

*(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).*

## **ORDINANCE COMMITTEE**

Regular meeting of the Ordinance Committee was held on Thursday, May 17, 2018, in the Council Chambers, City Hall, Cranston, Rhode Island.

### **CALL MEETING TO ORDER:**

The meeting was called to order at 7:23 P.M. by the Vice-Chair.

Present: Council Vice-President Michael W. Favicchio  
Councilman Paul H. Archetto  
Councilman Kenneth J. Hopkins, Vice-Chair  
Council President Michael J Farina

Absent: Councilman Trent M. Colford, Sr.  
Councilman Christopher G. Paplauskas, hair

Also Present: Councilman Steven A. Stycos  
Councilman John E. Lanni, Jr.  
Councilman Paul J. McAuley  
John Verdecchia, Assistant City Solicitor  
Maria Medeiros Wall, City Clerk  
Ron Ronzio, Stenographer

### **MINUTES OF THE LAST MEETING:**

On motion by Council President Farina, seconded by Council Vice-President Favicchio, it was voted to dispense with the reading of the last meeting and they stand approved as recorded. Motion passed unanimously.

### **CORRESPONDENCE/COMMUNICATIONS**

### **OLD BUSINESS:**

### **PUBLIC HEARINGS/NEW BUSINESS:**

**Jennifer Miller**, 1400 Broad St., appeared to speak regarding proposed Ordinance 3-18-04 and presented photos of what she has been dealing with for three years trying to get the issue to the Housing Court.

**Vice-Chair** referred to the Solicitor for his point of view on this.

**Solicitor** asked Ms. Miller if the complaint is that the person who holds the position in the Housing Court is representing a property owner who is causing the issue. Ms. Miller stated that it could. If you have someone who is in private practice and represents a slumlord and could be potentially a conflict if they hold a position in the Housing Court.

**Ms. Miller** stated that her question is why the Housing Court is so backlogged. There is a house on Grand Ave. that caught on fire in November which is an illegal five family. She has been trying for three years to get this property cleaned up. Council President Farina asked that this item be placed on the next Public Works Committee agenda for an update from the Public Works Director and see what can be done to address this issue. He asked that Director Mason, the Housing Inspector and Chief Judge be asked to attend the next meeting to see what has been done and what can be done to address this.

**John Mancini, Esq.**, appeared to represent Blue Dog Capital Partners and to speak regarding application filed by his client for 950 Phenix Ave. He stated that the purpose of the amendment is to provide and to review additional signage or signage for the property. The reason this application has been submitted to this Committee is there needs to be a determination by this Committee whether or not there has been a substantial change to the application to allow them to proceed to the full City Council to review the application. That is because in September of 2016, the applicant proposed an amendment to the then existing Ordinance, which permitted the Zone Change that allowed for the Mixed Use Development that is currently taking place and almost completed at the site. At that time, in 2016, the applicant proposed two amendments, one was a clarification in regards to Use specifically being Day Care facility and also with that was an application for signage specifically at the rear of the building and at that time, at the meeting, the applicant decided not to proceed with the amendment concerning signage but rather proceed solely to the Ordinance in regards to definition of Day Care. As a result of that, the City has an Ordinance that successive petitions not be filed to the City Council unless there is proof of substantial changes. What is being presented this evening is his client's substantial change. He has submitted a revised application requesting a monument sign to the front of the property abutting Phenix Ave. That sign would be 4' high and 12' long. They are asking for signage on the building, which was not in the original application. Signage on the building of the self-storage facility would be 3'x17'. They are also looking for sign to the rear of the property, which would be more of a pile –on sign of 150'. In his packet, he has also included an affidavit by him which delineates the travel of the matter.

**City Clerk** indicated that there was a subsequent petition filed by this applicant with regards to signage at that property in October of 2016, which went before the Ordinance Committee in November 2016 and was denied and when it came before the full City Council for discussion, the applicant withdrew it. Whether a withdrawal or denial, there is a two year wait period and it can only be refiled before that if the Ordinance Committee determines that there has been a significant change.

**Amy Rainone**, 67 Valley St., appeared to represent RI Housing regarding proposed Ordinance 4-18-01. No one appeared to oppose.

**3-18-02 Ordinance in amendment of Section 17.20 of the Code of the City of Cranston, 2005, entitled “Zoning – Permitted Uses” (Residential Surveillance Cameras). Sponsored by Councilman Archetto.**

On motion by Councilman Archetto, seconded by Council Vice-President Favicchio, it was voted to continue this Ordinance for further study.

Under Discussion:

**Councilman Archetto** stated that he has been asked by residents regarding height of camera placements. This Ordinance would limit just homes and it would not hamper apartment complexes or businesses. He asked that a scrivener’s error be corrected in Section 2, line #31, “prosecution” be changed to “adjudication”.

On motion by Councilman Archetto, seconded by Council Vice-President Favicchio, it was voted to amend this Ordinance as stated above.

Under Discussion:

**Council President Farina** stated that he has no problems with the intent of this Ordinance, but the only concern he has is how this would affect homeowners’ rights to put up surveillance cameras to protect their house.

**Council Vice-President Favicchio** stated that we really should have the Solicitor research this as to what we can and cannot do with regards to this.

**Solicitor** stated that his opinion is to get a professional opinion on this as to the height of the cameras and its effectiveness.

**Councilman Lanni** stated that the problem seems to be the height requirement. There should be some research to this, but it is something that should be looked at.

**Councilman Hopkins** stated that this needs more studies and the Committee needs to hear from some professionals.

**Councilman Archetto** stated that this does not prohibit cameras, it would restrict cameras. The intent of this Statute is intrusiveness, invasion of privacy.

Roll call was taken on motion to continue this Ordinance for further studies. Motion passed unanimously.

**3-18-04 Ordinance in amendment of Chapter 2.40.020 of Title 2 of the Code of the City of Cranston, 2005, entitled “Administration and Personnel” (Municipal Court – Judicial Code of Ethics). Sponsored by Councilman Stycos.**

On motion by Councilman Archetto, seconded by Council President Farina, it was voted to recommend approval of this Ordinance.

Under Discussion:

**Councilman Stycos** stated that at the last meeting, there were some objections and concerns stated and he tried to address some of those concerns. He stated that he removed from this Ordinance anything to do with political contributions and in the first section, he limited if someone were a Judge, he could not lobby before the Executive or the Legislative Branch in Cranston and they could not do it outside of Cranston on a matter that would involve Cranston. The second issues is that they not hold office in a political organization while they are a Municipal Court Judge and they not endorse candidates or make speeches on behalf of a political organization.

**Council President Farina** stated that a question came up at the last meeting for the Solicitor as to whether this Ordinance is enforceable by the City of Cranston and by our Charter and this has not been answered.

**Solicitor** stated that the short answer is, no. Local Legislature, Congress, any legislative body cannot regulate the conduct of Judges or Lawyers. Only in the State of Rhode Island, the Rhode Island Supreme Court has the only authority that can exercise control over Judges or Lawyers. This would be illegal, in his opinion, on many grounds. First and foremost, he believes it violates the separation of powers for the reasons he gave. After researching Cannons of Judicial Conduct, he found that this extends down to the Municipal Courts level. Cannon 5 of the Code of Judicial Ethics is promulgated by the Rhode Island Supreme Court so most of the concerns addressed in this Ordinance are addressed in Cannon 5. For those reasons and many others, he feels that this Ordinance is already a violation of separation of powers and is not able to be enforced at any level.

**Council President Farina** stated that the first half of the intent of this Ordinance is to make it illegal for Judges to come before the City Council. If that is something the Council wanted to pursue, how would we go about doing that with the things the Council controls. Solicitor stated that he thinks that the most effective way to address that issue would be at the initial stage. There should be conditions precedent before the position is even accepted. That would make it open disclosure with the person that accepts the position. At this point, these people have been appointed right now, the Cannons he just described is the only authority. The most effective way to address this issue is perhaps to place qualifications on the position itself, although he does not know if this would run afoul of separation of powers on the local level, but he thinks this could be done in Cranston.

**Councilman Stycos** stated that he thinks that as to the Municipal Court Judges, one section of the Cannon 5 are exempt because they are part-time and asked that the Solicitor research that.

**Chair** asked Solicitor for his opinion if this Ordinance is constitutional as it is written. Solicitor stated that it is not. He indicated that all Municipal Court Judges are part-time and if that were not the case, and part-time were exempted, they would not have included them in the Cannon 5 to begin with. Cannon 5 is not limited to just Judges, it states Judicial Officers. It could be someone acting in that capacity and they would be subject to this Cannon. He also indicated that there could be First Amendment issues with this Ordinance.

Roll call was taken on motion to recommend approval of this Ordinance and motion failed on a vote of 1-3. The following being recorded as voting “aye”: Councilman Archetto -1. The following being recorded as voting “nay”: Councilman Hopkins, Council Vice-President Favicchio and Council President Farina -3.

**3-18-05 Ordinance authorizing the City to enter into a lease agreement with the Hope Alzheimer’s Center. Sponsored by Mayor Fung.**

No one appeared to speak in favor or to oppose.

On motion by Council President Farina, seconded by Council Vice-President Favicchio, it was voted to recommend approval of this Ordinance. Motion passed unanimously.

**3-18-06 Ordinance amending the Comprehensive Plan of 2012 (Edgewood Architectural Integrity). Sponsored by Councilman Stycos.**

**\*[Being continued to June 14, 2018]**

On motion by Council President Farina seconded by Council Vice-President Favicchio, it was voted to continue this Ordinance to June.

Under Discussion:

**Councilman Stycos** stated that the Planning Department had some concerns regarding this Ordinance and he is working on a revised version.

Roll call was taken on motion to continue this Ordinance to June. Motion passed unanimously.

**4-18-01 Ordinance in amendment of Title 8.49 of the Code of the City of Cranston, 2005, entitled “Foreclosure Requirements for Owner Occupied Residential Properties”. (Foreclosure Requirements for Owner Occupied Residential Properties). Sponsored by Councilman Stycos.**

On motion by Councilman Lanni, seconded by Council President Farina, it was voted to recommend approval of this Ordinance.

Under Discussion:

**Council President Farina** stated that he agrees with the intent of this Ordinance, but one question he has is what happens in June if the State decides not to pass the extension. Solicitor stated that just this afternoon, when he was at the State House, he did some research and there is a House Bill 5829 which was submitted to repeal the sunset provision of the State Statute and it has just been considered by the Finance Committee on Tuesday, May 15<sup>th</sup>. He believes it was held for further studies.

The session ends the end of June and there is a possibility the General Assembly will take this up and repeal the sunset provision of the mediation Statute, in which case we would have a Statewide Statute. If that does not happen, then he thinks in that situation he thinks that the City's Ordinance would be enforceable.

Roll call was taken on motion to recommend approval of this Ordinance and motion passed unanimously.

**4-18-02 Ordinance in amendment of Title 8.44 of the Code of the City of Cranston, 2005, entitled "Health and Safety" "Smoking" (Smoking Enforcement and Amended Definition). Sponsored by Councilman Hopkins; Co-sponsored by Councilman Stycos.**

On motion by Council President Farina, seconded by Council Vice-President Favicchio, it was voted to recommend approval of this Ordinance.

Under discussion:

Council President Farina, Council Vice-President Favicchio, Councilmen Archetto and Lanni asked to be added as co-sponsors.

No one appeared to speak in favor or to oppose.

Roll call was taken on motion to recommend approval of this Ordinance and motion passed unanimously.

**950 Phenix Avenue Zone Change application filed by BCPStor Development LLC. for "Substantial Change" determination.**

On motion by Councilman Archetto, seconded by Council Vice-President Favicchio, it was voted to approve this application for discussion purposes for determination that there is a substantial change.

Under Discussion:

**Council President Farina** stated that in his opinion, there is not enough substantial change to hear this again. He would welcome the applicant to come back in December and resubmit.

Roll call was taken on motion to approve application and motion failed on a vote of 1-3. The following being recorded as voting "aye": Councilman Archetto -1. The following being recorded as voting "nay": Councilman Hopkins, Council Vice-President Favicchio and Council President Farina -3.

The meeting adjourned at 8:50 P.M.

Respectfully submitted,

Maria Medeiros Wall, JD  
(Transcribed by Rosalba Zanni  
Assistant City Clerk/Clerk of Committees

(transcribed from CD - 2)