. Cesaro as Director of Public Works.

COUNCILMAN MOISE: Can I correct that, I also seconded that motion, move the Question.

COUNCIL PRESIDENT FARGNOLI: The motion is in debate.

COUNCILMAN PEARLMAN: Mr. President, there is no right to act upon this motion because we are in the process of a Hearing. There have been 2 witnesses presented so far, the Mayor is the first witness and Clement Cesaro called under the adverse witness statute.

Now, it is my understanding that Attorney Piccirilli, who is presenting the case for the removal of Clement Cesaro as Director of Public Works has several more witnesses and a tape recording and I would like to hear the rest of his evidence before we act on this motion. It is also clear that the Council has adopted rules of procedure and that is to the effect that Attorney Piccirilli present his evidence and cross-examination and permit the Counsel to ask questions. The order of business now is that Mr. Piccirilli continue his presenta-

tion of the arguments and then for Mr. Chaika after Mr. Piccirilli is rested, present his evidence. I call for a ruling on the motion.

COUNCIL PRESIDENT FARGNOLI: What is the nature of your motion?

COUNCILMAN PEARLMAN: I'm raising a point of order, that it is not right to vote at this time, until we have heard all the evidence.

COUNCIL PRESIDENT FARGNOLI: You're out of order.

COUNCILMAN MOISE: Mr. President, I disagree at this time, I feel that we have heard the Mayor's side, we have heard Mr. Cesaro's side and I think, I can't see going any further into intimidating the lives of these witnesses that are brought to testify pro or con. I think it is just a case of whose side we have heard, and we are here by virtue of the City Charter, we have heard the two key people speak and present their side and I really don't think we need more. Move the motion and get the show on the road. We don't need witnesses here to get hurt and made fools out of being cross-questioned and being put on the spot. They are employees of the City and it could affect their future. I think we should base it on the two people, Mr. Cesaro and the Mayor.

COUNCILMAN FARMER: Mr. President, we've gone over this before and I am objecting to this motion on the grounds that I feel it is my right as a Councilman to hear and judge this case.....has been violated by this motion if it passes. I would like to hear a rule on the point of order. I have the right as a Councilman and a member of this body to hear the evidence of both parties, before I decide on the motion.

CITY CLERK MENDONCA: These are the first rules of evidence that were to be required for this Hearing.

"The^{moving parties} will present evidence through witnesses and those witnesses will be subject to cross-examination.

The respondent will have the right to present witnesses and evidence and will be subject to cross-examination.

Members of the City Council may participate and ask questions.

Any Member of the City Council may vote irrespective of the amount of meetings he or she attends.

The meeting will end at 11:00 o'clock tonight, December 1, 1980 and subsequent meetings if necessary, will be continued to Tuesday, December 2, 1980, 7:30 o'clock P.M. to 11:00 o'clock P.M.; Monday, December 8, 4:00 to 6:00 o'clock P.M. and 7:30 to 11:00 o'clock P.M.; Tuesday, December 9, 4:00 to 6:00 o'clock P.M. and 7:30 to 11:00 o'clock P.M. and if necessary, Wednesday, December 10, 1980.

The City Council will authorize the President to issue a subpoena or subpoena Duces Tecum to either parties".

Those rules were adopted at your first meeting.

COUNCILMAN STRAVATO: Move the question, Mr. President. Mr. President, point of order. Mr. Piccirilli, Mr. Chaika has no right to speak when there is a motion on the floor, lets move the question.

COUNCIL PRESIDENT FARGNOLI: Will Councilman Addison read the amendments to the rules?

COUNCILMAN ADDISON: The rule changed I don't have a set with me, but if you check back you will find that we had already had the Honorable Executive Officer on the stand the night before and we said that we would put Mr. Cesaro on the stand for 1 hour and that there would be no cross-examination and Councilmen then would be able to ask questions of the witness and any witnesses that were brought before the Council by Counsel would be limited to five (5) Minutes per witness.

COUNCILMAN EASTON: Mr. President, I believe Councilman Farmer's request for a point of order as to whether or not the motion by Councilman O'Connor was in order, I think your ruling was quite correct, that nothing in the rules prohibits a Councilman from making a motion at any time to dismiss the proceedings when he feels he has heard enough evidence. This motion is on the floor, several people have called for the question and I believe that we ought to vote on it.

COUNCILMAN FARMER: Mr. President, I object to the motion on the grounds of due process rights.....

COUNCILMAN EASTON: Mr. President, point of order, I believe that Councilman Farmer has already spoken twice on this question and by your own acknowledgement, you spoke previously before the meeting that I believe the rules are quite clear that once a motion is pending you can only speak once on that motion and I would object...

COUNCILMAN XAVIER: Mr. President, is this a Council Meeting or a Hearing?

COUNCIL PRESIDENT FARGNOLI: A Hearing.

COUNCILMAN XAVIER: So what are we talking about, are you talking about Council Meeting Rules, they are the same rules as a Hearing.

COUNCILMAN PEARLMAN: I move to lay the motion on the Table until the evidence is presented and I would like to point out that unless we do so, and I would like the record to show this by the City Clerk, we are violating the rights of the Councilmen to have a full and complete Hearing and hear both sides of the question. Many Councilmen that thinks because we have heard two witnesses that we have heard the whole story, but that is not so, no court of law regarding a hearing operates that way.

We have a right to hear the whole story.

I yield to Mr. Piccirilli concerning the legal and constitutional rights concerning the Council's rights concerning a proper, full and fair hearing.

COUNCILMAN MOISE: Let him go to Court and fight this, I am not a Lawyer.

COUNCIL PRESIDENT FARGNOLI: A motion has been made and seconded to lay the motion on the Table, all those in favor vote "Aye", those opposed, "No".

In accordance with the Ayes and Nays, the motion has been Layed on the Table.

COUNCILMAN PEARLMAN: I call for a Division Vote:

Ayes: 10.

Noes: 11.

COUNCILMAN FLYNN: A roll call vote, Mr. President.

COUNCIL PRESIDENT FARGNOLI: "Ayes" will mean to Lay the Motion on the Table, all opposed - "No".

Ayes: Councilmen Almagno, Cirelli, Farmer, Flynn, Glavin, Johnson, Mansolillo, Pearlman, Pennine, Snowden and Xavier - 11.

Nays: Council President Fagnoli and Councilmen Addison, Boyle, Councilwoman Brassil, Councilmen Cola, Dillon, Easton, Moise, O'Connor, Paolino, Petrosinelli, Salvatore and Stravato - 13.

Absent: Councilmen Griffin and Lynch - 2.

COUNCIL PRESIDENT FARGNOLI: The motion to Lay on the Table is Defeated.

COUNCILMAN STRAVATO: Move the question, Mr. President.

COUNCILMAN PEARLMAN: Mr. President, I would like to hear from Mr. Piccirilli.

COUNCILMAN EASTON: Mr. President, Point of Order, Councilman Pearlman has already spoken twice on this.

COUNCILMAN PEARLMAN: I have not spoken twice, I raised a point of order previously and made a motion previously, I have not debated the motion myself, but I do have a right to rise and yield to Mr. Piccirilli for his opinion on the legal issue.

COUNCILMAN STRAVATO: Mr. President, he rose on a point of order before and it has already been agreed that while there was a motion on the floor that Mr. Piccirilli or Mr. Chaika do not have a right to speak.

COUNCIL PRESIDENT FARGNOLI: At the Councilman's suggestion, do you want to take a vote on that?

COUNCILMAN STRAVATO: Roll Call Vote, Mr. President.

COUNCILMAN GLAVIN: I second that motion.

A Roll Call Vote is requested:

Ayes: Council President Fagnoli and Councilmen Almagno, Cirelli, Cola, Farmer, Flynn, Glavin, Mansolillo, Pearlman, Pennine, Snowden and Xavier - 12.

Nays: Councilmen Addison, Boyle, Councilwoman Brassil, Councilmen Dillon, Easton, Johnson, Moise, O'Connor, Paolino, Petrosinelli, Salvatore and Stravato - 12.

Absent: Councilmen Griffin and Lynch - 2.

The motion being a Tie Vote, is Defeated.

COUNCILMAN SNOWDEN: I will take a few more minutes of this Council's time, I would like to object to the vote only because of the fact that I think it is an affront to the Council itself. How anyone can say that we have heard both sides when only one is an adverse witness. I can only say that I hope that they make up their minds on what was done and what the occurrence of the night

in general was, I cannot understand.I don't feel that the City of Providence or its Citizens has any knowledge or way of making up their minds. I don't feel that the Mayor has been allowed to present his case and the case has not been presented on the part of Mr. Cesaro and on moral ground, I feel that the case proceedings as presented on the part of Mr. Cesaro, what he was doing, when, why, and the reasons for, has not been presented.

The speed with which this Council wants to bring this to a close amazes me. We are arguing procedural questions. I really feel that in two years, the short two years that I've been on the Council has been quite a.....where we take a vote on something we have not listened to and make a mockery of a hearing, which for all purposes is supposed to be able to provide both sides with factual material on what is happening, and then we want to take a vote that belies in the agreement of the rules that we have set up not once but twice. My feeling right now on this issue is that we would not be able to vote because in not doing so, those people that have not made up their mind, feel that there are still some questions on this issue. There is in fact that not becoming a participant in this issue as it is a sham, I know that Councilman Glavin had implied last week that we should actively participate, but it does bother me that attempt to bring these proceedings to a close without ever having heard one witness, not even one statement really from the lawyer for the co-defense. I don't feel that the City of Providence has been done justice and I don't feel that the Mayor has been done justice and I don't really feel that Mr. Cesaro has been done justice, because I think the way this has been brought to a close there will always be a doubt on what happened on the night in question; what the motivations were and whether in fact it is purely politically, whether in fact it was correct and for that reason I would like to hope that the next reason this Council has a Public Hearing on anybody, whether it is another department head or anybody, we should decide beforehand whether or not we want to have a Hearing.

COUNCILMAN MOISE: Mr. President, I have a boxful of facts here I have been taking since being here. This box contains all the notes of what Mayor Cianci said and Mr. Cesaro and everything the lawyer said. I reviewed it and considered all circumstances and there are people here tonight that haven't been present.....some people have been here 6 hours and some since its been going on for the last 2 or 3 weeks, and now they are trying to prolong and filibuster.....I've heard both sides and I speak for myself, but I've been taking notes and the man is a victim of circumstances and we have to make a decision to vote, like other public hearings. We have pro's and con's we make a decision and we go, this can go on and on.....

COUNCILMAN CIRELLI: Everyone is heard at a Public Hearing not just two people, a public hearing is for the public, everybody is heard.

COUNCILMAN PEARLMAN: Mr. President, I feel that the procedures here are most irregular, illegal and unconstitutional, however, I hope before we take a vote that you will rule on a point of order raised by Councilman Farmer, just discussing the merits first, and there is much to discuss and I would like it if you would do so. There is one phase of the testimony that I think is overwhelming and overriding and that is when Mr. Cesaro said on that stand and admitted that he was somewhere on personal business between the hours of 9:30 o'clock P.M. to about 12:30 o'clock P.M. during a pending snow storm. Now, members of the Council, that is no different than somebody being on the danger list with a possible serious death imminent and the surgeon saying, instead of sleeping in the hospital and standing by in case an emergency arose, the surgeon goes off on personal business and is unavailable to be reached. Now, I have checked with other cities and town andwhenever there is a possible adverse presence, particularly a snow storm, that it is the responsibility of the Director of Public Works to be down at his station and be available at all times like a surgeon, who has a patient on the danger list and if we are forced to vote without having a full hearing, I think we've got sufficient evidence to say that the surgeon but in this case, the Director of Public Works, is responsible for the snow storm, has not done his job, ladies and gentlemen that is grounds for his not being ratified as the Director of Public Works and I wish you will rule on Mr. Farmer's Point of Order.

COUNCIL PRESIDENT FARGNOLI: There's a motion on the floor.

COUNCILMAN STRAVATO: Mr. President, I look at my brother, Councilman Pearlman and have a deep respect for him, but we all know that for the past fifteen years, Ernie D'Ambrosco has been in charge of snow removal and he's been doing that for fifteen years and he's been doing a good job at it, and for some reason or other he failed to be called that night and it was strictly a political motive on the part of the Mayor to document every minute, every second of his time from 4:00 to the wee hours of the morning, again it was political. I say move the question on a Roll Call Vote, Mr. President.

COUNCILMAN XAVIER: Well who is supposed to call Ernie?

COUNCILMAN STRAVATO: The Dispatcher.

COUNCILMAN ALMAGNO: Mr. President, as a Mayor of the City of Providence, I think the Mayor has the right in any emergency to call in a department head, that is his job, he should have been there, so don't come out with Ernie D'Ambrosco or anybody else, its the Director's job to be there.

COUNCILMAN MANSOLILLO: Mr. President, I urge my fellow Councilmen to not vote on this motion because it is tantamount to agreeing that the process in which we engaged this episode, the hearing process, is valid, as was pointed out by several of my colleagues, we have given ourselves and the people of Providence very little oppor-

tunity to get to the bottom of this entire situation. We agreed initially to hear the evidence that was presented through the Attorney for Mr. Cesaro and for the City of Providence by allowing them to call forth witnesses, we had good intentions. We moaned in the past because we were not able to get to the bottom of this situation. Yet, here we are the same Council who moaned and groaned about the fact that Vincent Cianci did not appear several months ago to present his charges against the Public Works Director and now the same Council goes on record as thwarting that process. Its nothing but a lot of double talk and the people of Providence know it. We owe it to our constituency to hear the matter at hand in its fullest extent and I remember I did not happen to be here at the last hearing of the Cesaro case, the first suspension as I was busy with the Charter Commission at the time, but I remember hearing or reading a transcript from Councilman Salvatore, ^{/and in the transcript, Councilman Salvatore,} Salvatore, to paraphrase what he said "you should have known then there was something a foul, when Councilman Mansolillo did not get up to respond to the Mayor's charges". Well, let there be no mistake about it, I am not being given, nor are you being given the opportunity to respond to the Mayor's charges because none of us have had the opportunity to get to the bottom of this, so in staying true to form, which apparently you are unable to do by disputing the submission of evidence, this Council has once again proven that its motives are purely and simply political, the interest of the people is secondary to them, the interest of department politics and personality are the first, and really and truly there is very little hope for the City of Providence with the people in this room leading them.

COUNCIL PRESIDENT FARGNOLI declares a Five Minute Recess.

A Roll Call vote is requested by the President to determine a quorum.

Present: Council President Fagnoli and Councilmen Addison, Almagno, Boyle, Councilwoman Brassil, Councilmen Cirelli, Cola, Dillon, Easton, Farmer, Griffin, Johnson, Lynch, Mansolillo, Moise, O'Connor, Paolino, Pearlman, Pennine, Petrosinelli, Salvatore, Snowden and Stravato - 23.

Absent: Councilmen Flynn, Glavin and Xavier - 3.

COUNCIL PRESIDENT FARGNOLI A motion has been made and seconded to dismiss the charges, under Section 4.30, Removal of Officers, of the Charter and we will have a Roll Call Vote:

The Roll is Called as follows:

Ayes: Council President Fagnoli and Councilmen Addison, Boyle, Councilwoman Brassil, Councilmen Cola, Dillon, Easton, Johnson, Lynch, Moise, O'Connor, Paolino, Petrosinelli, Salvatore and Stravato - 15.

Nays: Councilmen Almagno, Farmer, and Pearlman - 3.

Not Voting: Councilmen Cirelli, Griffin, Mansolillo, Pennine and Snowden - 5.

Absent: Councilmen Flynn, Glavin and Xavier - 3.

COUNCIL PRESIDENT FARGNOLI thereupon declares the motion to dismiss the charges against Clement J. Cesaro, as Director of Public Works is Passed, he therefore is reinstated.

ADJOURNMENT. On motion of Councilman O'Connor, seconded by Councilman Easton, the City Council adjourns the Hearing at 9:05 o'clock P.M.

Rose M. Mendonca,
City Clerk.