

*(The following is not a verbatim transcript of comments or discussion that occurred during the meeting, but rather a summarization intended for general informational purposes. All motions and votes are the official records).*

## **REGULAR MEETING – CITY COUNCIL**

**-OCTOBER 28, 2013-**

Regular meeting of the City Council was held on Monday, October 28, 2013 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:10 P.M. by the Council President.

Roll call showed the following members present: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria (left meeting at 9:45 P.M.), Favicchio, Council Vice-President Farina (left meeting at 9:45 P.M.) and Council President Lanni -9.

Also Present: Gerald Cordy, Director of Administration; Carlos Lopez, Chief of Staff; Jeffrey Barone, Director of Constituent and Government Affairs; Evan Kirshenbaum, Assistant City Solicitor; Robert Strom, Finance Director; Patrick Quinlan, City Council Legal Counsel; Roy Damiano, City Council Internal Auditor.

On motion by Council Vice-President Farina, seconded by Councilman Favicchio, it was voted to dispense with the reading of the minutes of the last meeting and they stand approved as recorded. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

### **I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS**

City Council issued Citations to the 2013 Cranston Babe Ruth 15-Year Old League in recognition of winning the RI State Championship and NE Regional Championship for the third straight year and placing Fifth Place in the World Series in Loudoun County, Virginia.

### **II. PUBLIC HEARINGS**

None.

**-OCTOBER 28, 2013-**

### **III. RESOLUTIONS**

**RESOLUTION TO PETITION THE GENERAL ASSEMBLY TO REIMBURSE THE CITY OF CRANSTON FOR THE COST OF EMERGENCY PERSONNEL TO DEAL WITH THE STATE DEPARTMENT OF TRANSPORTATION'S FAILURE TO MAINTAIN ITS CATCH BASINS ON OAKLAWN AVE. AND DEAN PARKWAY**

On motion by Councilman Archetto, seconded by Councilman Favicchio, it was voted to suspend Rule 34B in order to address the above Resolution. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

On motion by Councilman Archetto, seconded by Councilman Favicchio, it was voted to adopt the above Resolution.

Under Discussion:

**Councilman Aceto** suggested referring this Resolution to the Public Works Committee. He stated that he is concerned that there is another government agency and we do not know if there is a schedule or when they clean the drains. This Resolution is a good step, but we need to go deeper into this because there are jurisdiction issues since there is a bike path in the area.

**Councilman Santamaria** agreed with Councilman Aceto and indicated that Fletcher Ave. is a State road and he does not think that the State maintains that road either.

Roll call was taken on motion to refer the above Resolution to the Public Works Committee and motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

**RESOLUTION OF THE CITY COUNCIL TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE RHODE ISLAND EMERGENCY MANAGEMENT AGENCY TO APPEAR AT A PUBLIC HEARING OF THE CITY COUNCIL REGARDING THE BIGGERT-WARTERS FLOOD INSURANCE REFORM ACT OF 2012 [\[click to view\]](#)**

On motion by Councilman Archetto, seconded by Councilman Santamaria, it was voted to suspend Rule 34B in order to address the above Resolution. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

On motion by Council Vice-President Farina, seconded by Councilman Favicchio, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

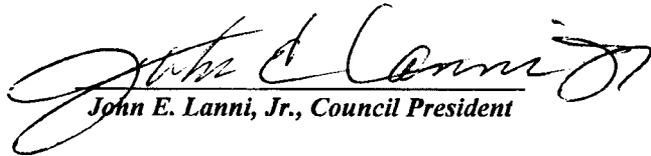
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THE CITY OF CRANSTON

**RESOLUTION OF THE CITY COUNCIL  
TO THE FEDERAL EMERGENCY MANAGEMENT AGENCY AND THE  
RHODE ISLAND EMERGENCY MANAGEMENT AGENCY TO APPEAR AT A  
PUBLIC HEARING OF THE CITY COUNCIL REGARDING THE BIGGERT-  
WARTERS FLOOD INSURANCE REFORM ACT OF 2012**

No. 2013-38

*Passed:*  
October 28, 2013

  
*John E. Lanni, Jr., Council President*

***Resolved that,***

**WHEREAS**, the health, safety and welfare of the citizens of the City of Cranston are matters of paramount importance to the City Council; and

**WHEREAS**, in July 2012, the U.S. Congress passed the Biggert-Waters Flood Insurance Reform Act of 2012 which calls on the Federal Emergency Management Agency (FEMA), and other agencies, to make a number of changes to the way the National Flood Insurance Program (NFIP) is run; and

**WHEREAS**, key provisions of the legislation will require the National Flood Insurance Program to raise rates and change how Flood Insurance Rate Map (FIRM) updates impact policyholders; and

**WHEREAS**, the changes will mean premium rate increases for many policyholders; and

**WHEREAS**, the City of Cranston has many property owners in flood hazard areas in the City; and

**WHEREAS**, the City Council desires that representatives of the Federal Emergency Management Agency and the Rhode Island Emergency Management Agency appear at a public hearing of the City Council to explain the Biggert-Waters Flood Insurance Reform Act of 2012 and the impact it will have on property owners in the City.

1           **NOW, THEREFORE BE IT RESOLVED.** that the Cranston City Council  
2 hereby requests representatives of the Federal Emergency Management Agency, the  
3 Rhode Island Emergency Management Agency and representatives of the United States  
4 Senators and Representatives from Rhode Island appear at a special public meeting of the  
5 City Council to explain the Biggert-Waters Flood Insurance Reform Act of 2012 and the  
6 impact it will have on property owners in the City.

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8           **BE IT FURTHER RESOLVED,** that the City Clerk forward a copy of this  
9 Resolution to the local and/or regional office of the Federal Emergency Management  
10 Agency, to the Rhode Island Emergency Management Agency, to the United States  
11 Senators and Representatives from Rhode Island.

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13           This Resolution shall take effect upon passage.

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15           Sponsored by Councilman Archetto

**-OCTOBER 28, 2013-**

**IV. REPORT OF COMMITTEES**

**ORDINANCE COMMITTEE**

**(Councilman Paul H. Archetto, Chair)**

**8-13-7            ORDINANCE IN AMENDMENT OF TITLE 10, CHAPTER 40 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘TRAFFIC REGULATIONS FOR SPECIFIC STREETS’ (Crosswalk Gansett Ave., North Side of its intersection with \*Appleton Berkley St.)**

On motion by Councilman Archetto, seconded by Council Vice-President Farina, the above Ordinance was adopted on a vote of 8-1. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Council Vice-President Farina and Council President Lanni -8. The following being recorded as voting “nay”: Councilman Favicchio -1.

**8-13-1            ORDINANCE IN AMENDMENT OF TITLE 3, OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘REVENUE AND FINANCE’ (Tax Assessment Board of Review)**

On motion by Council Vice-President Farina, seconded by Councilman Archetto, the above Ordinance was adopted on a vote of 8-1. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -8. The following being recorded as voting “nay”: Councilman Stycos -1.

**8-13-3            ORDINANCE IN AMENDMENT OF TITLE 9.8 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘OFFENSES RELATING TO PROPERTY (Tree Planting Back of Sidewalk Program)**

On motion by Councilman Stycos, seconded by Councilwoman Lee, it was voted to adopt the above Ordinance.

On motion by Council Vice-President Farina, seconded by Councilman Archetto, it was voted to move the question. Motion passed on a vote of 6-3. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Botts, Archetto, Santamaria, Favicchio and Council Vice-President Farina -6. The following being recorded as voting “nay”: Councilmen Stycos, Aceto and Council President Lanni -3.

Roll call was taken on motion to adopt the above Ordinance and motion passed on a vote of 7-2. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria and Favicchio -7. The following being recorded as voting “nay”: Council Vice-President Farina and Council President Lanni -2.

**8-13-5            ORDINANCE IN AMENDMENT OF TITLE 10, CHAPTER 40 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘MISCELLANEOUS TRAFFIC REGULATIONS’ (No Tractor Trailer Parking on Cranston St., North Side between Victoria and Dyer)**

On motion by Councilman Archetto, seconded by Councilman Aceto, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

8-13-07

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THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL**

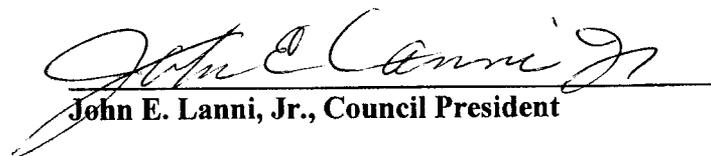
IN AMENDMENT OF TITLE 10, CHAPTER 40 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED "TRAFFIC REGULATIONS FOR SPECIFIC STREETS"

(Crosswalk Gansett Avenue, North Side of its intersection with \* ~~Appleton Berkley~~ Street )

\*As amended Ordinance Committee Sept. 12, 2013

No. \*SEE ATTACHED VETO MESSAGE

**Passed:**  
October 28, 2013

  
John E. Lanni, Jr., Council President

**Approved:**

VETOED 11/1/2013

\_\_\_\_\_  
Allan W. Fung, Mayor

*It is ordained by the City Council of the City of Cranston as follows:*

**Section 1.** Chapter 10.12.250 entitled " Crosswalks Enumerated" is hereby amended as follows:

10.40. Section .250 Crosswalks Enumerated  
Across Gansett Avenue, North Side of its intersection with \* ~~Appleton Berkley~~ Street

**Section 2.** This Ordinance shall take effect upon its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)

  
\_\_\_\_\_  
Christopher Rawson, City Solicitor Date 10/20/13

\_\_\_\_\_  
Christopher Rawson, City Solicitor Date

Sponsored by: Councilman Archetto

Referred to Ordinance September 12, 2013

Allan W. Fung  
Mayor



Kenneth R. Mason, P.E.  
Director of Public Works

## Bureau of Traffic Safety

### STAFF REPORT

**Date:** 10/23/13  
**To:** City Council  
**From:** Stephen Mulcahy, Traffic Engineer (Acting)  
**Ordinance Proposal No:** 8-13-07  
**Date referred to staff:** 9/4/13  
**CC:** Wall; Zanni; Cordy; Lopez; Barone; Giarrusso

**Subject:** **Section 1.** Chapter 10.12.250 entitled "Crosswalks-Enumerated" is hereby amended by adding thereto the following:

Across Gansett Avenue, north side of its intersection with Appleton Street

**Section 2.** This ordinance shall take effect upon its final adoption.

### BACKGROUND

**Procedure:** Pursuant to Section 9.06 of the City of Cranston Charter, the Bureau of Traffic Safety shall issue a report prior to the adoption of any rule, regulation, or order relating to traffic. Such reports may include in-house and/or field investigations to compile data relative to crash/accident incidence; roadway geometry; sight line distance; current codified ordinance; and other traffic control standards as defined in the *Manual on Uniform Traffic Control Devices*, 2009 edition, approved by the Federal Highway Administration.

#### **Existing Condition:**

- Gansett Ave.: two-way moderate volume local connector roadway with a posted speed limit of 25MPH; total ROW width of 60' including a 40' paved roadway with paved and curbed sidewalks within the subject segment, no parking restrictions on either side within the subject segment; roadway geometry within the subject segment is mostly level with a slight horizontal curvature approximately 100' north of Appleton St.; adequate site distance within a minimum of 150' in either direction of subject site.
- Appleton St.: two-way low volume residential (25MPH) roadway; total ROW width of 40' including 24' paved roadway with paved and grass curbed sidewalks; no parking restrictions on either side; STOP control at its intersection with Gansett Ave.
- Appleton St. meets Gansett Ave. at a skewed angle; utility pole at the northeast corner of the intersection.
- Proposed site is approximately 500' north from marked crosswalk at entrance to Bain Middle School.

### Staff Analysis:

At first glance, the addition of a marked crosswalk at the subject location, i.e., at playground and ball field facilities, might seem appropriate and warranted, but due to other significant factors, its benefit may not be so apparent. When studying its proximity to Bain Middle School along with the safety improvements completed in 2012 through the Safe Routes to School project, careful consideration must be given to unexpected consequences of installing this device.

The Federal Highway Administration through the MUTCD and other traffic industry research suggests that the placement of marked pedestrian crossings at uncontrolled intersections should not be undertaken indiscriminately and that factors relative to traffic volume, speed, roadway geometry, pedestrian demand, and other factors should be carefully considered prior to implementation. Such data is typically substantiated through an engineering study. In September 2005, the FHWA issued report number HRT-04-100 conducted by the University of North Carolina at Chapel Hill. The study was based on five years of pedestrian accident data at 1000 marked crosswalks and 1000 matched unmarked crossing sites. All of the sites were uncontrolled. The results revealed that on two-lane roads there were no significant differences in pedestrian crashes from marked vs. unmarked crosswalks sites. In other words, pedestrian safety on two-lane roads, such as Gansett Ave., was not found to be different, whether the crosswalk was marked or unmarked. The study further revealed that pedestrian crashes are relatively rare at uncontrolled pedestrian crossings (1 crash every 43.7 years per site in this study).

The existing marked crosswalk at the entrance to Bain Middle School is controlled by an adult crossing guard during the school arrival and departure hours which are the peak hours of demand. In addition to the highly visible yellow-green fluorescent school and crosswalk signs, both approaches to this crosswalk are enhanced by electronic driver feedback signs that flash the approaching motorists' prevailing speed and alert them to a 20MPH speed reduction through the school zone and pedestrian crossing. In preparation of this report, both Joel Zisseron, Director of Transportation for the Cranston School Department and Lori Madonna, Director of CrossingGuards.US, were contacted to provide first hand insights on potential impacts and conflicts of the addition of the proposed crosswalk. Both expressed reservation and concern that the introduction of an additional marked crosswalk may encourage students to cross Gansett Ave. away from the safer controlled crosswalk during the hours of peak pedestrian demand, thus putting student pedestrians in a more hazardous position. Furthermore, crash data compiled from Cranston Police for the period 1/1/10 – 9/15/13 reveals no pedestrian crashes within the subject intersection. This raises the question as to whether the need for a marked crosswalk is based upon real data versus unsubstantiated perception. The FHWA recommends that a minimum of 20 pedestrian crossings per peak hour or 15 elderly and/or child pedestrians exist at a location before placing a high priority on the installation of a marked crosswalk alone. Field observations reveal these numbers are much lower at the subject location.

Industry research suggests that pedestrians crossing within a marked crosswalk tend to believe they will be "seen" by approaching motorists who will stop simply because they are within a painted line on the pavement. This false sense of security may lead pedestrians to exercise less care and not wait for safe gaps in the traffic stream before attempting to cross. Conversely, pedestrians crossing at an unmarked crosswalk will typically exercise greater awareness of approaching vehicles by waiting for safe gaps in the traffic stream before attempting to traverse the roadway. Further evidence suggests a reduction in rear-end collisions resulting from sudden stops by motorists at uncontrolled marked crosswalks. Additionally, field observations at the subject site reveal gaps in the traffic stream of sufficient frequency and length to allow pedestrians to safely cross Gansett Avenue.



To: Cranston City Council  
From: Mayor Allan Fung  
Date: 11/1/3013  
RE: Veto of Ordinance 8-13-07

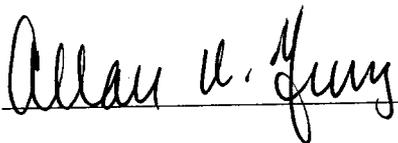
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While I respect the sponsor's effort to provide safer passage for pedestrians crossing Gansett Avenue to access the ball fields and playgrounds, I cannot approve this ordinance because of the increased risk it will present to Bain School students walking to and from Bain School.

We recently upgraded the pedestrian crossing at Bain School under the Safe Routes to Schools initiative to increase student pedestrian safety. The Bain School project included additional signage, repainted cross walks and the addition of electronic signage to warn drivers approaching the crossing. During normal morning school opening and afternoon dismissal hours there are also crossing guards stationed at this Bain crossing location. It is my concern as well as the concern expressed by the Traffic Engineer's report and Joel Zisseron, the Director of Transportation for Cranston Schools, that the addition of the proposed additional crossing will encourage students to cross at the new, uncontrolled crossing at the busiest traffic periods i.e., school opening and closing hours which will defeat our efforts to enhance student pedestrian safety.

For these reasons, I am vetoing Ordinance 8-13-07.

Respectfully,

 Date: 11/1/13

Allan W. Fung  
Mayor  
City of Cranston

8-13-01

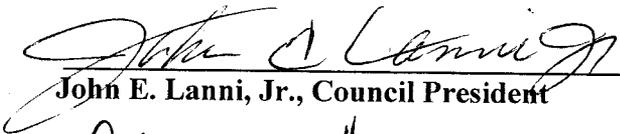
THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL**  
IN AMENDMENT OF TITLE 3, OF THE CODE OF THE CITY OF CRANSTON,  
2005 , ENTITLED "REVENUE AND FINANCE"  
(Tax Assessment Board of Review )

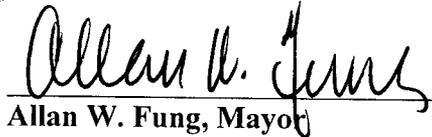
No. 2013-35

\*As Amended Ordinance Committee October 17, 2013

*Passed:*  
October 28, 2013

  
John E. Lanni, Jr., Council President

*Approved:*  
November 1, 2013

  
Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

Section 1. Title 3, Chapter 8 , Section 3.08.050 entitled "Tax Assessment Board of Review" is hereby amended as follows:

**3.08.050 - Tax assessment board of review.**

A. All appraisals done for or on behalf of the tax assessment board of review of the city, shall be completed in accordance with Section 3.08.040 of the code.

B. The Tax Assessment Board of Review shall be comprised of three members and two alternates.

C. The tax assessment board of review members are [not] to be paid \$3000.00 per year , , and alternates shall be paid \$50.00 per meeting \*not to exceed \$3000.00 per year when sitting as a member:

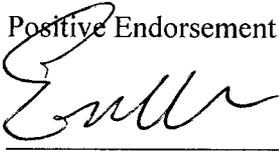
1. A meeting is conducted in accordance with the Open Meetings statutes of Rhode Island state law and other applicable statutes.
2. Minutes shall be kept of each meeting including the reasons for denial or approval of each appeal
3. No person shall serve more than six consecutive years on the Tax Assessment Board of Review.

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**Section 2:** This Ordinance shall take effect on its final adoption

Positive Endorsement

Negative Endorsement (attach reasons)

 10/28/13  
Christopher Rawson, Solicitor Date

\_\_\_\_\_  
Christopher Rawson, Solicitor Date

Fiscal Note

I hereby certify that it is anticipated that sufficient funds will be available to fund this appropriation.

\_\_\_\_\_  
Robert F. Strom, Director of Finance

Sponsored by: Council President Lanni, Council Vice President Farina, Councilman Aceto

Referred to Ordinance Committee September 12, 2013

8-13-03

THE CITY OF CRANSTON

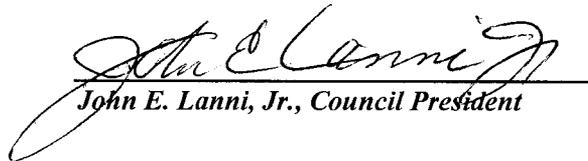
**ORDINANCE OF THE CITY COUNCIL**

IN AMENDMENT OF TITLE 9.8 OF THE CODE OF THE CITY OF CRANSTON, 2005,  
ENTITLED "OFFENSES RELATING TO PROPERTY"  
(Tree Planting Back of Sidewalk Program)

No. 2013-38

\*As amended Ordinance Committee October 17, 2013

**Passed:**  
October 28, 2013

  
*John E. Lanni, Jr., Council President*

**Approved:**  
November 7, 2013 pursuant to Sect. 3.14 of the City Charter  
*Allan W. Fung, Mayor*

*It is ordained by the City Council of the City of Cranston as follows:*

**Section 1.** Title 9, Chapter 08, entitled "Offenses Relating to Property" is hereby amended as follows:

**9.08.062 Notice requirements for removal and pruning of trees.**

Unless the tree or shrub constitutes an imminent public hazard, the tree warden shall give ten (10) days notice of the removal or pruning of trees located on public rights of way. Notice shall be posted in the immediate vicinity of the tree or shrub to be removed or pruned. If any person, firm, or corporation objects to the removal or pruning of the tree or shrub, he or she may appeal to the tree warden, in writing. The tree warden shall hold a public hearing, and give reasonable notice to all those persons who are known to be of interest and suitable notice of said meeting must be posted in the immediate vicinity. Within three days of the hearing, the tree warden shall render his or her decision granting or denying the appeal.

Nothing in this section shall be construed to relieve the property owner of the responsibility to maintain trees on his or her property.

Nor shall this section be construed to change or otherwise designate the area of the city's responsibility for tree maintenance.

9.08.063 The "Back of Sidewalk" program is designed to plant new street trees in an environment that is more conducive to sustained growth. The improved growing environment provided through the "Back of Sidewalk" program will result in improved long-term health of the newly planted trees.

45 The purpose of the "Back-of-Sidewalk" program is:

46 1) extend the life of tree;

47 2) reduce the likelihood of the tree causing sidewalks to heave;

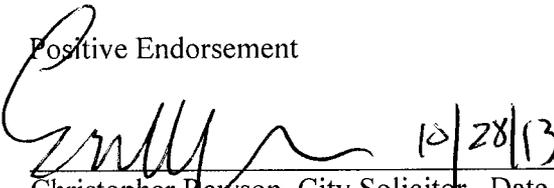
48 3) provide trees where few exist; and

49 4) expand diversity of street tree species.

50 Increasing the diversity of Cranston's street trees reduces the risk of blight (such  
51 as Dutch Elm disease), and provides a more varied look to each street. Criteria for species  
52 selection include the size of house, the width of street and the existing tree species on the  
53 street. Because this program serves primarily to enhance the streetscape, the tree must be  
54 completely visible from and planted within 20 feet of the sidewalk. *\*Trees planted in the*  
55 *back of sidewalk program shall be at least 8(eight) feet from the property line, unless*  
56 *the neighboring property owners approves the plant site in writing.*

57 To participate in the "Back of Sidewalk" program the property owner must sign  
58 and submit a consent and release form giving permission to the City of Cranston  
59 employees to enter upon their property for the purpose of planting a tree and agreeing to  
60 hold the City of Cranston and its employees harmless from all claims, liability, loss or  
61 damage to person or property arising from the planting of such tree(s). The consent and  
62 release form shall include an agreement by the homeowner to water, mulch, and maintain  
63 such tree(s). The Tree Warden will review the homeowner's request and render a  
64 decision.

65 **Section 2.** This Ordinance shall take effect upon its final adoption

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67	Positive Endorsement	Negative Endorsement (attach reasons)
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70	Christopher Rawson, City Solicitor	Christopher Rawson, City Solicitor
71	Date	Date
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73 Sponsored by: Councilman Stycos

74 Referred to Ordinance Committee September 12, 2013

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8-13-05

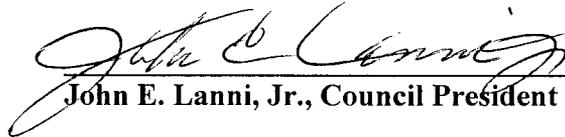
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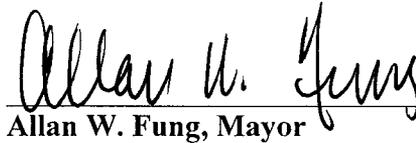
**ORDINANCE OF THE CITY COUNCIL**  
IN AMENDMENT OF TITLE 10, CHAPTER 40 OF THE CODE OF THE CITY  
OF CRANSTON, 2005, ENTITLED "MISCELLANEOUS TRAFFIC  
REGULATIONS"  
(No Tractor Trailer Parking on Cranston Street, North Side between Victoria and  
Dyer )

No. 2013-36

**Passed:**  
October 28, 2013

  
John E. Lanni, Jr., Council President

**Approved:**  
November 1, 2013

  
Allan W. Fung, Mayor

*It is ordained by the City Council of the City of Cranston as follows:*

**Section 1.** Chapter 10.40, entitled "Miscellaneous Traffic Regulations" is hereby amended by adding thereto the following new section:

**10.40.130 No Tractor Trailer Parking on Certain Streets—Generally.**

No tractor trailer shall park for any period of time within or upon any of the following streets or highways or parts thereof:

Cranston Street, North Side, from Victoria Avenue to Dyer Avenue

**Section 2.** This Ordinance shall take effect upon its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)

 10/28/13  
Christopher Rawson, City Solicitor Date

\_\_\_\_\_  
Christopher Rawson, City Solicitor Date

Sponsored by: Councilman Archetto

Referred to Ordinance Committee September 12, 2013

**-OCTOBER 28, 2013-****8-13-6           ORDINANCE IN AMENDMENT OF TITLE 10, CHAPTER 32 OF THE CODE OF THE CITY OF CRANSTON, ENTITLED 'STOPPING, STANDING AND PARKING ON CERTAIN STREETS' (No Tractor Trailer Parking on Cranston St., North Side between Victoria and Dyer)**

Councilman Archetto withdrew this Ordinance.

**FINANCE COMMITTEE**  
**(Councilman Steven A. Stycos, Chair)**

**RESOLUTION AUTHORIZING REAL ESTATE AND TANGIBLE TAX ABATEMENTS (As recommended by Tax Assessor with the exception of 79 Gladstone St. and 2206 Broad St.,)**

On motion by Councilman Aceto, seconded by Councilman Favicchio, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

**RESOLUTION AUTHORIZING MOTOR VEHICLE TAX ABATEMENTS**

On motion by Councilman Aceto, seconded by Councilman Archetto, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

**TAX INTEREST WAIVER APPROVALS**

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to approve the above list of Tax Interest Waiver Approvals. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

**TAX INTEREST WAIVER DENIALS**

On motion by Councilman Aceto, seconded by Council Vice-President Farina, it was voted to approve the above list of Tax Interest Waiver Denials. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

**SAFETY SERVICES & LICENSES COMMITTEE**  
**(Councilman Richard D. Santamaria, Jr., Chair)**

**9-13-05           ORDINANCE IN AMENDMENT OF TITLE 5 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED 'BUSINESS LICENSES' (Tobacco and Electronic Smoking Devices)**

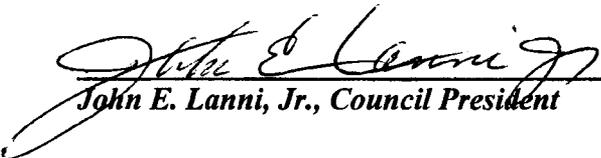
On motion by Councilman Archetto, seconded by Council Vice-President Farina, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

THE CITY OF CRANSTON

**RESOLUTION OF THE CITY COUNCIL**  
AUTHORIZING REAL ESTATE/TANGIBLE TAX ABATEMENTS AS  
RECOMMENDED BY CITY ASSESSOR

No. 2013-39

*Passed:*  
October 28, 2013

  
\_\_\_\_\_  
*John E. Lanni, Jr., Council President*

**Resolved, That**

The request of the City Assessor for the following abatements for manifest errors and reasons therein stated be granted and that a certified copy of this Resolution be for the respective amounts a sufficient voucher for the City Treasurer.

(See attached list of Abatements)

ALLAN FUNG  
MAYOR



DIVISION OF ASSESSMENT  
869 PARK AVE  
CRANSTON, RI 02910

SALVATORE SACCOCCIO JR.  
CITY ASSESSOR

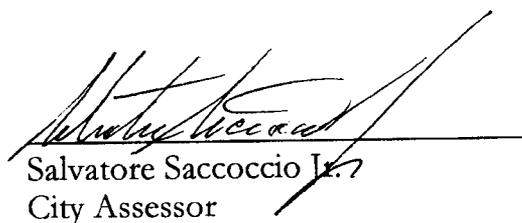
DAVID COLE  
DEPUTY ASSESSOR

MEMO

DATE: October 4, 2013  
TO: His Honor the Mayor and the Honorable City Council  
FROM: City Assessor  
RE: Real Estate and Tangible Abatements

The following assessments are recommended for abatement in the amounts and for the reasons hereinafter set forth:

<u>Assessment Date</u>	<u>Value</u>	<u>Tax</u>
December 31, 2012	465,774	13,872.63

  
Salvatore Saccoccio Jr.  
City Assessor

\*\*\* REGRIABT.REP \*\*\* Printed 10/04/2013 at 13:34:03 by KARBUR

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City of Cranston  
2013 Abatement List

Location	Original Value	Original Tax	Original Listing Error	Adjusted Value	Adjusted Tax	Adjusted Listing Error
1 0230016001 007-0878 Location 79 GLADSTONE ST BOLTON SEAN R DONG SOKHANG 79 GLADSTONE ST CRANSTON RI 02920	158000 99721 58279	3608.72 2277.63 1331.09				
2 0223529001 030-0196 Location 109 MAIN ST BOUREGOTS GLEN A & MONICA J BO 109 MAIN STREET FISKEVILLE RI 02823	214800 19200 195600	4906.03 438.53 4467.50				
3 0330018001 015-1287 Location 111 RIDGEMAY RD CARPENTER PRISCILLA M DECSARIS H VINCENT JT 111 RIDGEMAY RD CRANSTON RI 02920	156799 7836 148963	3581.28 178.97 3402.31				
4 0331692501 990-3316-925 Location 2206 BROAD ST CORK & BREW SPIRITS TOO CORK & BREW SPIRITS INC 2206 BROAD ST CRANSTON RI 02905	161850 128766 32884	5538.12 4411.52 1126.60				
5 0331734501 036-0054-103 Location 103 GRAY COACH LN COUNTRY VIEW HOLDING LLC 106 TEN ROAD ROAD EXETER RI 02822	226100 20200 205900	5164.12 461.37 4702.75				
6 0417553501 009-2351 Location 935 RESERVOIR AV DEIGMAN EDWARD J JR 935 RESERVOIR AVE CRANSTON RI 02910	234900 49700 185200	8047.67 1702.72 6344.95				
7 0713038001 027-0221 Location 1 REGINA DR GARAFANO RONALD D & GARAFANO J 1 REGINA DR CRANSTON RI 02921	454200 26400 427800	10373.92 602.98 9770.94				
8 0714546001 017-1301 Location 37 ROYER ST GILLIAM MARIE 37 ROYER ST CRANSTON RI 02920	129699 900 128799	2962.31 20.56 2941.75				
9 1427432001 009-0564 Location 38 IVANHOE ST MERININ BERNADETTE & MONICA SUA 38 IVANHOE ST CRANSTON RI 02910	106899 5900 100999	2441.56 134.76 2306.80				

\*\*\* RECR1ABT.REP \*\*\* Printed 10/04/2013 at 13:34:04 by KARBUR

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City of Cranston  
2013 Abatement List

Account	Location	Original Value	Adjusted Value	Original Tax	Adjusted Tax
10	1604480001 991-6044-800 Location 1901 DYER AV OCEAN STATE MARKET ADEL TUMA 341 DYER AVE CRANSTON RI 02920	40000	15549	1370.40	532.71
11	1901278001 009-0367 Location 285 AUBURN ST RATTE FERNAND RATTE LORRAINE JT 285 AUBURN ST CRANSTON RI 02910	170900	168500	3903.35	3848.53
12	2200541001 013-0061 Location 4 SHARPE DR UBIO INC 3890 POST RD WARWICK RI 02886	2224100	2143800	75187.66	73446.58

Account	Original Value	Adjusted Value	Original Tax	Adjusted Tax
Original	4278047	128095.14	465774	13872.63
Abatements	3812273	114222.51		
Adjusted				

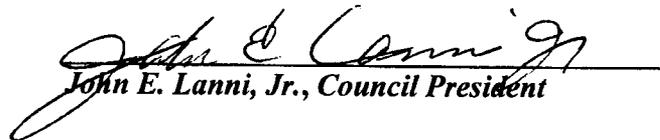
THE CITY OF CRANSTON

**RESOLUTION OF THE CITY COUNCIL**  
AUTHORIZING MOTOR VEHICLE TAX ABATEMENTS AS RECOMMENDED  
BY CITY ASSESSOR

No. 2013-40

*Passed:*

October 28, 2013

  
John E. Lanni, Jr., Council President

**Resolved, That**

The request of the City Assessor for the following abatements for manifest errors and reasons therein stated be granted and that a certified copy of this Resolution be for the respective amounts a sufficient voucher for the City Treasurer.

(See attached list of Abatements)

ALLAN FUNG  
MAYOR



DIVISION OF ASSESSMENT  
869 PARK AVE  
CRANSTON, RI 02910

SALVATORE SACCOCCIO JR.  
CITY ASSESSOR

DAVID COLE  
DEPUTY ASSESSOR

## MEMO

DATE: October 4, 2013  
TO: His Honor the Mayor and the Honorable City Council  
FROM: City Assessor  
RE: Motor Vehicle Abatements

The following assessments are recommended for abatement in the amounts and for the reasons hereinafter set forth:

<u>Assessment Date</u>	<u>Value</u>	<u>Tax</u>
December 31, 2010	10,671	452.86
December 31, 2011	44,627	1,893.99
December 31, 2012	<u>154,934</u>	<u>6,575.42</u>
Totals:	210,232	8,922.27

  
\_\_\_\_\_  
Salvatore Saccoccio Jr.  
City Assessor

City of Cranston  
2011 Motor Vehicle  
Abatement List

Abatement #	Vehicle ID	Year	Plate	Owner	Original Value	Original Tax	Adjusted Value	Adjusted Tax
1	42005800	2006	PONT VK 3	LASTARZA SHERRY L 127 LEGION WAY Cranston RI 02910	5,702	803.21	000088822	169.08
2	43006900	2003	MTS OL 537	MANGIONE ASHLEY L 40 ANGELL AVE Cranston RI 02920	4,484	31.24	000000000	137.84
3	43011610	2007	TOYO	MARRAPESE DANIEL C 137 PARK FOREST RD Cranston RI 02920	13,524	553.08	000000000	58.74
4	48016010	1989	MAZD	RODRIGUES LINDA C 13 RIDGE ST FL 2 CRANSTON RI 02920	027,461	461.22	000000000	494.34
	WRONG PERSON/COMPANY				540	27.04		
	Adjusted Tax:					6.15		

For Tax Year: 2011

Original Value	Tax	Adjusted Tax
24,250	1,552.41	1,099.55

on 4 Accounts

City of Cranston  
2012 Motor Vehicle  
Abatement List

Vehicle ID	Year	Make	Model	Value	Tax	Original Value	Original Tax	Adjusted Value	Adjusted Tax
31008640	2001	BMW		090865	680972	37013970	0000060087	680972	680972
Vehicle 2001 ID WBAGH83481DP92744 ALVES MUNO 630 OAKLAWN AVE CRANSTON RI 02910									
42020058	2006	ISUZU	QR 348	39.94	26.74	43006750	0000088912	OL 537	822687
Vehicle 2006 ID 4NUDT13S062700971 LOUIS JOSEPH G 149 COLFAX DRIVE Cranston RI 02905									
45002130	2008	NISSAN		645429	92.43	48016250	0000124487		350.81
Vehicle 2008 ID 3M1AB61E98L639295 OHEARN ERIN P 15 LARK AVE Cranston RI 02920									
43006750	2003	MINI		968	51.57	443AC44G83ED68402			350.81
Vehicle 2003 ID 4A3AC44G83ED68402 MANGIONE ASHLEY L 40 ANGELL AVE Cranston RI 02920									
43011520	2007	TOYO		9658	40.86	43011520	0000090424		40.86
Vehicle 2007 ID 4T1BE46K57U6S3948 MARRAPESE DANIEL C 137 PARK FOREST RD Cranston RI 02920									
48016250	2000	TOYO		689569	485.53	48016250	0000000000		485.53
Vehicle 2000 ID JTDY3876Y0031484 RODRIGUES LINDA C 13 RIDGE ST 2ND FL Cranston RI 02920									
48016250	2000	TOYO		689569	461.77	48016250	0000000000		461.77
Vehicle 2000 ID JTDY3876Y0031484 RODRIGUES LINDA C 13 RIDGE ST 2ND FL Cranston RI 02920									
48016250	2000	TOYO		689569	23.76	48016250	0000000000		23.76
Vehicle 2000 ID JTDY3876Y0031484 RODRIGUES LINDA C 13 RIDGE ST 2ND FL Cranston RI 02920									

For Tax Year: 2012

Original Value	47550	Original Tax	2567.88
Adjusted Value	1893.99	Adjusted Tax	673.89

on 8 Accounts





Oct-13 Waiver of Interest Applications

Recommend To Approve:

<u>NAME</u>	<u>ADDRESS</u>	<u>TAX AMT</u>	<u>INTEREST</u>	<u>REASON</u>
Dagnillo, Anna	1405 Schtuare Ave	\$954.69	\$76.38	lostcheck
Demely, Charles	51 Greylock Ave	192.46	\$26.94	hardship
Georges, Jacques	371 Laurel Hill Ave	742.91	\$69.53	hardship
Merola, Roger	93 High School Ave	2,573.21	\$25.73	illness
Rodrigues, Lana	90 South Hill Dr	3,132.51	\$313.25	hardship
Savastano, Charles	72 Sagamore Dr	1,088.68	\$87.09	illness
Scott, Miranda	33 South Hill Dr	23.09	\$6.00	hardship

**Recommend to Deny**

Ciambrone, Dolores	145 Harmon Ave	922.83	\$129.10	no proof
Harrington Homes	78 Kenwood Dr	3,901.38	\$546.19	other

9-13-5

THE CITY OF CRANSTON

ORDINANCE OF THE CITY COUNCIL
IN AMENDMENT OF TITLE 5.68 OF THE CODE OF THE CITY OF CRANSTON,
2005, ENTITLED "BUSINESS LICENSES"
(Tobacco and Electronic Smoking Devices)

No. 2013-37

Passed:
October 28, 2013

Approved:
November 1, 2013

John E. Lanni, Jr., Council President
Allan W. Fung, Mayor

It is ordained by the City Council of the City of Cranston as follows:

SECTION 1. Title 5.68 of the Code of the City of Cranston, 2005 , is hereby amended by adding thereto the following:

Section 5.68.010 Definitions

- 1. Tobacco Products means any substance containing tobacco leaf, including, but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco or rolling papers, and Electronic Smoking Devices.
2. Electronic Smoking Device means an electronic and/or battery-operated device, the use of which may resemble smoking, that can be used to deliver an inhavled dose of nicotine or other substances. "Electronic Smoking Device" includes any such device, whether manufactured, distributed, marketed or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, or any other product name or descriptor.
3. Vending Machines means any mechanical, electric or electronic self service device which, upon insertion of money, tokens, or any other form of payment, dispenses tobacco products.
4. Compliance Check violation means any sale of tobacco products to and/or by a person who is less than eighteen (18) years of age.

SECTION 2. This Ordinance shall take effect upon its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)

Christopher Rawson, Solicitor 10/28/13

Christopher Rawson, Solicitor

Date

Christopher Rawson, Solicitor

Date

Sponsored by: Council President Lanni, Council Vice President Farina ,Councilman Aceto, Councilman Botts, Councilman Favicchio, and Councilman Stycos
Referred to Safety Services Committee October 7, 2013

**-OCTOBER 28, 2013-**

**Executive Session Pursuant to RIGL 42-46-5(a)(2): Pending Litigation**

**2012 SPORTS BAR AND LOUNGE**, 1785 Cranston Str. –Appeal of Safety Services Committee denial on Oct. 7, 2013, of restrictions removal.

On motion by Councilman Santamaria, seconded by Council Vice-President Farina, it was voted to go into Executive Session pursuant to RIGL 42-46-5(a)(2) Pending Litigation. Motion passed on a vote of 9-0. The following being recorded as voting “aye”:  
Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

The meeting went into Executive Session at 8:05 P.M.

Present in Executive Session: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni; Jeffrey Barone, Director of Constituent and Government Affairs; Evan Kirshenbaum, Assistant City Solicitor; Patrick Quinlan, City Council Legal Counsel; Maria Medeiros Wall, City Clerk; Rosalba Zanni, Assistant City Clerk/Clerk of Committees.

On motion by Council Vice-President Farina, seconded by Councilman Favicchio, it was voted to come out of Executive Session. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

The meeting came out of Executive Session at 8:45 P.M.

On motion by Councilman Aceto, seconded by Councilman Archetto, it was voted to seal the minutes of Executive Session. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

On motion by Councilman Botts, seconded by Councilwoman Lee, it was voted to grant an Entertainment License to the above establishment with restrictions of “no live entertainment after 10 P.M. on Sunday’s thru Thursdays and no live entertainment after midnight on Fridays and Saturdays”.

**Gregory Piccirilli, Esq.**, attorney for the above establishment, appeared to speak and asked that he and his client be allowed to speak regarding the denial of the Safety Services and Licenses Committee at its October 7<sup>th</sup> meeting.

**Lisa Bessette**, owner of 2012 Sports Bar and Lounge, appeared to speak.

**Attorney Piccirilli** stated that these restrictions are not fair and asked that his client be treated fairly like all the other establishments in the City.

Motion and second were withdrawn.

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to sustain the appeal. Motion passed on a vote of 6-3. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Aceto, Favicchio and Council Vice-President Farina -6. The following being recorded as voting “nay”:  
Councilmen Archetto, Santamaria and Council President Lanni -3.

On motion by Council Vice-President Farina, seconded by Councilman Aceto, it was voted to grant an Entertainment License to the above establishment with restrictions of entertainment to end at 11 PM Mondays thru Sundays.

## -OCTOBER 28, 2013-

On motion by Councilman Favicchio, seconded by Councilman Stycos, it was voted to amend the previous motion of entertainment to end at 10 PM Sundays thru Thursdays and midnight on Fridays and Saturdays. Motion failed on a vote of 4-5. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Botts, Aceto and Favicchio -4. The following being recorded as voting "nay": Councilmen Stycos, Archetto, Santamaria, Council Vice-President Farina and Council President Lanni -5.

Roll call was taken on original motion made to restrict hours of entertainment to 11 PM seven days a week and motion passed on a vote of 6-3. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Archetto, Aceto, Favicchio and Council Vice-President Farina -6. The following being recorded as voting "nay": Councilmen Botts, Santamaria and Council President Lanni -3.

### **CLASS B VICTUALLING ALCOHOLIC BEVERAGE LIC - NEW (NEEDS FULL COUNCIL APPROVAL - ABOVE THE CAP)**

*THE PUB ON PARK AVENUE, 1145 Park Ave.*

On motion by Councilman Santamaria, seconded by Councilman Aceto, it was voted to approve this license application. Motion passed on a vote of 9-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Santamaria, Favicchio, Council Vice-President Farina and Council President Lanni -9.

### **CLAIMS COMMITTEE** (Councilwoman Sarah Kales Lee, Chair)

**REPORT OF SETTLED CLAIMS (*Informational purposes only*):** Dolores Ciambrone \$160.00 personal injury; Andrea Subirana \$164.18 property damage; Nancy Hilton \$51.36 property damage; Roberto A. Felix \$1,250.39 property damage; Stephen & Donna Mancini \$2,159.21 property damage; Rene E. Coutu \$159.31 property damage.

No action needed.

## **V. PUBLIC HEARINGS** (open to any matters)

**Virginia Kowal**, 45 Kimberly Lane North, appeared to speak and stated that she purchased her home in 2003 and in 2009, she found things that were added to her valuation that did not belong to her property. She quoted RIGL 44-3-1 and stated that she was taxed for items that actually belonged to the home across the street from her.

**Council President Lanni** asked Solicitor if there is a State Law which states that if the City inadvertently taxes someone for property that belongs to someone else, the City has to issue a refund. Solicitor Kirshenbaum stated that he would have to review this.

**Councilman Aceto** asked that this issue be taken up at the next Finance Committee meeting.

**Council President Lanni** asked that the Solicitor and the Tax Assessor meet with the Finance Committee to discuss the possibility of issuing a refund.

**Councilman Stycos** asked that this item be placed first on the Finance Agenda.

## **VI. ELECTION OF CITY OFFICIALS**

None.

**-OCTOBER 28, 2013-**

## **VII. REPORT OF CITY OFFICERS**

**Solicitor Kirshenbaum** updated the Council regarding the suit with RIRRC and stated that a hearing was held last week and negotiations were stalled. In turn, he filed action with Providence Superior Court.

## **VIII. EXECUTIVE COMMUNICATIONS**

### **REPORT ON HIRING OF SPECIAL COUNSEL, CONSULTANTS, ETC., PURSUANT TO CHARTER SECTION 15.05.**

No discussion.

### **REQUEST TO BE CONTINUED IN SERVICE: *LT. WALTER KARBOWSKI*, Cranston Fire Department.**

On motion by Councilman Aceto, seconded by Councilman Archetto, it was voted to approve this request. Motion passed on a vote of 7-0. The following being recorded as voting "aye": Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Favicchio and Council President Lanni -7. Councilman Santamaria and Council Vice-President Farina were not present for roll call vote.

**CLAIM SETTLED BY SOLICITOR'S OFFICE:** Fay Law Office & Estate of John R. Gallo \$5,000.00 personal injury & Gemma Law Associates.

No action needed.

## **IX. COUNCIL PRESIDENT COMMUNICATIONS**

**Council President Lanni** stated that it is about time that the City sued RIRRC. It was long overdue.

## **X. COUNCIL MEMBER COMMUNICATIONS**

### ***Councilman Archetto:***

- **Pay increases for School Administrators**

**Council Vice-President Farina** asked that for the next Finance Committee meeting, he would like Mr. Strom to provide the total amount for the pay increases and also if this will effect the Basic Maintenance of Effort for next Fiscal Year on the City side.

### ***Councilman Stycos:***

- **Pay increases for School Administrators**

**Councilman Stycos** asked that for the next Finance Committee meeting, he would like Mr. Strom to provide total increase by employee.

### ***Councilman Aceto:***

- **Pay increases for School Administrators**

**Councilman Aceto** asked if the School Administrators have a contract. Mr. Strom stated that he believes that they do and he thinks it has to be approved by the School Committee.

**-OCTOBER 28, 2013-**

- **Non-Exempt Property Holders**

**Councilman Aceto** asked that for the next Finance Committee meeting, he be provided with a copy of non-exempt property holders in the City.

**Councilman Botts:**

- **Police Department**

**Councilman Botts** commended the Cranston Police Department for apprehending the bank robber on Rolfe St. and quick response to the drive by shooting on Reservoir Ave. last week.

## **XI. OLD BUSINESS**

None.

## **XII. INTRODUCTION OF NEW BUSINESS\***

\*(for informational purposes. All new business is referred to  
Committee for public hearing)

**RESOLUTION URGING THE MAYOR TO PLACE A SLOW TRAFFIC SIGN ON McKAY STREET.** Sponsored by Councilman Archetto

**RESOLUTION TO PETITION THE GENERAL ASSEMBLY TO REIMBURSE THE CITY OF CRANSTON FOR THE COST OF EMERGENCY PERSONNEL TO DEAL WITH THE STATE DEPARTMENT OF TRANSPORTATION'S FAILURE TO MAINTAIN ITS CATCH BASINS ON OAKLAWN AVE. AND DEAN PARKWAY.** Sponsored by Councilman Archetto. [[click to view](#)]

**10-13-01 ORDINANCE IN AMENDMENT OF CHAPTER 12.20 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED 'PARKS AND RECREATIONAL FACILITIES' (Dog Park).** Sponsored by Councilwoman Lee. [[click to view](#)]

**JOINT POLE LOCATION REQUEST FROM NATIONAL GRID FOR POLE LOCATION AT CANNON AND WALNUT GROVE.** [[click to view](#)]

**JOINT POLE LOCATION REQUEST FROM NATIONAL GRID FOR POLE LOCATION AT CRANSTON ST.** [[click to view](#)]

**RIRRC APPEAL OF DPW DIRECTOR'S DECISION ON RIRRC'S PETITION FOR REVIEW OF MODIFICATION TO INDUSTRIAL WASTEWATER DISCHARGE PERMIT #1808.** [[click to view](#)]

**RESOLUTION URGING THE MAYOR TO REINSTATE THE 50/50 SIDEWALK PROGRAM.** Co-Sponsored by Councilwoman Lee and Councilman Stycos. [[click to view](#)]

**10-13-02 ORDINANCE RATIFYING THE SCHOOL COMMITTEE'S COLLECTIVE BARGAINING AGREEMENT WITH RI COUNCIL 94, AFSCME, AFL-CIO CRANSTON PUBLIC SCHOOL EMPLOYEES LOCAL 2044, SCHOOL SECRETARIAL UNIT (Fiscal Years 2013-2014).** [[click to view](#)]

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THE CITY OF CRANSTON

**RESOLUTION OF THE CITY COUNCIL  
TO PETITION THE GENERAL ASSEMBLY TO REIMBURSE THE CITY OF  
CRANSTON FOR THE COST OF EMERGENCY PERSONNEL TO DEAL WITH  
THE STATE DEPARTMENT OF TRANSPORTATION'S FAILURE TO  
MAINTAIN ITS CATCH BASINS ON OAKLAWN AVENUE AND DEAN  
PARKWAY**

*Passed:*

*John E. Lanni, Jr., Council President*

*Resolved that,*

**WHEREAS**, the City of Cranston on September 2, 2013 endured massive flooding in the area of the apartment complex on Oaklawn Avenue; and

**WHEREAS**, as a result of this flooding at least sixty City residents who resided in the Dean Estates Apartments were rendered homeless after filthy flood waters crashed into their apartments; and.

**WHEREAS**, first responders from the City of Cranston, firefighters, police officers and City workers responded to the area to assist renters, homeowners, and businesses in the Oaklawn Avenue/Dean Estates area costing the City tens of thousands of dollars in labor, equipment and material costs;

**WHEREAS**, the massive flooding in this area caused permanent damage to at least six City streets in the area;

**WHEREAS**, the City of Cranston conducted an investigation into the causes of the flooding in this area and determined that the flooding was caused by backed up storm sewer drains on state highways in then area, specifically Oaklawn Avenue and Dean Parkway;

**WHEREAS**, the Rhode Island Department of Transportation is the owner and is responsible for the operation and maintenance of Oaklawn Avenue and Dean Parkway, including the highway drainage system that serves those two state roads;

**WHEREAS**, the Rhode Island Department of Transportation was negligent in failing to clean and maintain the storm water drains on Oaklawn Avenue and Dean

THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL**

IN AMENDMENT OF CHAPTER 12.20 OF THE CODE OF THE CITY OF CRANSTON,  
2005, ENTITLED "PARKS AND RECREATIONAL FACILITIES"  
(Dog Park)

No.

*Passed:*

\_\_\_\_\_  
John E. Lanni, Jr., Council President

*Approved:*

\_\_\_\_\_  
Allan W. Fung, Mayor

*It is ordained by the City Council of the City of Cranston as follows:*

SECTION 1. Chapter 12.20 of the Code of Ordinances is hereby amended by adding thereto:

**Section 12-24.180 Dog Parks.** There is hereby established within the City of Cranston a dog park for the purpose of allowing the off-leash exercise of dogs, provided that such dog is under the control of an attendant who is competent and knowledgeable relative to the behavior of said dog(s).

**Section 12-24.190 Definitions:**

Attendant: A person eighteen (18) years or older who brings a dog to the Dog Park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog(s) at all times while at or inside the facility.

Dog Park: An enclosed fence facility designated by the City of Cranston for the purpose of allowing dogs, under the control of their owner or attendant, to exercise and socialize off-leash.

Owner: As defined in Section 6-08.010

"Nuisance" Dog: As defined in Section 6-08.010.

Visual Control: The attendant can see the dog(s) and is within 75-feet of the dog(s) at all times.

Voice Control: The attendant is within 75-feet of the dog(s), is able to control and recall the dog(s) at all times, and is not allowing the dog(s) to fight with other dogs. A dog under voice control must immediately come to the attendant when so commanded.

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**Section 12-24.200 Park Operations.** The Director of Department of Parks and Recreation shall have authority to control the Dog Park and to make reasonable rules for its operation that are consistent with the Ordinance. The Dog Park will be operated year-round on a daily basis from sunrise to sunset, unless closed for maintenance or severe weather.

**Section 12-24.210 Responsibilities of Dog Park Users.** The attendant must ensure that their dog(s) are legally licensed and have documentation that their dog's vaccinations are up-to date. Current license and vaccination tags must be displayed on the dog's collar. All dogs shall be free of contagious or infectious diseases, be parasite-free both externally and internally, and have no visible wounds or injuries.

No more than two (2) dogs per attendant are allowed in the Dog Park.

The attendant of the dog(s) must be inside the enclosed Dog Park and have visual and voice control of their dog(s) at all times. Dogs shall not be left unattended at or inside the facility.

All dogs must be wearing a collar, however spiked, choke, and gentle-leader style electronic collars are not permitted.

The attendant of any dog(s) using the facility must have in his possession a leash that must be attached to said dog(s) when outside the facility area.

The attendant must fill-in any holes dug at the facility by their dog(s).

The attendant must remove their dog(s) when they become engaged in excessive barking or are fighting with other dogs.

The attendant of dogs using the facility must use a suitable container to promptly remove any feces deposited by their dog(s) and properly dispose of such waste material in designated receptacles.

**12-20.220 Children Regulations.** While inside the facility, children 12 to 18 years of age shall be accompanied by an adult who is solely responsible for the child's proper behavior and safety. Such children are not permitted to excite or antagonize any dogs using the facility by any means including, but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs. Children under 12-years of age are prohibited from entering the Dog Park.

**12-20.230 Prohibited Actions.** To ensure the safety of the dogs and attendants the following are not permitted at the Dog Park:

- Animals that are not dogs.

- Dogs under the age of four (4) months.

- Female dogs when in heat.

- Dogs deemed to be vicious, or who have a previous history of aggressive behavior toward other animals or humans.

- The use of bicycles, roller blades/skates, skateboards and similar types of exercise equipment.

- 94           - Motorized vehicles and devices, except for wheelchairs for the disabled.
- 95           - Glass bottles and similar breakable containers.
- 96           - Alcoholic beverages.
- 97           - Smoking
- 98           - Food of any type, including dog biscuits/treats.
- 99           - Professional dog trainers may not use the facility in conjunction with the
- 100 operation of their business.

101

102           **12-20.240 Liability.** Users of the Dog Park shall comply with all rules and

103 regulations governing the use of the facility.

104           The owner and/or attendant is responsible for and liable for all injuries and

105 damages caused by their dog(s).

106           Use of the Dog Park shall constitute the implied consent of the dog owner and/or

107 attendant to all conditions of this ordinance and shall constitute a waiver of liability to the

108 City of Cranston. As such, users of the Dog Park agree and undertake to protect,

109 indemnify, defend, and hold the City of Cranston harmless for any injury or damage

110 caused by or to their dog(s) during any time that said dog(s) is unleashed at the facility.

111

112           **12-20.250 Enforcement.** A person found to be in violation of this Dog Park

113 Ordinance and/or the Dog Park rules is subject to removal from the facility and may be

114 prohibited from future use of the Dog Park.

115           A person who violates any provision of Dog Park Ordinance or Rules shall be

116 subject to a fine of \$50.00 dollars, said penalty may be assessed in accordance with the

117 provisions of this Code.

118           The Animal Control Officer and the Director of Parks Recreation and Forestry

119 shall be authorized to enforce this Dog Park Ordinance.

120

121           SECTION 2. This Ordinance shall take effect upon its final adoption.

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<p>124           Positive Endorsement</p> <p>125</p> <p>126</p> <p>127           _____ Christopher Rawson, City Solicitor   Date</p>	<p>124           Negative Endorsement (attach reasons)</p> <p>125</p> <p>126</p> <p>127           _____ Christopher Rawson, City Solicitor   Date</p>
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132           Sponsored by Councilwoman Lee

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135           Referred to Public Works Committee November 4, 2013

# nationalgrid

13 SEP 20 2013  
11 01  
CITY OF CRANSTON

## PETITION OF THE NATIONAL GRID FOR JOINT OR IDENTICAL POLE LOCATION

TO THE HONORABLE \_\_\_\_\_ TOWN COUNCIL \_\_\_\_\_

OF \_\_\_\_\_ CRANSTON \_\_\_\_\_ RHODE ISLAND  
THE NATIONAL GRID

Respectfully asks permission to locate and maintain poles, wires and fixtures, including the necessary sustain and protecting fixtures to be owned and used in common by you petitioner along and across the following public ways:

CANNON & WALNUT GROVE INSTALL NEW JO POLE AND ANCHORS

Wherefore your petitioners pray that they be granted joint of identical location for existing poles and permission to erect and maintain poles and wires together with such sustaining and protecting fixtures as the may find necessary, said poles erected or to erected substantially in accordance with the plan filed herewith marked: 207270

DATED 08/27/2013

Your petitioner agrees to reserve or provide space for one cross arm at a suitable point on each of said poles for the fire, police, telephone signal wires belonging to the municipality and used by it exclusively for municipal purposes.

THE NATIONAL GRID

BY: John Castro  
John Castro, Engineering

THE VERIZON

BY: Mary Hanley  
ORDER

The foregoing petition been read, it was voted that the consent at the

\_\_\_\_\_

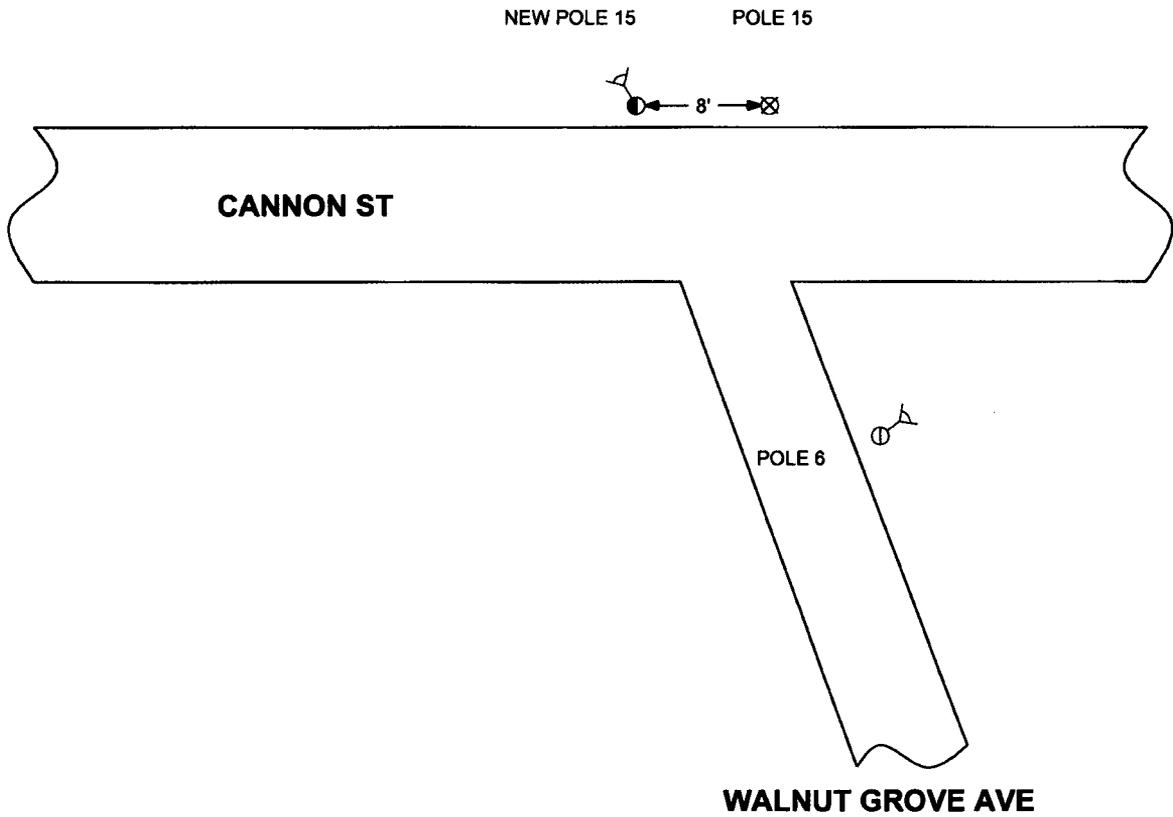
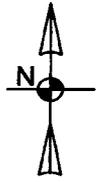
For the use of public ways named for the purposes stated in said petition be and it hereby is granted-----  
work to be done subject to the supervision of

\_\_\_\_\_

A true copy of the vote at the \_\_\_\_\_

Adopted \_\_\_\_\_ and recorded in Records Book# \_\_\_\_\_ Page# \_\_\_\_\_

\_\_\_\_\_  
CLERK



**PETITION TO INSTALL NEW POLE  
(P. 15 CANNON ST) AND ANCHOR (8  
FT LEAD)  
AND INSTALL NEW ANCHOR AT P6  
WALNUT GROVE AVE (10 FT LEAD)**

<b>JOINT OWNED POLE PETITION</b>	<b>nationalgrid</b> And <b>Verizon New England, Inc.</b>
<input checked="" type="radio"/> Proposed NGRID Pole Locations	Date: 8/27/13
<input type="radio"/> Existing NGRID Pole Locations	Plan Number: PETITION # 207270
<input checked="" type="radio"/> Proposed J.O. Pole Locations	To Accompany Petition Dated:
<input type="radio"/> Existing J.O. Pole Locations	To The: CITY Of CRANSTON
<input checked="" type="radio"/> Existing Telephone Co. Pole Locations	For Proposed: Pole: Location:
<input type="radio"/> Existing NGRID Pole Location To Be Made J.O.	Date Of Original Grant: T
<input checked="" type="radio"/> Existing Pole Locations To Be Removed	
DISTANCES ARE APPROXIMATE	

COMMERCIAL COPY

# nationalgrid

## PETITION OF THE NATIONAL GRID FOR JOINT OR IDENTICAL POLE LOCATION

TO THE HONORABLE \_\_\_\_\_ TOWN COUNCIL \_\_\_\_\_

OF \_\_\_\_\_ CRANSTON \_\_\_\_\_ RHODE ISLAND  
THE NATIONAL GRID

Respectfully asks permission to locate and maintain poles, wires and fixtures, including the necessary sustain and protecting fixtures to be owned and used in common by you petitioner along and across the following public ways:

CRANSTON STREET PROPOSE NEW JO POLE LOCATION

Wherefore your petitioners pray that they be granted joint of identical location for existing poles and permission to erect and maintain poles and wires together with such sustaining and protecting fixtures as the may find necessary, said poles erected or to erected substantially in accordance with the plan filed herewith marked: 14786334

DATED 09/19/2013

Your petitioner agrees to reserve or provide space for one cross arm at a suitable point on each of said poles for the fire, police, telephone signal wires belonging to the municipality and used by it exclusively for municipal purposes.

THE NATIONAL GRID

BY: John Castro  
John Castro, Engineering *JB*

THE VERIZON

BY: Mary C. Hamley  
ORDER

The foregoing petition been read, it was voted that the consent at the

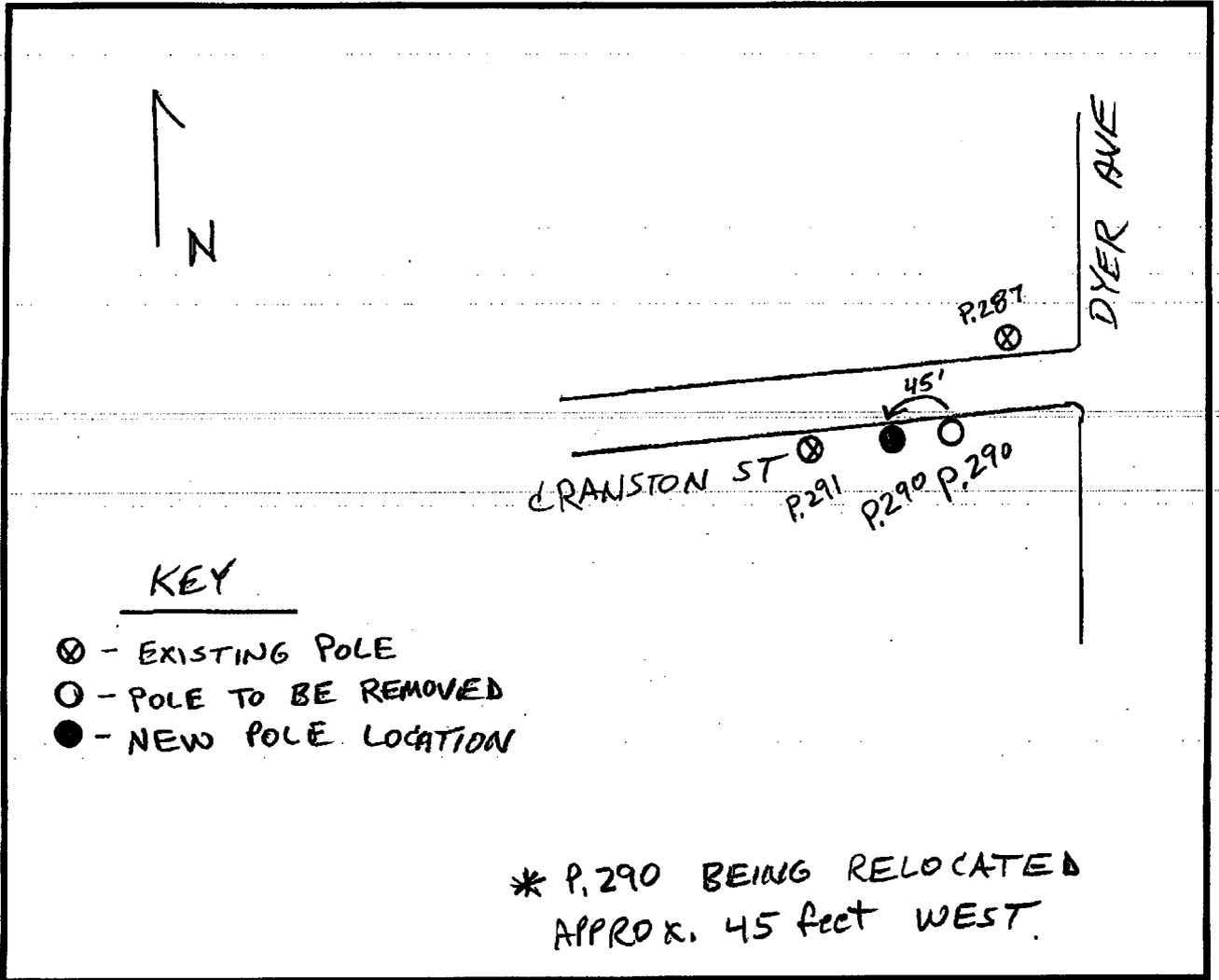
\_\_\_\_\_

For the use of public ways named for the purposes stated in said petition be and it hereby is granted-----  
work to be done subject to the supervision of

A true copy of the vote at the \_\_\_\_\_

Adopted \_\_\_\_\_ and recorded in Records Book# \_\_\_\_\_ Page# \_\_\_\_\_

\_\_\_\_\_  
CLERK



**NATIONAL GRID  
AND  
VERIZON**

PLAN TO ACCOMPANY PETITION DATED \_\_\_\_\_  
TO THE CITY OF CRANSTON  
FOR  
JOINT POLE LOCATION ON CRANSTON ST

DATE OF PLAN \_\_\_\_\_ PLAN # \_\_\_\_\_

KEY TO SYMBOLS

PROPOSED ANCHOR LOCATION  
NEW POLE LOCATION  
EXISTING POLE LOCATION FOR REFERENCE

MAP # \_\_\_\_\_ DATE OF EXISTING GRANT \_\_\_\_\_



**Via Hand Delivery and Regular Mail**

65 Shun P  
October 18, 2013

Johnston, RI 02919-4512

TEL: (401) 946-9174  
Cranston City Council

FAX: (401) 946-9174  
City of Cranston

www.rirrc.org  
City Hall

869 Park Avenue

Cranston, Rhode Island 02910

**Re: Rhode Island Resource Recovery Corporation's Appeal of DPW  
Director's Decision on RIRRC's Petition for Review of  
Modification to Industrial Wastewater Discharge Permit #1808**

To the City Council:

Pursuant to Section 13.08.510 of the Cranston Sewer Use Ordinance ("SUO") and Condition F.9 of the Permit, Rhode Island Resource Recovery Corporation ("RIRRC") appeals the Cranston Department of Public Work's Director's October 7, 2013, decision (the "DPW Decision") on RIRRC's September 9, 2013, appeal and petition for review of the City of Cranston's August 26, 2013, proposed modification to RIRRC's Industrial Wastewater Discharge Permit (the "Permit"). Each of these documents is attached at Tab A, B, and C, respectively.

The bases for RIRRC's appeal of the City's August 26, 2013, proposed Permit Modification are set forth in RIRRC's September 9, 2013, letter to DPW Director Mason, which are incorporated herein by reference. In sum, RIRRC appealed the City's Permit Modification because it set forth new limits for CBOD and Total Nitrogen without an accompanying compliance schedule, and with a retroactive effective date of July 22, 2013, contrary to the terms of RIRRC's Permit and RIDEM's approval of Cranston's Substantial Modification. RIRRC also appealed because the Permit Modification left intact several Monitoring Condition provisions that did not address the removal of certain regulated parameters and contained several errors. Finally, RIRRC appealed the Permit Modification because it is based on a SUO that the City amended after RIDEM approved it, and thus did not follow RIDEM's or the City's required and appropriate public notice and comment procedures. The DPW Decision did not address these grounds but instead claimed, without any legal basis, that the Permit Modification is not appealable in the first place. For the reasons set forth below, RIRRC appeals the DPW Decision, and requests the Permit Modification be stayed pending an appropriate and reasonable modification.

First, the DPW Decision that the City's August 26, 2013, Permit Modification was in fact not a permit modification, and thus not appealable, is erroneous and contrary to law. The DPW August 26, 2013, document, entitled "Modification to IWDP #1808," is plainly just that – an action to modify RIRRC's Permit. The letter explains that the City is taking the action to incorporate the new SUO standards into the RIRRC's Permit, as the City is required to do to impose these standards on the permittee, and as RIDEM required it to do when RIDEM approved the City's Substantial Modification (see June 14, 2013, "Notice of Decision," in which RIDEM expressly stated that the City was to formally adopt the SUO and "reissue all Significant Industrial User Permits to incorporate the revised numerical local discharge limitations.") The City's letter acknowledges this fact and, contrary to its position that this is not a modification, also states that "the City has complied with this DEM directive and modified [RIRRC's] permit accordingly."

The DPW Decision also commands RIRRC to replace current pages in its Permit with new pages containing the new provisions, which are included with the letter and described as "revisions" that are "effective on July 22, 2013." This action by the City modified RIRRC's Permit, with an "effective" date that precedes the Permit Modification. The City's earlier amendment to its SUO (with new limits) does not alter the conclusion that this subsequent action to impose those new standards into this Permit modification is an action by the City to modify RIRRC's Permit, an action that RIRRC has a right to petition for review and appeal. See Section F.9 of the Permit and SUO Section 13.08.500.

Second, by claiming that this action is not appealable, the DPW Decision does not address the basis for RIRRC's petition for review and appeal – that the Permit Modification did not include a "reasonable compliance schedule."<sup>1</sup> Cranston has issued a Permit Modification that not only contains no compliance schedule, but purports to be retroactive, making compliance impossible. RIDEM mandated that the City "establish appropriate compliance schedules" as part of the permit reissuance for those SIUs who could not immediately comply. In addition, the City's authority to modify a permit is set forth in the Standard Conditions of RIRRC's Permit in Section F.8. Condition F.(e) states that "[a]ny Permit modifications which result in new conditions in the Permit shall include a reasonable time schedule as necessary for compliance."<sup>2</sup> The City failed to meet this mandatory requirement.

In its June 14, 2013, "Notice of Decision" approving the City's proposed local limit for Total Nitrogen, RIDEM agreed to increase the City's interim limit to 15 mg/l based on RIRRC discharging at current levels. RIDEM did this so that the City could maintain compliance while accommodating RIRRC's loadings, but the City has not similarly accommodated RIRRC with a commensurate compliance schedule.

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<sup>1</sup> The DPW Decision focuses on its view that the new discharge limits cannot be appealed because they come directly from the SUO. This misses the point: RIRRC is not appealing the new discharge limits themselves; it is appealing the Permit Modification that imposed them against RIRRC retroactively, and without a reasonable compliance schedule, as required by RIDEM and the Permit.

<sup>2</sup> "Shall" is mandatory. See SUO Section 13.08.040 ("Definitions").

Third, the DPW's Decision did not make a determination on RIRRC's appeal of the provisions in the Permit Modification concerning monitoring conditions for BOD, Nitrogen and beryllium, other than to state that these "will be addressed in a forthcoming formal amendment to the permit modification." This is no response at all, because a "promise" that the City will "address" RIRRC's concerns without explaining how or when it will do so simply leaves these provisions intact and effective retroactively against RIRRC. Further, the City's reference to a future "formal amendment" is unexplained; this term or process does not exist in the regulations or provisions for modifying the Permit. Thus, RIRRC appeals the DPW Decision on these provisions as outlined in its September 9, 2013, appeal, and requests a stay of the Permit Modification during the pendency of this appeal.

Fourth, the DPW Decision also fails to address the City's unlawful modification of the SUO after RIDEM's approved it in its June 14, 2013, "Notice of Decision." The DPW Decision pretends that RIRRC claimed as a basis for its appeal that "the SUO was not approved by DEM," when RIRRC's appeal is based on the City's further amendment of the SUO, after RIDEM had approved it as part of the Substantial Modification. RIRRC appealed the Permit Modification because the City based it on a subsequently revised Sewer Use Ordinance that was never submitted to, let alone approved, by RIDEM.

Specifically, RIDEM approved the City's Substantial Modification Request, including the SUO, on June 14, 2013. This SUO was previously public noticed by Cranston in August, 2012, and then public noticed as part of RIDEM's review process, with a public hearing held at RIDEM on December 21, 2012. However, after RIDEM's June 14, 2013, approval, Cranston revised the SUO. On June 24, 2013, Cranston's City Council voted to "recommit" the RIDEM-approved SUO to the Public Works Committee for unspecified "amendments by the Solicitor." On July 1, 2013, the Public Works Committee voted to discuss this revised SUO in an executive session, the minutes of which the committee voted to seal. On July 22, 2013, the City Council voted to pass a "revised" ordinance, "as amended in the Public Works Committee on July 1, 2013." (The Public Works Committee "amendments" to the ordinance were not discussed or described at the City Council meeting, nor are they specified in the City Council minutes.) The Sewer Use Ordinance signed by Mayor Fung on July 23, 2013 carries the following notation on the bottom of each page: "revised 6-19-13."

RIDEM's June 14, 2013 approval of the City's Substantial Modification Request is not based on this revised SUO. Thus, the City's revised SUO is invalid, as are the actions the City has taken to reissue permit modifications based on this revised SUO, including the proposed Permit Modification issued to RIRRC. Cranston's actions in issuing the purported Permit Modification are illegal, contrary to law, and unauthorized. The DPW Decision simply ignores this ground for appeal and does not address this illegal subsequent amendment of the SUO at all.

In addition to these appeal grounds, RIRRC also responds to several other issues raised by the DPW Decision. The DPW Decision falsely states that RIRRC did not provide information about timing of compliance and that RIRRC did not send in the required "Evaluation of Compliance Status" form that accompanied the Permit Modification. RIRRC did both of these things. First, RIRRC explicitly stated (as the DPW Director's letter itself acknowledges) that it will not be able to comply with the new limits until it "completes its biological pretreatment system in

2015.” Second, RIRRC submitted the required Compliance Status form to Tutela Engineering as the Permit Modification specifically directed, and RIRRC did so on September 13, 2013, the due date required by the Permit Modification letter. This form asks for no information about timing of compliance, or the extent of noncompliance, contrary to the DPW Decision’s claims. See September 13, 2013, email with attached Form, from Bill Anderson to Al Tutela, attached at Tab D.

The DPW Decision is also wrong in its claim that RIRRC’s “reasonable ability to attain the new limits is not necessarily tied to the completion of [the] pretreatment facility....” The City tellingly provides no basis for this “belief” because there is none: to achieve a reduction to below a 50 mg/l total nitrogen level requires biological nitrogen removal, and RIRRC does not yet have a biological pretreatment facility, as the City and Tutela know. RIRRC’s planned \$26 million plant will use SBR technology to biologically remove the nitrogen from the leachate. RIRRC plans to break ground this month, with an expected completion date sometime in early 2015. Until that time, RIRRC has no “reasonable ability” to achieve the new limits.

The DPW Decision also incorrectly asserts that RIRRC has “a pretreatment plant in place which it has chosen not to use” to “address certain of the other pollutants ...that exceed the City’s local limits.” RIRRC’s original pretreatment plant was designed to remove metals (iron and manganese) from the leachate by chemical precipitation. The plant did not remove arsenic because it cannot; arsenic is so bound up with the organics in the raw leachate, that removal by chemical precipitation is not able to achieve the low arsenic discharge limit. RIRRC does not have a pretreatment plant in place that can address these pollutants.

Finally, the DPW Decision closes by echoing RIRRC’s desire to resolve these matters, but erroneously states that the City is awaiting a response from RIRRC to the City’s proposed agreement. On September 4, 2013, RIRRC reiterated its request for the backup data and information that forms the basis for the \$4.9 million in invoices. In a September 10, 2013, response the City agreed to “provide [us] shortly with a more detailed explanation of the source and calculation of the [\$4.9 million] figure” that forms the basis of the City’s invoices. We have been waiting for this information since we first sought it in 2010. RIRRC still has not received any information that supports or even relates to the basis for this \$4.9 million figure.

For these and other reasons, RIRRC hereby appeals from the DPW Decision on RIRRC’s appeal of the Permit Modification. The modification is illegal, made upon unlawful procedure, clearly erroneous, arbitrary and capricious, and unenforceable. RIRRC is prepared to meet with the City to discuss an appropriate and reasonable modification.

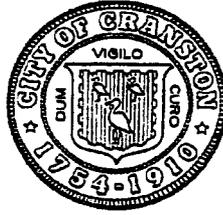
Very truly yours,



Michael O’Connell

cc: Kenneth R. Mason, P.E.  
Director, Department of Public Works

ALLAN W. FUNG  
MAYOR



Kenneth R. Mason P.E.  
Director of Public Works

DEPARTMENT OF PUBLIC WORKS  
CITY HALL, ROOM 109  
869 PARK AVENUE  
CRANSTON, RHODE ISLAND 02910

October 7, 2013

Michael O'Connell  
Executive Director  
Rhode Island Resource Recovery Corporation  
65 Shun Pike  
Johnston, RI 02919-4512

Re: Rhode Island Resource Recovery Corporation's Appeal and Petition for review of Modification of Industrial wastewater Discharge permit #1808

Dear Mr. O'Connell:

In response to your letter of September 9, Cranston replies as follows<sup>1</sup>:

Although much can be said about your correspondence, the short answer is that you have misread my letter of August 26, 2013.

First, the letter is no more than a notification to RIRRC of the modification of your MIPP Permit to reflect the passage of the revised Sewer Use Ordinance ("SUO") following DEM's approval of revised local limits, which are part of the SUO. Neither my notice, nor the modifications to your permit, directed you to immediately comply with the new limits because Cranston is aware that you are not able to comply with them at this time. As you are undoubtedly aware, the modification to RIRRC's permit was required by DEM, as all such permits had to be amended to reflect the new standards within thirty (30) days of DEM's approval.

Moreover, the SUO was properly noticed, hearings were held, and the City Council vote to adopt the SUO was legal and proper in all respects. In any event, you made no objection to the adoption procedure, either at the time the SUO was under consideration or after it was approved. As you are aware, the appeal procedure you may have followed in the past is applicable when the Director of Public Works modifies a permit unilaterally. The Permittee may then petition for appeal and that appeal is heard by the City Council if the Director refuses to change his decision. Here, however, the permit

<sup>1</sup>I also note that your letter does not qualify as an appeal because it sets forth no alternative conditions to those from which you purport to appeal. In addition, even if it were an appeal, your letter is dated September 9, 2013. This is more than 10 days from the notice from which you are purportedly attempting to appeal. See, Section F.9 of IWDP #1808 (to which you direct our attention) which states: "[t]he Permittee may petition to appeal the terms of this Permit within 10 days of this notice." It does not say that you have 10 days from the date the notice is received; however, the City will nevertheless respond, principally because the notice from which you claim to appeal is unappealable in any event, so the time issue is not material.

modification was itself the result of City Council action in the adoption of the new Sewer Use Ordinance. This permit modification was not the result of my unilateral action. It is solely the result of the adoption of a new Ordinance, of which you had notice and to which you had the opportunity to object. Because the modification merely implemented the revisions to the SUO, you are not able to appeal said action.

You also incorrectly state that Cranston has issued your permit retroactively. The City has done no such thing. I simply advised you of the date on which the revised SUO became effective. Nowhere in my correspondence did I suggest that you are already in violation of your permit because the effective date is before you received the revised permit. I was simply advising you that the SUO became effective on July 22, 2013. Once again, this is not an appealable matter.

Furthermore, the documents sent to you asked that you provide a response as to when you believe RIRRC would be able to comply with the revised local limits. It is Cranston's intention to seek and consider your input in the process of deciding upon a reasonable compliance schedule. If you look at the attachments to the letter, you will find a form entitled "Evaluation of Compliance Status" which asks that you indicate whether or not you will be able to comply, and if not to indicate to what extent. Any knowledge the City may have of your plans to construct a pretreatment facility or to transfer your discharge to the Narragansett Bay Commission, does not excuse your response on this form.

In considering the reasonableness of compliance timing, we note that you state in your letter of September 9 that in essence, RIRRC will not be able to comply with the new limits until it "completes its biological pretreatment system in 2015". Although Cranston believes that your reasonable ability to attain the new limits is not necessarily tied to the completion of your pretreatment facility, RIDEM has stated in its June 14, 2013 correspondence to the City (as you point out in your letter of September 9) that "RIRRC is in the process of constructing a biological pretreatment system. . .". We have no information about the state of the "construction" of your pretreatment facility. Therefore, even if there were a legitimate connection between its completion and your ability to attain the new limits, we have no way to judge the reasonableness of that schedule, particularly considering that to the best of our knowledge, you have not yet begun construction of your pretreatment facility. We also note that RIRRC does have a pretreatment plant in place which it has chosen not to use. It is the belief of the City that RIRRC has the ability to use this existing pretreatment plant to address certain of the pollutants that it currently sends us that exceed the City's local limits.

You also raise in your correspondence certain concerns related to monitoring conditions for BOD, Nitrogen and beryllium. These issues have been reviewed by Tutela Engineering and will be addressed in a forthcoming formal amendment to the permit modification. You further suggest in your letter (on page 3) that "the permit erroneously lists the wastewater flow as 263,000 gpd, which is incorrect and should be revised to reflect the allowable flow of 400,000 gpd." The flow value is based on 2010 MIPP Billing data and is not "erroneous". The flow amount is simply a carryover from the permit modification that occurred on August 19, 2011. It does not represent a restricted maximum flow amount and is used only to establish a basis for your self-monitoring requirements. The "present" flow, as opposed to the "maximum permissible" flow, has been consistently reflected on RIRRC's permit. Your Agreement with the City specifies your maximum flow limit and the permit does not supersede this condition.<sup>2</sup>

In your letter you add that the SUO was not approved by DEM. You are incorrect. In its letter to the City of June 14, with which you are obviously familiar, DEM specifically advised the City that within thirty (30) days of its receipt of that letter, "the City must formally adopt the amended SUO and reissue all Significant Industrial User Permits to incorporate the revised Local Discharge Limitations." The City has complied with this DEM directive and modified your permit accordingly. The changes to the Ordinance (and therefore to the permit) were made by operation of law, and are unappealable.

You have indicated that you would be willing to meet to resolve this matter. As you are undoubtedly aware, our counsel has provided yours with a draft agreement which resolves all matters inherent in our relationship, including those you raise in your letter. The City is happy to meet with you, through its counsel, to discuss all of those issues and to hopefully resolve all matters in the context of the agreement presently awaiting a response from your counsel. I would suggest that counsel meet to discuss that draft agreement and the issues raised in your letter at the earliest possible time.

Very truly yours,



Kenneth Mason, Director  
Department of Public Works  
City of Cranston

---

2If you refer to the attachment to the letter you received from then-Acting Director of Public Works David Ventetuolo, dated August 9, 2012 (responding to your request for a change in the self-monitoring requirements), you will see the "present" flow clearly stated on page DP-9, to which you raised no objection at the time. The same is true of the permit modification dated August 19, 2011 (to which you responded on September 1, 2012, without objection on this point). In fact, the then current flow has always been the amount reflected in the permit even before August of 2011. For example, on the August 9, 2009 permit, the then-current flow of 279,000 gpd was the listed amount; likewise, on the May 14, 2004 permit, the then-current flow listed was 97,000 gpd.

(401) 780-3175

FAX (401)780-3176



September 9, 2013

63 Shun **Via Hand Delivery and Regular Mail**

Johnston, RI 02919-4512

TEL: (401) 946-1430  
 FAX: (401) 946-5174  
 www.rirrc.org  
**Ken Mason, Director**  
**Department of Public Works**  
**City Hall, Room 109**  
**869 Park Avenue**  
**Cranston, Rhode Island 02910**

**Re: Rhode Island Resource Recovery Corporation's Appeal and Petition for Review of Modification to Industrial Wastewater Discharge Permit #1808**

Dear Director Mason:

On August 30, 2013, Rhode Island Resource Recovery Corporation ("RIRRC") received the City of Cranston's proposed modification to RIRRC's Industrial Wastewater Discharge Permit referenced above (the "Permit"). RIRRC hereby petitions for review and appeals this proposed permit modification pursuant to Section F.9 of the Permit and the applicable rules and regulations. The reasons for RIRRC's appeal and objection to the proposed modification are set forth below.

**New Discharge Limits For CBOD and Total Nitrogen**

The City's proposed Permit Modification sets forth new limits for CBOD and Total Nitrogen and a new surcharge fee for conventional pollutant levels which exceed the surcharge limit for CBOD and Total Nitrogen. As the City knows, RIRRC cannot meet these new limits. In fact, the City specifically asked RIDEM to increase the Total Nitrogen interim limit in its own RIDPES discharge permit from 9 mg/l to 15 mg/l to accommodate RIRRC's current Total Nitrogen loadings, which otherwise would prevent the City from complying during modifications to its treatment facility.

RIDEM granted the City's request for a higher limit and anticipated that in turn the City would provide RIRRC with a reasonable compliance schedule while RIRRC moves forward with its own construction of a pretreatment system. In its June 14, 2013, "Notice of Decision" approving the City's proposed local limit for Total Nitrogen, RIDEM agreed to increase the City's interim

limit to 15 mg/l based on RIRRC discharging at current levels. RIDEM agreed to increase the City's interim Total Nitrogen limit so that the City could maintain compliance while accommodating RIRRC's loadings. RIDEM anticipated that "some SIUs will be unable to immediately comply with the revised local limits and that the City will establish appropriate compliance schedules" (emphasis added). Accordingly, RIDEM expressly stated that "RIRRC is in the process of constructing a biological pretreatment system and sewer connection to the Narragansett Bay Commission is nearly complete. DEM expects that compliance schedules that the City imposes on SIUs will be consistent with the interim limits that DEM has established for the City" (emphasis added).

Notwithstanding this directive from RIDEM, the City did not establish any compliance schedule in its Permit Modification. Instead, the City issued the Permit Modification with Total Nitrogen discharge limits that RIRRC cannot attain until it completes its biological pretreatment system in 2015. Further, the City made the new limits retroactive, stating that these new limits "shall become effective on July 22, 2013..." a date that precedes the Permit Modification by 35 days. The Permit Modification's reference to a potential future compliance schedule "to remediate any compliance," is undermined by the retroactive effective date of July 22, 2013.<sup>1</sup>

This City's proposed modification violates the applicable Permit conditions and the applicable law and regulations for several reasons. First, the City's authority to modify a permit is set forth in the Standard Conditions of RIRRC's Permit in Section F.8. Condition F.(e) states that "[a]ny Permit modifications which result in new conditions in the Permit shall include a reasonable time schedule as necessary for compliance." The City's Permit Modification does not comport with this requirement; it does not include a compliance schedule and it illegally imposes a retroactive effective date. This modification also violates RIDEM's directive in its approval of the City's request for its own compliance schedule. The City told RIDEM it needed an interim limit to accommodate RIRRC's Total Nitrogen flows, and then turned around and issues a modification that does not accommodate RIRRC's flows.

Second, the City's procedure in issuing a permit "retroactively" with no reference or allowance for an appeal is not in accordance with the Permit or Sewer Use Ordinance, and violates basic due process. It also contradicts the procedure the City itself acknowledged and provided for in past Permit Modifications. For example, in an August 19, 2011 Permit Modification notice to RIRRC revising self-monitoring requirements, the City included the applicable appeal procedures and provided for a future effective date for the Permit Modification, as follows:

In accordance with the provision listed in Section F.9 of your firm's existing IWDP #1808, entitled Permit Appeals, your firm (the "Permittee") may petition to appeal this IWDP revision within ten (10) days of receipt of this notice. The petition must be in writing; failure to submit a petition for review shall be deemed a waiver of the appeal. In this petition, you firm must indicate the reason(s) for objection to this modification and the alternative(s) it proposes, if any. This IDWP revision shall become effective on September 2, 2011...."

<sup>1</sup> The Permit Modification uses the July 22, 2013, date as the "effective" date apparently because that is the day the City Council passed the Sewer Use Ordinance. However, it did not become law, or take effect, until its final adoption on July 23, 2013, the day it was signed by Mayor Fung.

For these and other reasons, RIRRC objects to and appeals from the Permit Modification and each of the new lower discharge limits, the conditions, and the entire Permit Modification. That modification is illegal and unenforceable.

#### Section E - Monitoring Conditions

The proposed Permit Modification also does not modify Section E – Monitoring Conditions to address the removal of regulated parameters and contains errors.

First, as this permit appears to be a carryover from the previous modification, daily sampling (3 days per week) in the month of July has not been corrected.

Second, RIRRC objects to the sampling requirements for Total Nitrogen (as N) and TKN as written. As the City is aware, there is no test for Total Nitrogen (as N); rather, the test is a summation of testing for nitrate, nitrite, ammonia and organic nitrogen. Since TKN is the measure of ammonia and organic nitrogen, analysis for nitrate/nitrite in addition would provide the required results. Therefore, specifying that Total Kjeldahl Nitrogen (TKN) be performed as separate parameter is unnecessary.

Third, both the monthly and weekly sampling requirement for Beryllium should be removed since as the cover letter plainly states, “the parameter Beryllium has been eliminated as a regulated pollutant;” thus, there is no reason to continue sampling for this parameter. The sampling requirement for BOD, for which there is no discharge limit, should also be removed because there is already a requirement in the permit to sample for CBOD, which is the parameter used for calculating surcharges.

Finally, the Permit erroneously lists the wastewater flow as 263,000 gpd, which is incorrect and should be revised to reflect the allowable flow of 400,000 gpd.

#### Revised Sewer Use Ordinance 8S-12-1

RIRRC also appeals the Permit Modification because it is based on a revised Sewer Use Ordinance that has not been approved by RIDEM. Cranston modified the sewer use ordinance after RIDEM’s approval, and without following RIDEM’s or the City’s required and appropriate public notice and comment procedures. Therefore, Cranston’s actions in issuing the purported Permit are illegal, contrary to law, and unauthorized.

For these and other reasons, RIRRC hereby appeals from the Permit Modification. The modification is illegal, made upon unlawful procedure, clearly erroneous, arbitrary and capricious, and unenforceable. RIRRC is prepared to meet with the City to discuss an appropriate and reasonable modification.

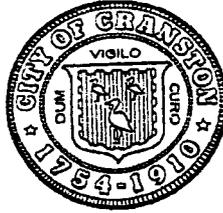
Very truly yours,

A handwritten signature in black ink, appearing to read "M O'Connell". The signature is fluid and cursive, with the first name "M" and last name "O'Connell" clearly distinguishable.

Michael O'Connell

52024143

ALLAN W. FUNG  
MAYOR



Kenneth R. Mason P.E.  
Director of Public Works

DEPARTMENT OF PUBLIC WORKS  
CITY HALL, ROOM 109  
869 PARK AVENUE  
CRANSTON, RHODE ISLAND 02910

AUG 30 2013

August 26, 2013

Rhode Island Resource Recovery Corporation  
65 Shun Pike  
Johnston, RI 02919-4512

Attn: Mr. William M. Anderson, PE, Engineering Supervisor

Re: Modification to Industrial Wastewater Discharge Permit #1808  
Municipal Industrial Pretreatment Program (MIPP)  
Cranston, RI

Gentlemen:

On July 22, 2013, the City adopted modifications to the Cranston Sewer Use Ordinance that included revised allowable local discharge limits previously approved by the Rhode Island Department of Environmental Management. Since this modification affects the limits currently contained in your firm's Industrial Wastewater Discharge Permit #1808, the City is required to amend all Permit documents with these new regulatory standards.

Please note that the allowable local discharge limits have become more stringent for the total pollutant parameter concentrations of Total Cadmium, Total Copper, Total Zinc and Total Cyanide. No change has occurred to the pollutant concentrations of Total Lead, Total Toxic Organics, Total Polychlorinated Biphenyls, Total Oil & Grease, and Temperature. The parameter Total Beryllium has been eliminated as a regulated pollutant and the limits for Total Arsenic, Total Chromium, Total Mercury, Total Nickel, Total Silver, and pH have been relaxed. Three additional pollutant parameters have been developed, namely Five-Day Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>), Total Nitrogen, and Total Phosphorus, along with a surcharge applied to increased loadings and excessive concentrations of CBOD<sub>5</sub> and Total Nitrogen, respectively. **Your firm must evaluate their current compliance status relative to these changes in Discharge Permit limits as shown on revised page DP-6 and complete and submit the enclosed "Evaluation of Compliance Status" form to Tutela Engineering Associates, Inc. on or before September 13, 2013. If necessary, your firm may be required to submit a Compliance Schedule and enter into a Consent Agreement with the City in order to remediate any compliance issues.**

(401) 780-3175

FAX (401)780-3176

Rhode Island Resource Recovery Corporation  
August 26, 2013  
Page 2

Therefore, please find enclosed revised pages DP-6 through DP-9, and SM-20 which must be substituted for the corresponding pages contained in your IWDP #1808. Please note that this revision neither increases nor decreases the monitoring requirements set forth in Section E of your Permit.

This IWDP revision shall become effective on July 22, 2013 and expire at midnight on 08/06/2014.

Also enclosed for your convenience is a revised Self-Monitoring Report Fill-In Form (SMR-FIF) which has been developed by the MIPP to allow for the electronic completion of pages SM-12 to SM-23 corresponding to each self-monitoring event. The SMR-FIF can be opened and saved with a current free version of Adobe Acrobat Reader™ that may be obtained from the software developer's web site. Please note that any previous versions of the SMR-FIF may no longer be used as they do not include the revised Discharge Permit limits on page SM-20.

Should you have any questions regarding this matter, please contact the undersigned or Mr. Alfred J. Tutela of Tutela Engineering Associates, Inc. at (401)861-5990.

Sincerely,

  
Kenneth R. Mason, PE, Director  
Department of Public Works

Encls.

cc: E. Tally, Cranston DPW, w/encls.  
E. Salisbury, Veolia Water North America, w/encls.  
A.J. Tutela, Tutela Engineering Associates, Inc., w/encls.

KRM/AJT/mam  
#P159  
750-1157

**CERTIFIED MAIL #7012 1640 0000 1174 0677**  
Return Receipt Requested

**EVALUATION OF COMPLIANCE STATUS**

**Municipal Industrial Pretreatment Program  
Cranston, RI**

Rhode Island Resource Recovery Corporation has evaluated their compliance status at all regulated monitoring locations with the Discharge Permits limits as set forth on page DP-6 of their Industrial Wastewater Discharge Permit (IWDP) #1808 modifications effective on July 22, 2013 and determined the following:

Check one box and complete accordingly:

- Based on an evaluation of current and past analysis results history, Rhode Island Resource Recovery Corporation reasonably expects to **comply** with all Discharge Permit limits set forth on page DP-6 of IWDP #1808 with their current level of pretreatment provided.
- Based on an evaluation of current and past analysis results history, Rhode Island Resource Recovery Corporation reasonably expects to **not comply** with all Discharge Permit limits set forth on page DP-6 of IWDP #1808 with their current level of pretreatment provided and will require a Compliance Schedule and Consent Agreement. The Discharge Permit limits that Rhode Island Resource Recovery Corporation is not reasonably expected to comply with are as follows (include Monitoring Location and Pollutant Parameter name):

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\_\_\_\_\_  
Signature of Corporate Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name of Corporate Officer

\_\_\_\_\_  
Date

Permit No. 1808

**(3) SECTION D - Wastewater Discharge Limitations**

1. The Permittee is authorized to discharge sanitary and/or process wastewaters not to exceed such concentrations for any and all parameters listed below. These discharge limitations apply to the Permittee's wastewater discharge at all direct sewer tie-ins and said sampling locations listed in Section E, entitled Monitoring Conditions, at said premises for the life of this Permit. These limitations may be changed, modified, or revoked by the City at any time as a result of changes to limitations or requirements as identified by a modification in the City's Ordinance, as a result of EPA promulgating a new Federal pretreatment standard, as a result of any change in industrial processes and/or when other just cause exists.

(1)(3) Parameter	<u>Discharge Limitation</u>
Arsenic (Total) .....	0.022 mg/l
Cadmium (Total) .....	0.0063 mg/l
5-Day Carbonaceous Biochemical Oxygen Demand (CBOD <sub>5</sub> ) .....	1,198 lbs/day <sup>1</sup> (monthly average)
Demand (CBOD <sub>5</sub> ) .....	334 lbs/day <sup>2</sup> (monthly average)
	50 lbs/day <sup>3</sup> (monthly average)
	25 lbs/day <sup>4</sup> (monthly average)
Chromium (Total) .....	2.6 mg/l
Copper (Total) .....	0.57 mg/l
Cyanide (Total) .....	(3)0.26 mg/l
Lead (Total) .....	0.30 mg/l
Mercury (Total) .....	0.0009 mg/l
Nickel (Total) .....	0.77 mg/l
Silver (Total) .....	0.12 mg/l
Zinc (Total) .....	0.71 mg/l
Total Toxic Organics <sup>5</sup> .....	2.13 mg/l
Polychlorinated Biphenyls (Total) .....	<0.001 mg/l
Oil & Grease .....	25 mg/l (Mineral or Petroleum Origin) <sup>6</sup>
	100 mg/l (Animal or Vegetable Origin) <sup>7</sup>
Nitrogen (Total) .....	50 mg/l
(Ammonia -N + Nitrite -N + Nitrate -N + Organic N)	
Phosphorus (Total) .....	7.3 mg/l
pH .....	5.5 s.u. to 10.5 s.u.
Temperature .....	not to exceed 150°F

<sup>1</sup> Applicable to Significant Industrial Users (SIUs) in Standard Industrial Classification (SIC) code categories of 7213, 7218, 2086, and 4953

<sup>2</sup> Applicable to SIUs in all food processing industries except SIUs in SIC code category 2086.

<sup>3</sup> Applicable to SIUs in SIC code category 4911.

<sup>4</sup> Applicable to SIUs classified in SIC code categories other than 7213, 7218, 2086, 4953, 4911 and not in a food processing industry.

<sup>5</sup> Total Toxic Organics shall mean the summation of all quantifiable values equal to or greater than 0.001 milligrams per liter of toxic organics as compiled in the most recent USEPA List of Priority Pollutants.

<sup>6</sup> Total Oil and Grease (Mineral/Petroleum Origin) shall be represented by the Total Petroleum Hydrocarbons concentration value of EPA Method 418.1 or 1664-SGT (Silica Gel Treated).

<sup>7</sup> Total Oil and Grease (Animal/Vegetable Origin) shall represent the Total Oil & Grease concentration value of EPA Method 413.1 or 1664 less the Total Petroleum Hydrocarbons concentration value of EPA Method 418.1 or 1664-SGT (Silica Gel Treated). Concentration values that are measured at less than the Method Detection Levels shall be considered as zero when determining difference.

The above allowable discharge concentrations (with the exception of CBOD<sub>5</sub>) are considered instantaneous maximum concentrations for each pollutant, that may not be exceeded at any time, regardless of duration of monitoring. These limits, unless otherwise noted, apply to all users of the sewer system and treatment works and will be used to determine compliance with all process wastewater discharges at the end-of-pipe following pretreatment, if applicable, and prior to dilution with other waste streams.

- <sup>(2)</sup> All pollutant parameter analyses must be performed and reported at Method Detection Limits (MDLs) as established in Title 40 Code of Federal Regulations Part 136. The MDL, which will vary based upon the laboratory and approved analytical instrument/procedure being used, must be more sensitive than the most stringent corresponding pollutant discharge limit for each parameter as set forth in this Permit.

<sup>(1)</sup> Revised on October 20, 2009

<sup>(2)</sup> Revised on January 27, 2010

<sup>(3)</sup> Revised on July 22, 2013

(5) SECTION D - Wastewater Discharge Limitations (Cont'd)

(5) The Permittee shall be subject to a surcharge fee for conventional pollutant levels which exceed the Surcharge Limit for CBOD<sub>5</sub> and Total Nitrogen as follows:

<u>Parameter</u>	<u>Surcharge Limit (mg/l)</u>
CBOD <sub>5</sub> - Carbonaceous Biochemical Oxygen Demand (five-day)	230
TN - Total Nitrogen (Ammonia -N + Nitrite -N + Nitrate -N + Organic N)	40

Surcharge Fee for CBOD<sub>5</sub> =  $\frac{(\text{Average Concentration} - \text{Surcharge Limit}) \times (\text{Annual Flow (in gals)}) \times 8.34 \text{ (lb/gal)} \times (\$0.045/\text{lb})}{1,000,000}$

Surcharge Fee for TN =  $\frac{(\text{Average Concentration} - \text{Surcharge Limit}) \times (\text{Annual Flow (in gals)}) \times 8.34 \text{ (lb/gal)} \times (\$1.016/\text{lb})}{1,000,000}$

SECTION E - Monitoring Conditions

1. Self-Monitoring Reports: The Permittee is required to submit Self-Monitoring Reports to the Director with the sampling performed in accordance with the Sampling Protocol on pages SM-3 to SM-5 of the Self-Monitoring Report Form during the following months of each and every year this Permit is in effect:

January X February X March X April X May X June X July X  
 August X September X October X November X December X

Self-Monitoring Reports, pages SM-12 to SM-23, including analytical results (the original Certificate of Analysis), must be completed and submitted within fourteen (14) days following the end of the month during which samples are to be taken.

Attached is the Self-Monitoring Report Form, pages SM-12 to SM-23, all of which is considered as part of this Permit.

The Permittee shall sample their process wastewater discharge from the following location(s):

Location #1: Pumping Station - Access manhole located atop wetwell.

Location #2: N/A

Location #3: N/A

Location #4: N/A

(1)(2)(3)(4) **Three (3) days per week:** (during the discharge days from Sunday through Saturday)

During the sampling month(s) of : January, February, March, April, May, June, August, September, October, November, and December

<sup>(1)</sup>Revised on August 19, 2011  
<sup>(2)</sup>Revised on November 17, 2011  
<sup>(3)</sup>Revised on April 20, 2012  
<sup>(4)</sup>Revised on August 9, 2012  
<sup>(5)</sup>Revised on July 22, 2013

Permit No. 1808<sup>(4)</sup> SECTION E - Monitoring Conditions (Cont'd)

The following parameters must be analyzed for:

**Location #1:**Maximum Day: Total Toxic Organics (EPA Methods 624 and 625), Carbonaceous Biochemical Oxygen Demand (Five-Day), Total Nitrogen (as N) and Total Kjeldahl Nitrogen (as N) (all nitrogen testing to be performed by same method of measurement following digestion and/or distillation, i.e., Nesslerization, Titration, Electrode, etc.)Average 4-day: N/AMonthly Average: N/A<sup>(1)(2)(3)</sup>**Weekly:**During the sampling month(s) of: January, February, March, April, May, June, July, August, September, October, November, and December

The following parameter(s) must be analyzed for:

**Location #1:**Maximum Day: Total Arsenic, Total Beryllium, Biochemical Oxygen Demand (Five-Day), and Total Phosphate (as P)Average 4-day: N/AMonthly Average: N/A<sup>(1)</sup>**Monthly:**During the sampling month(s) of: June and December

The following parameter(s) must be analyzed for:

**Location #1:**Maximum Day: Sample and Analyze for Priority Pollutant Scan (124 priority pollutants as listed on pages DP-A5 and DP-A6 of this Discharge Permit), Total Suspended Solids, pH and Temperature.Average 4-day: N/AMonthly Average: N/A<sup>(1)</sup> Revised on August 19, 2011<sup>(2)</sup> Revised on November 17, 2011<sup>(3)</sup> Revised on April 20, 2012<sup>(4)</sup> Revised on July 22, 2013

Permit No. 1808<sup>(3)</sup>SECTION E - Monitoring Conditions (Cont'd)<sup>(1)(2)</sup>**Monthly:**

During the sampling month(s) of: January, February, March, April, May, July, August, September, October, and November

The following parameter(s) must be analyzed for:

**Location #1:**

Maximum Day: Total Metals (Beryllium, Cadmium, Chromium, Copper, Lead, Mercury, Nickel, and Zinc), Total Cyanide, Total Suspended Solids, Total Oil and Grease (EPA Method 1664), Total Petroleum Hydrocarbons (EPA Method 1664 SGT (Silica Gel Treated)), pH, and Temperature.

Average 4-day: N/A

Monthly Average: N/A

The Permittee's monitoring schedule is based on a process wastewater flow of about; Location #1: 263,000 (GPD), Location #2: N/A (GPD), Location #3: N/A (GPD), Location #4: N/A (GPD). This schedule is subject to change in accordance with Table I of the Self-Monitoring Report Form should the total process wastewater flow discharged by the Permittee at any time exceed: Location #1: N/A (GPD), Location #2: N/A (GPD), Location #3 : N/A (GPD), Location #4: N/A (GPD), or fall below; Location #1: 100,000 (GPD), Location #2: N/A (GPD), Location #3: N/A (GPD), Location #4: N/A (GPD).

2. **Flow Measurements:** If flow measurement is required by this Permit, the appropriate flow measurement devices and methods consistent with approved scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the volume of monitored discharges. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted capability of that type of device. Devices selected shall be capable of measuring flows with maximum deviation of less than one (1) percent from true discharge rates throughout the range of expected discharge volumes.

<sup>(1)</sup> Revised on August 19, 2011

<sup>(2)</sup> Revised on August 9, 2012

<sup>(3)</sup> Revised on July 22, 2013

Section III (Cont'd)  
3.2 Parameters

SUMMARY ANALYSIS SHEET  
Rhode Island Resource Recovery Corporation

Analysis Results(*) are to be recorded for the following Parameters:	Permit Limits (mg/l) <sup>(1)</sup>	EPA Categorical Standards (mg/l) <sup>(2)</sup>				Location #1 Access manhole atop weirwall of Pumping Station				Location #2				Location #3				Location #4			
		MAX DAY	MAX DAY	AVG 4-DAY	MO. AVG.	MAX DAY	AVG 4-DAY	MO. AVG.	MAX DAY	AVG 4-DAY	MO. AVG.	MAX DAY	AVG 4-DAY	MO. AVG.	MAX DAY	AVG 4-DAY	MO. AVG.	MAX DAY	AVG 4-DAY	MO. AVG.	
		(All analysis results must be reported in mg/l)																			
Antimony (Total)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Arsenic (Total)	0.022	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Beryllium (Total)	ND	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Cadmium (Total)	0.0063	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Chromium (Total)	2.6	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Copper (Total)	0.57	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Cyanide (Total)	0.26	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Lead (Total)	0.30	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Mercury (Total)	0.0009	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Nickel (Total)	0.77	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Selenium (Total)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Silver (Total)	0.12	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Thallium (Total)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Zinc (Total)	0.71	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Toxic Organics	2.13	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
PCBs (Total)	<0.001	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Oil & Grease (AV) <sup>(3)</sup>	100	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Oil & Grease (M/P) <sup>(2)</sup>	25	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
BOD (5-Day)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
CBOD (5-Day) <sup>(4)</sup>	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Suspended Solids	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Ammonia (as N)	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Kjeldahl Nitrogen	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Nitrogen	50	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
Total Phosphorus	7.3	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

(\*) - Analysis results, in mg/l, must be reported in above appropriate spaces with averages calculated where necessary. (\*\*) - Production date, if required, must be submitted for each sampling day.  
 (1) - Monitoring locations are indicated in Section E, entitled Monitoring Conditions, of your company's Industrial Wastewater Discharge Permit.  
 PCBs - Polychlorinated Biphenyls    BOD - Biochemical Oxygen Demand    CBOD - Carbonaceous Biochemical Oxygen Demand    (AV) - Animal/Vegetable Origin    (M/P) - Mineral/Petroleum Origin  
 Total Oil and Grease (AV) shall represent the Total Oil & Grease concentration value of EPA Method 413.1 or 1664 less the Total Petroleum Hydrocarbons concentration value of EPA Method 418.1 or 1664-SGT (Silica Gel Treated). Concentration values that are measured at less than the Method Detection Levels shall be considered as zero when determining differences.  
 Total Oil and Grease (M/P) shall be represented by the Total Petroleum Hydrocarbons concentration value of EPA Method 418.1 or 1664-SGT (Silica Gel Treated).  
 (2) CBOD Limits in Monthly Average Basis (see page DP-6)  
 (3) Revised on November 17, 2011  
 (4) Revised on July 22, 2013

TAB D

**Bill Anderson**

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**From:** Bill Anderson  
**Sent:** Friday, September 13, 2013 5:50 PM  
**To:** ajtutela@tutelaeng.com  
**Cc:** Pete Connell; Brian Card (BCard@rirrc.org)  
**Subject:** Evaluation of Compliance Status Form  
**Attachments:** Anderson B\_0913162745\_001.pdf

Al,

As requested in the August 26<sup>th</sup> letter from the City of Cranston, attached is the completed "Evaluation of Compliance Status" form. A hard copy was put in the mail today. If you need anything else at this time, please let us know.

Thanks, Bill

*William Anderson, PE*  
Engineering Manager  
RI Resource Recovery Corporation  
(401) 942-1430 ext. 223

**EVALUATION OF COMPLIANCE STATUS**

**Municipal Industrial Pretreatment Program  
Cranston, RI**

Rhode Island Resource Recovery Corporation has evaluated their compliance status at all regulated monitoring locations with the Discharge Permits limits as set forth on page DP-6 of their Industrial Wastewater Discharge Permit (IWDP) #1808 modifications effective on July 22, 2013 and determined the following:

Check one box and complete accordingly:

Based on an evaluation of current and past analysis results history, Rhode Island Resource Recovery Corporation reasonably expects to **comply** with all Discharge Permit limits set forth on page DP-6 of IWDP #1808 with their current level of pretreatment provided.

Based on an evaluation of current and past analysis results history, Rhode Island Resource Recovery Corporation reasonably expects to **not comply** with all Discharge Permit limits set forth on page DP-6 of IWDP #1808 with their current level of pretreatment provided and will require a Compliance Schedule and Consent Agreement. The Discharge Permit limits that Rhode Island Resource Recovery Corporation is not reasonably expected to comply with are as follows (include Monitoring Location and Pollutant Parameter name):

ARSENIC (TOTAL) - 0.022 mg/L  
5-DAY CBOD<sub>5</sub> - 1,198 lbs/day (MONTHLY AVERAGE)  
NITROGEN (TOTAL) - 50 mg/L

LOCATION - PUMP STATION #1 WET WELL

Bill for  
 Signature of Corporate Officer  
 Bill M. Card

Michael O'Connell  
 Print Name of Corporate Officer

Executive Director  
 Title

9/13/13  
 Date

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THE CITY OF CRANSTON

**RESOLUTION OF THE CITY COUNCIL  
URGING THE MAYOR TO REINSTATE THE 50/50 SIDEWALK PROGRAM**

No.

*Passed:*

*John E. Lanni, Jr., Council President*

**Resolved that,**

**Whereas** the elderly, the handicapped and children especially need sidewalks to travel safely, and

**Whereas** the City of Cranston wishes to encourage all its citizens to walk and bike rather than use fossil fuels to drive, and

**Whereas** the City of Cranston wishes to encourage its citizens to shop locally to help local businesses; and

**Whereas** many of Cranston’s sidewalks were built in the 1930’s and have fallen into disrepair,

**Whereas** the current city policy of repairing sidewalks with asphalt is a short term fix that costs money in the long run and contributes to urban blight,

**Whereas** the City of Cranston once had a successful 50/50 program to share sidewalk repair costs with homeowners,

**Now Therefore Be It Resolved** that the Cranston City Council urges Mayor Allan Fung to reinstate the 50/50 program with priority given to repairing sidewalks on heavily walked streets, routes to school and neighborhoods which qualify for Community Development Block Grants.

**Be It Further Resolved** that the Cranston City Council urges Mayor Allan Fung to include a line item for concrete sidewalk repair in his 2014-2015 budget.

Sponsored by Councilwoman Sarah Kales Lee and Councilman Steven Stycos

Referred to Finance Committee November 14, 2013

THE CITY OF CRANSTON

**ORDINANCE OF THE CITY COUNCIL  
RATIFYING THE SCHOOL COMMITTEE'S COLLECTIVE BARGAINING  
AGREEMENT WITH RI COUNCIL 94, AFSCME, AFL-CIO CRANSTON  
PUBLIC SCHOOL EMPLOYEES LOCAL 2044, SCHOOL SECRETARIAL UNIT  
(Fiscal Years 2013 & 2014)**

*No.*

*Passed:*

*John E. Lanni, Jr., Council President*

*Approved:*

*Allan W. Fung, Mayor*

*It is ordained by the City Council of the City of Cranston as follows:*

**Section 1.** The Cranston School Committee having bargained collectively with the, RI Council 94, AFSCME, AFL-CIO Cranston Public School employees Local 2044, which is the certified bargaining representative of Cranston Public School Secretarial Unit as set forth in the attached interest arbitration award.

**Section 2.** The matter went to arbitration at the request of the parties and the Opinion and Award was rendered on September 6, 2013.

**Section 3.** The School Committee posted a copy of the proposed contract and arbitration award was made public and posted on its website on September 30, 2013 in accordance with Section 11.02.1 of the Cranston Home Rule Charter as amended on (November 2, 2010 and certified on November 9, 2010) at least 72 hours notice prior to the public hearing on November 22, 2010 at which time the School Committee voted to accept said Award.

**Section 4.** That the agreement in writing between the School Committee and the RI Council 94, AFSCME, AFL-CIO Cranston Public School employees Local 2044, in the form of the interest arbitration award which is attached hereto, is hereby ratified, confirmed and approved by this City Council.

**Section :** This Ordinance shall take effect upon its final adoption.

Positive Endorsement

Negative Endorsement (attach reasons)

\_\_\_\_\_  
Christopher Rawson, Solicitor      Date

\_\_\_\_\_  
Christopher Rawson, Solicitor      Date

Introduced to: Charter Sec. 11.02.1

Referred to Finance Committee November 14, 2013

\*\*\*\*\*  
*In the Matter of the Arbitration between* \*  
 \*  
 RI COUNCIL 94, AFSCME, AFL-CIO \* INTEREST ARBITRATION DECISION  
 CRANSTON PUBLIC SCHOOL \*  
 EMPLOYEES LOCAL 2044, \* SUCCESSOR  
 \* COLLECTIVE BARGAINING AGREEMENT  
 -AND- \* Commencing July 1, 2012  
 \*  
 CRANSTON SCHOOL COMMITTEE \*  
 \* DATE: September 6, 2013  
 \*\*\*\*\*

**DECISION AND AWARD OF THE ARBITRATION BOARD**

**STIPULATED ISSUE**

The terms of a successor Collective Bargaining Agreement between the parties for the period commencing July 1, 2012.

**INTRODUCTION**

This case arises under the Municipal Employees’ Arbitration Act, R. I. G. L. 28-9.4-1, et. seq. (hereinafter the “Arbitration Act”). The Arbitration Board is a three person panel. Each party selected an arbitrator. Pursuant to the statute, the parties selected the neutral arbitrator. Two days of hearings on February 15, 2013 and February 20, 2013 were conducted at which the parties were given full opportunity to introduce documentary evidence, present witnesses, as well as cross examine those witnesses. Collectively the parties introduced more than 30 exhibits. Upon the conclusion of the hearing, both parties filed Briefs. The Arbitration Board met in executive session on March 14, 2013. This Decision and Award was drafted by the neutral arbitrator.

### RELEVANT LAW

Most of the issues in the case are economic. Besides the Arbitration Act, there are a number of statutes which impact the funding and fiscal operations of the School Department. Most of the funding for the School Department comes from local aid appropriated by the Cranston City Council. Some funding comes from state aid. A much smaller amount comes from other sources.

Rhode Island General Laws, section 16-7-23, provides that each community shall contribute local funds to its School Committee in an amount not less than its local contribution for schools in the previous fiscal year except to the extent permitted by section 16-7-23.1. Neither party has indicated that this section of the general laws is applicable in this case.

Section 16-7-23 is the so-called “maintenance of effort” statute. It requires local funding at the same level as the previous year with two exceptions. The first exception is where a community has a decrease in student enrollment. In that case, the community may compute the maintenance of effort amount on a per-pupil rather than on an aggregate basis when determining its local contribution. The second exception is where a School Department has a non-recurring expenditure in one year which does not reoccur in the following year. With the approval of the Commissioner, that expenditure may be excluded in calculating the maintenance of effort amount that the local community must provide to the school district for that year.

The initial sentence in section 16-7-23 states that the School Committee's budget in each year shall provide for an amount from all sources sufficient to support the basic education program (“BEP”). Therefore, there is a floor beyond which a School Department budget cannot be cut, even utilizing the exceptions that are in the statute because programs necessary for the BEP must be maintained.

The statute also provides that at the end of a fiscal year any unexpended state and local funds shall remain a surplus of the School Committee and shall not revert to the municipality. It further provides that any surplus of state or local funds appropriated for educational purposes shall not in any respect affect the requirement that each community contribute local funds in an amount not less than its local contribution for the schools in the previous fiscal year.

The maintenance of effort statute was addressed by Justice Rubine just over a year ago in the case of School Committee of the Town of West Warwick vs. Edward A. Giroux, Town of

West Warwick. (RI Superior Court May 8, 2012). The court held that payments made directly to School Department vendors in 2008 had to be included when calculating the maintenance of effort funding required to be paid by the town in fiscal year 2009. While the judge ruled in favor of the School Committee in the case, he also noted that the School Committee was not without fault for the fiscal year 2009 funding fiasco. The judge noted that the School Committee concluded both fiscal years 2008 and 2009 with insufficient funds to meet obligations to creditors. The court noted that Rhode Island General Laws, Section 16-9-1 requires all School Committees to live within their means and to not incur debts which exceed their revenues. The court also noted that Rhode Island General Laws 18-2-9 (d) requires a School Committee to maintain a school budget which does not result in a deficit. The court admonished the School Committee, stating that in the future it should anticipate its financial needs and prepare a realistic budget to address those needs, rather than budgeting in a way that results in a shortfall at the end of a fiscal year and then asking the court for an emergency order to compel the town to appropriate funds to fill the budget gap. The court also noted a Cranston School Committee case, in which the Supreme Court said a Caruolo action is not intended to be used as an end of the year budget plug to fix the deficit that the School Committee had anticipated for months before the school year began.

In summary, the City of Cranston has an obligation to provide funding under the maintenance of effort statute but the School Department is required to operate and expend the funds it has available to it in such a way that does not result in a deficit. In this case, to avoid deficit spending which it projected and to remain within the funding with which it had been provided, the School Committee sought very significant concessions from the bargaining unit. The Union characterized those concessions as extreme in light of the general makeup of this bargaining unit and the salary schedules of the members of the bargaining unit. As the case developed, the projected deficit for 2012-2013 did not materialize but the School Committee continued to project deficits in the following fiscal years.

#### **FACTORS TO BE CONSIDERED**

The Municipal Employees Arbitration Act does not expressly state any standards or provide a list of factors to be considered by the Arbitration Board in rendering its decision.

Rhode Island General Laws 28-9.4-12 merely states that the arbitrators shall make written findings and issue a written opinion upon the issues presented.

The statutory jurisdiction of the Arbitration Board is limited to addressing the unresolved issues which prevented the parties from entering into a successor collective bargaining agreement. Most of the unresolved issues in this case are financial. The standard generally applied by arbitrators for evaluating the various proposals of the parties is threefold: what is reasonable in light of all the evidence presented in the case, the statutory obligations placed on the School Committee and a comparison of similarly situated employees.

#### **FACTS**

The proposals of the School Committee were for the most part economic in nature so as to address its projected deficits. They included a 15% wage reduction across the board, health insurance plan design changes, freezing step increases, freezing longevity pay, reducing sick leave entitlement, eliminating four holidays and placing new hires in a defined contribution pension plan rather than placing them in the existing defined benefit pension plan. As initially proposed, the School Committee indicated that the effect of its proposals was a savings of \$272,000 in the remaining portion of fiscal year 2012-2013 and a total savings \$1,313,522 over the course of three years. While collective bargaining and impasse resolution procedures took place in 2012 and 2013 longevity was paid for fiscal year 2012-2013 and the proposed salary reduction and other proposed changes did not occur before the end of the 2012-2013 fiscal year so the projected savings for that year was not realized. However, as will be discussed below, there was no budget deficit in that fiscal year either.

At the hearing the chief financial officer for the school district testified that there was a projected deficit of \$1,504,898 in the total school department budget for fiscal year 2012-2013. That projection was caused by various revenue items, such as Medicaid revenue and special education outside tuitions, for which actual revenue was below the budgeted revenue. There was also a bad debt of approximately \$350,000 which had been carried as a receivable but had to be written off based on a recommendation from the School Department auditors. There were some offsetting increases in other revenue items but the chief financial officer testified that the net effect was a \$1.5 million shortfall for the 2012-2013 fiscal year. Savings were realized from concessions in the collective bargaining agreement with the custodians but the projected savings

was short of the budgeted goal. After applying the projected savings from the settlement with the custodians union, he testified that there remained a \$300,000 deficit in the budget which the School Committee was looking to eliminate through concessions from the secretaries' bargaining unit.

After the hearing concluded, the parties stipulated that there was a \$1.6 million projected budgetary surplus for health insurance in the 2012-2013 fiscal year. The information about the projected surplus for health insurance was provided to the arbitration board about two weeks after the arbitration hearing concluded and was considered by the arbitration board in issuing this decision because the parties stipulated that the information could be considered by the Board in rendering its decision.

The school district's chief financial officer testified about the Superintendent's proposed 2013-2014 fiscal year school department budget. That budget covered the period July 1, 2013 to June 30, 2014. The proposed budget anticipated a request to the city of Cranston for an additional \$3.2 million in funding over the amount that had been provided by the city to the School Department in the prior fiscal year. That amount represented a 3.5% increase in city funding. The statutory cap under Rhode Island law is a 4% increase per year. He testified that in recent years, the city had not given increases that approached the level of the cap. In the prior six years increases had ranged between \$1.6 million and \$900,000. In the chief financial officers opinion it was not reasonable to expect that the city would increase funding by \$3.2 million. He also pointed out other items in the proposed budget which were based on estimates rather than hard figures. Those items included pension costs, health insurance costs and special education tuitions.

The chief financial officer testified that the Superintendent's proposed budget had not yet been adopted by the School Committee. He also noted that the proposed budget by the Superintendent included \$1.9 million to fund a 2% raise for administrators which was being recommended by the Superintendent in order to retain and attract experienced administrators into the school district. Most of the administrators had not received a raise since 2006 or 2007 except for the few who received raises as a result of promotions.

The school district's financial officer also identified budgetary concerns for the 2014-2015 fiscal year. These items included contractual step increases, pension increases, health and dental insurance increases and special education and charter school tuition increases. The total

amount of these items was \$2.9 million but he acknowledged that some of the estimates were speculative. About one third of that amount was generated by step increases for teachers because almost half of that bargaining unit receives step increases annually.

He also testified that in preparation for negotiations with the union the school district requested information on wages paid to secretaries in other school districts. The document submitted as school committee Exhibit 9 contained a summary page and backup information from 8 communities. Those communities were:

Barrington	North Kingstown
Burrillville	Pawtucket
Johnston	East Greenwich
North Smithfield	Smithfield

On cross-examination he acknowledged that the school districts listed in the exhibit were the only ones who responded to the request for information by the Cranston School Department. The information in this exhibit will be addressed in greater detail below as part of the decision.

The chief financial officer also testified about a School Committee exhibit that compared savings generated from negotiations with other unions. Those unions represented teachers, bus drivers and custodians. The savings were generated by concessions made by those unions. For the teachers the savings came in a two year period (fiscal years 2011-2012 and 2012-2013). The total savings was \$4.8 million, most of which resulted from a salary freeze in those two years, a realignment of step payments, an increase to 20% on health insurance co-share and plan design changes to health insurance. There was no 15% salary reduction for the teachers. There are many more teachers than there are secretaries and the salaries of the teachers are much higher than those of the secretaries. He also stated that the salary concessions by the teachers resulted from them foregoing a raise that was due to them in addition to restructuring the annual steps to reduce the amount paid on each step.

For the bus drivers union, the concessions occurred in the same two fiscal year period as the teachers. The total savings was \$739,000, most of which resulted from no salary increase in those two years, freezing of step payments for two years, an increase to 20% on health insurance co-share, elimination of four holidays, elimination of a fourth week of vacation time and plan design changes to health insurance. On cross examination the chief financial officer acknowledged that there was no 15% salary reduction for the bus drivers and that the savings attributable to salary was realized by budgeting a salary increase for the bus drivers and then

counting the savings when there was no salary increase. He also acknowledged that the only health insurance plan design changes for the bus drivers were office co-pays and prescription plan changes. That bargaining unit has around 85 to 90 members. He testified that the secretaries union involved in this case has around 60 to 63 employees.

For the custodians union the concessions occurred over three fiscal years (2011-2012 to 2013-2014). The total savings was \$2.2 million most of which resulted from a 15% salary reduction, an increase to 20% on health insurance co-share contribution, a \$500 deductible health insurance plan, elimination of four holidays, and plan design changes to the health insurance plan. The union President noted in the presentation of the union's case that the \$500 deductible plan was \$500 per member of the family until two members incurred \$1000 in medical expenses so the change was very significant both in cost savings to the school district and also in the impact on employees. Other changes in the health insurance plan included an increase in doctor office co-pays and an increase in prescription drug co-pays. The 15% salary reduction accounted for about half of the total \$2.2 million savings. The custodians bargaining unit has around 85 employees. The significant concessions by the custodians union occurred under the backdrop of a plan by the School Committee to privatize the custodians' work.

It was noted that the concessions being sought from the union in this case were similar to the concessions that were made by the custodians union, except for the increase in health insurance co-share because the secretaries' union is already paying a 20% health insurance co-share. The chief financial officer testified that the goal of the school committee in negotiating with the secretaries' union was to mirror the concessions by the custodians. Those concessions amounted to 26% of their pay. The concessions by the bus drivers union amounted to 19% of their pay. He testified that the concessions being sought from the secretaries in this case amounted to 22% of their pay.

On cross examination the chief financial officer testified that administrators in the School Department have individual contracts. They are not members of any bargaining unit. The average salary for administrators is around \$80,000 per year. Their co-share is 25% of the so-called working rate for health insurance. He testified that the working rate for a family plan of health insurance was about \$18,000 per year. He also acknowledged that for the 2012-2013 adopted school budget, the line item for administrative salaries was over \$5 million while the line item for the secretaries' salaries was just under \$2.5 million.

He further acknowledged that the Superintendent's proposed budget for 2013-2014 included a 2% raise in salary for administrators but that item was rejected by the School Committee on the evening just prior to the arbitration hearing. He also acknowledged that there was no salary reduction proposed for administrators in the 2013-2014 budget.

Regarding the School Committee's proposal to place new hires after July 1, 2012 in a defined contribution pension plan (i.e. a 401(a) plan), the chief financial officer acknowledged that specific details regarding the plan were still being developed with a plan administrator with whom the school district was working because the custodians accepted that proposal from the School Committee. The specific provisions of the plan were being developed. General details were available. The employer contribution would be 3% of salary with a 3% contribution from the employee. He acknowledged that the administrators of the school department were not in such a pension plan. The teachers and bus drivers also were not in such a 401(a) type of plan.

The Human Resources Office Manager for the school district testified regarding the sick leave proposal made by the School Committee. Using an exhibit that she prepared she detailed the amount of money that had been paid by the school district to employees who separated from employment for unused sick leave as well as the liability for future payments to current employees. If certain conditions are satisfied at the time that an employee separates from employment, the employee receives a payout for unused sick leave. For the period from January 2008 to December 2012 the amount paid by the school district to 19 employees was just over \$240,000. In its case, the union presented an exhibit which showed that just over \$160,000 was paid to retiring secretaries in the period from January 2006 through August 2011.

In terms of future liability, as of the time of the hearing, the HR Manager testified that for employees with a minimum balance accrual of 120 sick days and 20 or more years of service who would receive payment at \$50 per day, the monetary liability was \$204,000. Employees with a minimum accrual balance of 100 days and 10 to 19 years of service who would receive payment at \$20 per day amounted to a monetary liability of just over \$90,000.

On cross-examination the Human Resources Manager acknowledged that there was no short-term savings from the School Committee proposal. If all the members of the bargaining unit retired immediately the accrued liability would have to be paid but as a practical matter the payouts will occur over time as employees leave the employment of the school department. The

School Committee proposal to address the sick leave issue has multiple components which will be addressed in detail below.

The Human Resources Manager also testified about an exhibit she prepared detailing the School Committee's proposed 15% salary reduction. The exhibit listed all the employees who were in the bargaining unit at the time of the hearing. In separate columns it listed the current salary for the employee and the resulting salary if a 15% reduction was applied. The salary reduction generated a savings of \$300,000 just on gross salary, without taking into account any additional savings on collateral items that are linked to a salary reduction, such as FICA and Medicare payments. The savings amount was based on a calculation of the salary reduction for a full year.

An alternative salary reduction proposal was also described by her. The alternative scenario would increase the workday of seven and a half-hour per day people to eight hours per day and increase seven hour per day people to seven and a half hours per day so that each group would work an additional two and half hours per week. The increase in salary for the additional time using current hourly rates was calculated and then reduced by 15%. This generated a savings of \$150,000 per year. For the School Committee the savings was less than the goal that the Committee had set for itself. The impact on the employees was more hours of work for less pay.

The Human Resources Manager also described another exhibit she prepared detailing the daily cost with benefits (the "daily rate"). As with the prior exhibit, it listed all the employees for this bargaining unit as of the time of the hearing. The cumulative cost for this bargaining unit including the daily rate of pay, pension, Medicare, etc. was \$9,824.00 per day. Based on fiscal year 2012-2013 costs, this figure represents the savings that would be generated on a daily basis if the entire bargaining unit gave up pay for a full workday.

The HR manager testified that administrators had not received an across-the-board raise in the prior six years. There were some individually contracted employees who had received a salary increase when they changed positions through promotion. In that same time period, the health insurance co-share increased for the administrators from 20% to 22% and then to the current 25%. The secretaries group received no salary increase in fiscal year 2010-2011 but did receive a 3% salary increase in fiscal year 2011-2012. That increase occurred in two 6 month steps of 1.5% each. The secretaries' co-share for health insurance is currently 20%.

The last item that the HR manager testified about was a proposal by the School Committee to add a definition for what “qualified” meant when filling posted vacancies. Section 21.2 of the collective bargaining agreement states will “All posted vacancies shall be filled by the senior qualified candidate.” The proposed definition would require testing in Microsoft Excel and Microsoft Word with a passing grade of 70 on each test. There were two alternative proposals for the definition but each proposal required proficiency in Microsoft Excel and Microsoft Word with a passing grade on each test. The proposed language change would apply to 12 month employees, also known as category three employees. This category distinguishes those secretaries from the secretaries who work less than 12 months a year. The category three employees are generally in the administration building but are also at some other buildings in the school district. The HR manager testified that the purpose of the proposal was to address situations where some people coming into the category three positions do not have qualifications to perform the work required in the position.

Regarding this proposal, the union President testified that the present job specifications for the secretarial positions required only a high school diploma and there was no requirement of proficiency with Microsoft Word or Microsoft Excel. She did acknowledge that familiarity with the Microsoft Word program was necessary for the secretary positions and that familiarity with Excel could be a benefit in some administrative jobs, but it was not necessary for all administration secretaries. The union suggested that setting up a committee to study which jobs require proficiency with Excel would be a better approach.

The union President also noted that although the School Committee asserted there were problems occurring when people were bidding into positions, her experience was that the problems occurred more often when people were bumping into positions; not bidding into the positions. The bumping occurred as a result of layoffs or possibly some other events. She also stated that when problems developed, the parties would meet to mutually work out of a resolution. In one such case the individual involved was given additional education about the programs and her work abilities improved. For these reasons the union President downplayed the need for the proposed language defining the term “qualified”.

The Superintendent testified that while she submitted a proposed budget to the School Committee that contained a \$3 million increase in city funding, she had little to no expectation of receiving that increase. She testified that her motivation for proposing a 2% raise for

administrators was twofold: the district needed to retain qualified administrators and her view of her role as an advocate for educators and students. When asked for her rationale of proposing a 2% raise for administrators in light of the proposed 15% salary reduction for the secretaries, she explained that there are 45 administrators, 36 of whom had not received a raise in a long time. The other nine who did receive a raise did so by virtue of promotions. The administrators also sustained a decrease in take-home pay because of the increase in the health insurance co-share to 25%. She also noted that the teachers had received no recent salary increase and they also had sustained a loss of pay due to increased health insurance co-shares.

She explained that currently deficit reduction payments of \$1.5 million per year were being paid to the city by the school department under a court order. That court order also stated that educational programs which were cut could not be restored until the deficit reduction payments were completed. Making the deficit reduction payments has had an adverse impact on school programs and budgeting. Those payments are scheduled to end in fiscal year 2013-2014 so no new programs can be implemented until fiscal year 2014-2015. As an example, she described a program for full day kindergarten. To implement the program the school district would need 13 additional teachers the cost of which would be approximately \$13 million. She stated that the School Committee position was that all the employees of the school department needed to share in making concessions in order to balance the budget and avoid deficits.

The union's President testified at the hearing. At the time she had held the office of president for 20 years and had been involved in the negotiations of many contracts over that period of time. She testified that the prior contract, which had now expired, was the result of mediation and arbitration procedures. The arbitrators' award from that time, which covered a period from July 1, 2010 through June 30, 2012, contained a wage increase of 1.5% on July 1 2011 and 1.5% on January 1, 2012. That award also increased the health insurance co-share payments by employees from 3% to 15% and then to 20%. The President testified that both parties accepted the award. In the spring of 2011 the School Committee approached the union to reopen the contract and give back the raises that were scheduled to take effect in July of 2011 and the following January. The membership rejected the request. The school department then laid off members of the bargaining unit. She also testified that during the two and half year period of the negotiations/mediation/arbitration, the bargaining unit was reduced by 19 positions. While a few

years ago the bargaining unit had 79 or 80 positions, currently there were 61 bargaining unit positions. This figure is slightly less than the number stated by the school department.

In regards to the negotiations for the contract which is currently before this arbitration board, the president testified that prior to the start of negotiations with this union, the custodians union entered into a contract agreement with the School Committee. Just prior to or during those negotiations with the custodians, the School Committee had issued a request for proposals for privatization of the custodial work. Responses to that RFP projected considerable savings for the school department if the custodial work was privatized. The settlement with custodians union included a 15% salary reduction and freeze on salary steps, an increase in co-share from 10% to 20%, health insurance plan design changes and the new \$500 deductible health insurance plan. It gave back of two holidays, which increased to four holidays in the out years of the contract. Sick leave was frozen.

The union President identified an exhibit which listed the initial proposals from this union for its negotiations of its contract with the School Committee. Those proposals will be addressed in detail below. The President testified that during negotiations with the school committee the union made an oral proposal that included a 0% salary increase and step freezes. The union also projected savings for the school department because more than five members of the bargaining unit retired and were replaced by people who were hired at lower steps in the salary schedule. Some were hired at a step higher than step one and the union argued that it should be credited with all the savings which would have occurred if the newly hired people started at the first step.

The union had proposed a realignment of the salary steps to equalize the amount of the increase which occurred in moving from one step to the next. The union President testified that if the proposed so-called "equalization chart" of salary steps had been utilized money would be saved by the school Department because the newly hired secretaries would be on the realigned steps proposed by the union. On cross-examination she acknowledged that the first step was the same amount as in the past contract and that each step thereafter incorporated a 5% increase. She also acknowledged that most of the members in the bargaining unit were on the top step and that all the top step employees would receive salary increases under the proposed "equalization chart". In addition to the eight steps in the salary schedule, there are four classes of positions each with its own eight step salary schedule. Classification A has only one position.

Classification D at the other end of the spectrum has 45 bargaining unit people in the positions listed in that classification. The union President acknowledged that the proposed equalization chart prepared by the union would carry an increased cost for salaries over the amount currently being paid by the school district.

Regarding the school committee's proposed plan design health insurance changes which were projected to save around \$70,000 per year, the President stated that the union was looking for an acknowledgment of and the amount of reduction in the so-called "working rate" for the health insurance coverage that would occur from implementing the changes because that working rate is the amount to which the employees co-share percentage is applied.

Regarding the school committee sick leave proposal, the President testified that the union was agreeable to freezing the sick days currently accrued and agreeable to the concept that only those days would be compensated or paid out when an employee separated from employment. The union was also agreeable to the concept that the new bank of sick days would accrue at the reduced rate of 12 days per year but the union wanted all of them credited at the start of the year rather than accruing 1 day per month. The union wanted a carryover of the sick days from year to year, capped at 120 days, as a hedge against any employee suffering a long term illness and not having available sick leave time to cover the absence from work. It was also acceptable to the union that there would be no payment for these accrued sick days upon separation from employment.

The President also testified that as part of the proposal that the union made at the time, it wanted Article 28.1 entitled "No Strike/No Lockout" rewritten to make it more understandable; it agreed to a freeze of longevity pay and rejected the School Committee's pension proposal. The revised union proposal was rejected by the School Committee, which maintained its position on its original proposals that it had made.

The President testified that the union addressed the School Committee's request for monetary concessions late in the collective bargaining process when the union offered a counterproposal to reduce days of work and give up salary for those days. Under the union proposal, category 2 and category 3 secretaries would be paid for 10 less days each fiscal year. They would not receive pay for five holidays and they would take 5 days off and would not be paid for those days. The union calculated that this proposal would save the school department almost \$85,000 per year.

The union President also testified about an exhibit which compiled information from other school districts regarding salaries, health insurance co-share, the number of holidays and sick time accrual. The information was drawn from collective bargaining agreements for those districts. The districts from which the information was compiled are as follows:

Cranston (city)	Providence
Newport	Warwick
Pawtucket	West Warwick

The union also submitted exhibits detailing the actuarial valuation of the state MERS pension system, in which current members of this bargaining unit participate; the City of Cranston budget for fiscal year 2012-2013; the proposed state educational aid, which reflected a projected increase for Cranston; and articles regarding 401(k) type pensions.

### **ARGUMENTS OF THE PARTIES**

Arguments of the parties relative to specific proposals will be addressed in the Decision and Award. A general summary of the positions of the parties is addressed here.

#### **School Committee:**

The School Committee approach to the case starts with what the law obligates the school district to do and what the law prohibits the school district from doing. The law requires the school department to provide an education for students that is compliant with the State's Basic Education Program ("BEP"). Other state laws prohibit the School Committee from operating with a deficit. It must deliver the education program within a budget that relies upon funding primarily from the city and the state.

The School Committee argued that even though there was a \$1.6 million surplus in healthcare insurance for the 2012-2013 fiscal year, the outlook for the 2013-2014 and 2014-2015 fiscal years is troublesome. The proposed school budget for 2013-2014 requests \$3.2 million in additional funding from the city. That amount far exceeds increases that the city has historically given to the school department. The projections for the following fiscal year of 2014-2015 show greater deficits due to projected increases in pension and healthcare costs. The school district is

repaying money loaned by the city to the School Committee to cover past deficits. The loan repayments are being made over a period of years and end within the next couple of years. In order to fund the loan repayment, education programs were cut and cannot be restored until the loan is paid back pursuant to a Superior Court Order in a case from 2010. To address the issues of compliance with the BEP, the loan repayment and to avoid deficit spending, the School Committee has been engaged in a long term consistent approach of seeking concessions from all the bargaining units at the school department. These factors form the backdrop of the Committee's proposals and its response to the union proposals, particularly the economic proposals.

**Union:**

The union argued that the amount of concessions sought by the School Committee from the secretaries' union far exceeded the payroll expense for the secretaries. The union contends that seeking over \$300,000 in concessions from this bargaining unit is fundamentally unfair and economically unjustifiable. On a pro rata basis, measured against the total deficit which the school committee asserted existed for fiscal year 2012-2013, this bargaining unit should be responsible for less than \$50,000 in concessions. The basis for the argument is twofold: the small size of the bargaining unit and the lower wages of the members of this bargaining unit, some of whom do not work 12 months a year.

By way of comparison, the union pointed to the school administrators. The union acknowledges that as a group, the administrators have not had an across-the-board salary increase in six years, but a 15% pay cut for that group would yield almost \$800,000 in one year and even a 9% pay cut would yield almost \$500,000 in savings. These results occur because of the higher salaries for the administrators even there are less of them (45) than there are secretaries (63).

The union noted the stipulation entered by the parties after the conclusion of the arbitration hearing that for fiscal year 2012-2013 there would be a surplus in the health care fund of approximately \$1.6 million. The union argues that this amount translates into an overall surplus of \$100,000 for the school department for fiscal year 2012-2013. For that reason the union concludes that no concessions are necessary from this bargaining unit for that fiscal year.

The union further argues that because the surplus will be carried into the next fiscal year no concessions are necessary from this bargaining unit for fiscal year 2013-2014.

As for that fiscal year and the years beyond, the union argues that the projected deficits by the School Committee should be viewed critically because of the poor forecasting of deficits that was done for fiscal year 2012-2013. The union suggests that the deficit concerns raised by the School Committee for future fiscal years do not reflect hard numbers and recent history shows that its ability to forecast budgetary needs is inherently unreliable.

The union contended that even if the School Committee's forecasted budgetary deficits were accurate for future fiscal years, the pro rata share of the deficit attributable to this bargaining unit would be approximately \$90,000 which can be achieved through concessions on freezing longevity and implementing health care plan design changes without implementing a 15% salary reduction.

The union noted additional financial information that should be considered by the Arbitration Board. Referencing exhibits which it presented at the hearing, the union argued that the School Committee can expect additional revenue under the state school funding formula in future years. In addition, the Cranston MERS pension is almost 95% funded so that there should be little to no increase in future year contributions to the pension fund.

Finally, in comparison to other communities, members of this bargaining unit are by no means at the top of the pack and in some cases, are very much near the bottom. The union notes that the Cranston city hall clerks start at a lower salary, but the highest step is over \$7000 more than the highest step for members of this bargaining unit who work 37.5 hours per week. The union also noted that clerks in Warwick, West Warwick and Newport start at a higher rate than members of this bargaining unit. While the clerks in the Providence school system are paid less than members of this bargaining unit those clerks are due to receive raises in 2013 and 2014. The union also noted that with respect to other benefits, the members of this bargaining unit are not "leading" in any single category with the exception of health insurance premium co-share which is at a contribution level of 20%.

#### **DECISION AND AWARD**

As noted by Arbitrator Gary D. Altman, Esquire in the decision dated October 7, 2010 for the contract prior to the one which is the subject of this case, the goal of the Arbitration Board,

within the obligations and limitations placed upon it by Rhode Island state law, is to balance the interests of the bargaining unit, the School Committee and the citizens of Cranston. Under Rhode Island law, the interest arbitration hearing is part of the overall negotiating process and is the final step in impasse resolution. Consistent with principles that guide neutrals in interest arbitration proceedings and as referenced by Arbitrator Altman in his decision, ability to pay, wages and benefits of comparable school districts and the cost of living were considered by this Arbitration Board in formulating its decision.

#### **Contract Term**

The union proposed a three year contract covering the period from July 1, 2012 to June 30, 2015. The initial proposal of the School Committee was for a two year contract commencing July 1, 2012 and ending June 30, 2014. The fiscal impact statement prepared by the School Committee which itemized the value of concessions that it sought to achieve in this process covered a three-year period and the testimony from School Committee witnesses stated concerns about projected deficits forecast into that three-year period. However, for a couple of reasons, the Arbitration Board establishes the contract period as two years commencing on July 1, 2012 and ending on June 30, 2014.

The first year of that period has already concluded. It had nearly ended by the time the parties filed their post hearing briefs and the Arbitration Board was able to meet in executive session to discuss the case. The next fiscal year, covering the period July 1, 2013 to June 30, 2014, just recently commenced. The Federal Affordable Care Act is causing rapid changes in the way that health insurance coverage will be provided. Not all of those changes are readily foreseeable at this point in time nor are the cost implications of those changes. This Arbitration Board is reluctant to delve into health insurance coverage issues that involve a period of time which is more than 12 months away.

The second reason for not venturing into a 3 year contract is an argument raised by the union when it attacked the credibility of the financial projections submitted by the School Committee. The reliability of those financial projections was adversely impacted by the stipulation submitted by the parties regarding a large surplus in the health insurance account for fiscal year 2012-2013. That stipulation was submitted to the Arbitration Board by the parties just two weeks after the conclusion of the final arbitration hearing. At the hearing the school district

was still projecting a deficit for that fiscal year. Likewise, history has shown that the union's forecasted increases in school department revenue and future stable pension contributions are not carved in stone.

The contract period of two years covers the year which has ended, provides a contract for the current fiscal year and provides the parties with ample time to negotiate the terms of a collective bargaining agreement that would commence on July 1, 2014. For these reasons the contract period is July 1, 2012 to June 30, 2014.

#### **July 1, 2012 to June 30, 2013**

This period has ended. The Arbitration Board awards no change in salary for this period and awards no changes in health insurance or any other provisions of the contract from the period of July 1, 2011 to July 1, 2012. All the terms and provisions of the collective bargaining agreement for that period of time remain the same for the first year of the contract.

#### **July 1, 2013 to June 30, 2014**

By maintaining the terms and provisions for 2012-2013 that were in the contract for the preceding year in this Award, the members of the bargaining unit avoid the drastic concessions sought by the School Committee for that year. However the evidence does not warrant extending that status quo beyond that year. While the union took issue in its Brief with the credibility of the fiscal projections for the upcoming years made by the School Committee, the union implicitly acknowledged the need for some economic concessions during the course of bargaining with its proposals for ten days off with no pay as well as a willingness to accept a longevity freeze and some health insurance plan design changes. The fiscal constraints on the school department were established by the evidence at the hearing and must be taken into consideration by the Arbitration Board. In light of the fiscal situation in the school district, concessions from this bargaining unit are warranted. Every other bargaining unit in the district was asked for and agreed to some concessions. This bargaining unit must also participate in addressing the fiscal issues of the school district.

### **Salary**

For the period July 1, 2012 to June 30, 2013, the School Committee had proposed a 15% reduction in salary for all members of the bargaining unit. At the time of the hearing, the School Committee was still proposing such a salary reduction on a prospective basis.

The union initially proposed an equalization of the eight steps in the salary schedule. On each of those steps there are four classifications of employees. Classification A has only one employee. Based on the testimony at the hearing classification D has 42 employees. There are a total of approximately 63 employees in the entire bargaining unit. On many of the steps and classifications in the union's proposal, there was no increase in salary. However on the top step for every classification, the union's proposal resulted in a salary increase.

The Arbitration Board does not adopt the proposals of either party. A 15% salary reduction for members of this bargaining unit is extreme, especially in light of other parts of this Decision. Many people in the bargaining unit do not work a full year. Category one and category two employees only work during the school year or a short period of time before and after the school year. Only category three employees work a full calendar year. In addition, the salaries for these employees are not exorbitant. The top step salary ranges from \$18.90 an hour to \$20.31 an hour. This decision will award some of the other concessions sought by the School Committee. For that reason and taking those other concessions which cause a wage reduction to employees, the Arbitration Board rejects the proposal of the School Committee to reduce salaries across-the-board by 15%.

On the other hand, the union's proposal for reorganizing the salary steps causes an overall salary increase for the school department, even though some steps are less than the hourly rates in the old contract. The result occurs because most members of the bargaining unit are on the top step. Any increase in salaries on the top step causes an increase in school department expenses. That proposal of the union on salary equalization is rejected by the Arbitration Board. To achieve a salary savings for the school department, the union proposed that members of the bargaining unit be given days off without pay.

This Award includes a variation on the proposal made by the union. For full time employees there will be 10 days during the 2013-2014 contract year for which those employees will not be paid. There are 14 paid holidays listed in the contract. 5 of those holidays shall not be paid holidays. In addition, each full time bargaining unit member shall have 5 workdays off

without pay. These are not so called “pay reduction days” or days worked for less salary. These are days in which the employee will be off but will not receive salary for that day off. For bargaining unit members who work less than a full year because they are not employed in the summer months, the days will be 4 unpaid holidays and 4 workdays off without pay. The award of this salary reduction is for the fiscal year 2013-2014 only.

Based on the testimony of the School Committee witnesses, one day has a value of \$9,824.00. Ten days generates \$98,240.00 in savings for the school district. The amount will be a little less based on the proration for bargaining unit members who do not work a full year.

The Arbitration Board leaves it to the parties to determine the specific holidays and the other 4 or 5 days, as applicable, for which no salary will be paid. The Arbitration Board retains jurisdiction for 30 days from the date of the decision in case the parties cannot reach agreement on these issues.

This salary award does not achieve the savings sought by the School Committee in its 15% across the board salary reduction proposal. To achieve some long term salary savings as an alternative to immediate drastic salary reductions, members of this bargaining unit hired after the date of this award, in addition to the 10 days discussed above, will be subject to a new salary schedule. That salary schedule will reduce the number of steps; retain the same classifications of A through D; and reduce the hourly rates in the steps. Adopting concepts from the proposals made by the parties, the steps are equalized in that the differential between each step is and the hourly rates are less than the current hourly rates.

The parties submitted comparables from other school districts and municipalities but there was little to no testimony on how those other districts and municipalities compared to Cranston in terms of budget size, budget surplus or deficit, if any, the number of students and other factors such as ability to pay. The information provided by the School Committee came from 8 communities who responded to a request for information. The members of the Arbitration Board are long term residents of this state and can take arbitral notice of the fact that almost all of the 8 communities have school districts smaller in size based on student population than Cranston with the possible exception of one or two of the communities.

The union offered comparables from 6 communities. Only one was common with the School Committee submittal (Pawtucket). One of the remaining five was information about

Cranston city employees. Information from Providence and Warwick, both large school districts, was part of the submittal by the union.

The Arbitration Board reviewed the information provided by the parties and compared the current top step hourly rates in the Cranston school department to the comparables that were submitted by the parties. In some cases the hourly rates had to be calculated by the Arbitration Board from yearly salaries and hours of work that were included in the exhibits.

The City of Cranston clerks are a little below this bargaining unit at the lower end of the hourly rate spectrum (\$18.63 to \$18.90) and a little above this bargaining unit at the higher end of the spectrum (\$21.48 to \$20.31). Pawtucket has a similar result (\$18.30 to \$18.90 and \$20.48 to \$20.31). Smithfield also has a similar result (\$18.35 to \$18.90 and \$21.51 to \$20.31).

The Warwick school department went 6 years without a salary increase before raises of 2%, 1% and 1% were implemented, the last of which occurred on February 1, 2013. As a result of those raises Warwick hourly rates are higher than this bargaining unit across the board (\$19.84 to \$18.90 and \$23.80 to \$20.31). Barrington is also higher across the board (\$19.45 to \$18.90 and \$21.60 to \$20.31).

On the other hand, Providence's hourly rates, even with two 4% raises on September 1, 2013 and September 1, 2014, will be below the current salaries for this bargaining unit (\$13.53 to \$18.90 and \$19.04 to \$20.31). Burrillville and North Smithfield also have lower hourly rates than in Cranston.

Based on this analysis, the current hourly rates for this bargaining unit are not way out of sync with other communities. Warwick's high hourly rates appear to be a catch-up effort after 6 years without any raises. That long term history of no raises in Warwick has not existed in Cranston.

To address the salary cut proposed by the School Committee, the Arbitration Board, while rejecting the proposed 15% wage reduction for current employees, did consider a reduced hourly rate schedule for new employees using a 15% across the board reduction in the hourly rates and consolidating the steps from eight to four steps. The current hourly rates were reduced by 15%. Steps 5 through 8 would become the new four step salary schedule. Within the first three steps the increases from step to step ranged between 65 and 70 cents. The increases to the last step were only 31 cents. 35 cents was added to each of the top steps to address the union's

desire for an equalized salary schedule and to create a 66 cent increase (consistent with the other steps) from step three to four. The results in the top steps were:

A	B	C	D
\$17.61	\$17.08	\$16.89	\$16.42

The hourly rates are \$2.50 to \$2.70 below the current hourly rates and are not consistent with the hourly rates from the comparable communities that were submitted by the parties.

In reviewing all the comparable communities, two of them are deserving of particular focus. One group is the clerks in Cranston city hall because they are in the same community as the school district and the city is the major revenue source for the school district subject to the same taxpayer base as the school district. The other group is the school department clerks in Pawtucket because both parties submitted that group as a comparable for consideration by this Arbitration Board.

The Cranston city clerks are 27 cents an hour lower than the school department secretaries at the lower end of the salary scale and 17 cents an hour higher than the school department secretaries at the upper end of the salary scale. In Pawtucket the school department clerks are 60 cents an hour lower than the school department secretaries at the lower end of the salary scale and 17 cents an hour higher than the school department secretaries at the upper end of the salary scale. Where the differential is 60 cents an hour or less in comparable work environments, it is not warranted to establish a new hire salary schedule that has a differential of four times that amount for this bargaining unit. Thus no new salary schedule is awarded.

#### **Health Insurance**

The members of this bargaining unit currently pay a co-share of 20%, which is commensurate with the amount that members of other bargaining units within school district are required to pay. No change in that percentage amount is awarded. The School Committee proposed changes in the health insurance plan. Those changes included a \$500 deductible plan, which in a family insurance plan requires two people to personally incur out-of-pocket expenses for health care totaling \$500 each. Other health insurance changes that were proposed by the School Committee included:

- increases in office visit co-payments (\$15.00 Primary; \$25.00 Specialist; \$50.00 Urgi-visit; \$100 ER) and

-increases in prescription drug co-payments(\$7.00/\$30.00/\$50.00).

To the extent that these modifications cause a reduction in the working rate, the bargaining unit employees shall participate in the reduced cost of the working rate.

The modifications in health insurance listed above are awarded by the Arbitration Board. Based upon information provided by the School Committee witnesses, the annual value of those modifications in coverage is \$77,488.00.

#### **Step Freeze**

Employees on the salary steps will not receive the increase in step pay for fiscal year 2013-2014. Commencing July 1, 2013, salaries will be based upon the step rate that the employee received in the prior fiscal year. This step freeze will be for fiscal year 2013-2014 only. School Committee witnesses placed the annual value of this item at \$11,579.00.

#### **Longevity**

Members of the bargaining unit receive longevity payments after completing ten, fifteen and twenty years of service. As an additional cost savings measure, the School Committee proposed that the longevity payment due for 2013-2014 not be made. This item is awarded by the Arbitration Board. The value of this item is \$34,000.00.

#### **Sick Leave**

The School Committee proposed several modifications to the sick leave policy. One modification involved changing the accrual to one sick day per month. That part of the proposal is awarded by the Arbitration Board. The School Committee also proposed a requirement that an employee work more than 85% of the work days in a month in order to earn the monthly accrual of one day. That item is rejected by the Arbitration Board. It has an arbitrarily high threshold for work attendance before an employee can accrue a sick day for the month. As proposed, leave time would not count as a work day. In addition, the inability to accrue sick days because of circumstances beyond the control of the individual adversely impacts an employee who may suffer a legitimate long term illness. To the extent there may be an issue with abuse of sick, a more targeted solution should be proposed; not one that may punish innocent employees.

Another aspect of the School Committee proposal included a freeze in the Sick Bank accruals for all employees, with no new accrued sick days being added to the days already accrued by an employee. The newly accrued sick days would be part of a separate bank of days for which no payout to bargaining unit members would be made when the employee separated from employment. A payout for the old accumulated sick days in the sick bank would occur when bargaining unit members who worked for the school department for ten years or more or upon their retirement.

As proposed by the School Committee an employee could use the old accumulated sick leave days only if an employee accrued and exhausted twelve days of sick leave in a contract year. The Arbitration Board modifies the language to state that an employee can use the old accumulated sick days if the employee exhausts the sick leave days accrued after July 1, 2013. As proposed by the School Committee it appears that an employee would have to accrue all twelve sick days at the rate of one per month before the old sick days could be used. Under that interpretation a legitimately ill employee could not use the old accumulated sick days for 12 months. That interpretation is rejected by the Arbitration Board, which awards the language above so that the old days can be used for sick leave if the new accrual (ex. 3 days after 3 months; 5 days after 5 months; 7 days after 7 months; etc) is exhausted.

Finally, the School Committee proposal allowed an employee to accumulate up to 5 days of unused sick time but these days would not be subject to the payout when the employee retired. The Arbitration Board awards that part of the proposal.

There may be little to no short term savings from this item because sick leave payouts only occur when a person separates from employment with the school district. The evidence showed that annual payouts fluctuated from year to year. Over time the amount of the payouts will decline because the newly accrued sick days are not subject to payouts. There is long term savings to be realized from the sick leave award by the school department, which the Arbitration Board has taken into account in addressing other components of this award. Allowing access to the accumulated sick leave already accrued by employees offers protection for an employee who must remain out of work due to a long term illness or injury.

As detailed above modifications in sick leave accrual and use are awarded with all the awarded provisions to be effective as of July 1, 2013.

### **Define “qualified” in Article 21**

The School Committee proposed definitions of the term “qualified” in section 21.2. The union rejected the proposed definitions. At the executive session, the arbitrators for the parties advised that representatives of parties were discussing this item.

No award or rejection of this proposal is made by the Arbitration Board, which retains jurisdiction for 30 days from the date of this award in case the parties cannot reach a resolution on this issue.

### **New hires in a Defined Contribution Pension Plan**

The School Committee proposed placing newly hired employees in a defined contribution pension plan (a 401(a) type plan). Currently employees are in the State Municipal Employees’ Retirement System (MERS). State law requires that these employees be in the state pension plan. The custodians agreed to this proposal from the School Committee but implementation of that agreement required amendment of the state pension laws by the General Assembly.

For several reasons the Arbitration Board rejects this proposal. No amendment to the state pension law to facilitate this proposal has been made. In addition, no specifics for the plan were described in the testimony at the hearing so evaluation of the plan is impossible. Annual savings of almost \$40,000 were projected by the school department but without specific provisions for the pension plan, the actual savings and the impact on the employees cannot be determined. Without such information, the Arbitration Board rejects this proposal.

### **Delete provisions in Article 31**

The union made 3 proposals relative to Article 31 to delete an outdated longevity money amount, to insert the present amount of the annual longevity payment and to delete outdated sentences referring to longevity increases that took place in 2006 and 2007. The Arbitration Board awards those proposals.

### **Other Proposals**

The union initially submitted other proposals when collective bargaining negotiations commenced. An exhibit was introduced by the union at the hearing listing those proposals but no

testimony regarding those proposals was presented at the hearing and they were not briefed by the union. Those proposals are rejected by the Arbitration Board.

#### **Conclusion and Award**

The individual components which are awarded in this Decision are listed below with annualized monetary values. Those values are based on calculations submitted by the School Department, to which this Arbitration Board deferred in assigning monetary values.

10 days – no pay	\$98,240.00
Health insurance	\$77,488.00
Step freeze	\$11,579.00
Longevity moratorium	\$34,000.00
Sick leave modifications	<u>Long term savings</u>

The total value of the award on an annualized basis for fiscal year 2013-2014 is \$221,307.00 + long term savings.

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John J. Harrington, Esq.,
Neutral Arbitrator

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Benjamin Scungio, Esq.,
School Committee Arbitrator

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J. Michael Downey
Union Arbitrator

**CRANSTON PUBLIC SCHOOLS  
FISCAL IMPACT STATEMENT  
SECRETARIES  
ARBITRATION AWARD  
2013 - 2014**

<u>CATEGORY</u>		<u>2013-2014</u>
RAISE	(A)	0
STEP FREEZE		(11,579)
LONGEVITY		(34,000)
REDUCTION OF DAYS (10)	(B)	(98,240)
PLAN DESIGN CHANGES	(C)	<u>(77,488)</u>
	<b>TOTALS</b>	<u><u>(221,307)</u></u>

ASSUMPTIONS

- (A) - RAISE  
2013-2014 = 0%
- (B) - REDUCTION OF 10 DAYS (5 HOLIDAYS & 5 NORMAL WORK DAYS)  
(SALARY/FRINGE BENEFITS)
- (C) - PLAN DESIGN CHANGES  
OFFICE CO-PAYS  
DEDUCTIBLE PLAN (\$500)  
PERScription DRUG CO-PAYS

**-OCTOBER 28, 2013-**

**CLAIMS**

**Lucy Arenas; Property damage; July 15, 2013**

**Dean Vose; Property damage; September 2, 2013**

**City Clerk** indicated that “Resolution urging the Mayor to place a slow traffic sign on McKay Street” will not go forward this evening.

On motion by Councilman Aceto, seconded by Councilman Favicchio, it was voted to refer the above new business to the respective Committees. Motion passed on a vote of 7-0. The following being recorded as voting “aye”: Councilwoman Lee, Councilmen Stycos, Botts, Archetto, Aceto, Favicchio and Council President Lanni -7. Councilman Santamaria and Council Vice-President Farina were not present for roll call vote.

**XIII. MISCELLANEOUS BUSINESS ON CLERK’S DESK**

**MAYORAL NOMINATION OF *SUSAN STENHOUSE* AS DIRECTOR OF SENIOR SERVICES. Referred to Finance Committee for public hearing on November 14, 2013.**

The meeting adjourned at approximately 10:05 P.M.



Maria Medeiros Wall, JD  
City Clerk



Rosalba Zanni  
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Ron Ronzio, Stenotypist)