

SPECIAL MEETING – CITY COUNCIL

-AUGUST 23, 2006-

Special meeting of the City Council was held on Wednesday, August 23, 2006 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 6:05 P.M. by the Council President.

Roll Call showed the following members present: Councilmen McDonough, Fung, Livingston (appeared at 7:20 P.M. and left at 9:30 P.M.), Council Member Fogarty, Council Member Bucci (appeared at 6:15 P.M.), Councilmen Lanni, Barone, Council Vice-President McFarland (left meeting at 11:00 P.M.) and Council President Garabedian –9.

Also Present: Robin Muksian-Schutt, Deputy Director of Administration; Vito Sciolto, Assistant City Solicitor; Pat Quinlan, City Council Legal Counsel.

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Clerk read Call of the Meeting:

**CITY OF CRANSTON
RHODE ISLAND**

**NOTICE OF SPECIAL MEETING
OF THE CITY COUNCIL**

In Accordance with Section 3.07 of the Home Rule Charter and Section 2-04.6 of the City Code, I hereby call a special meeting of the City Council to be held on Wednesday, August 23, 2006 in the Council Chambers, City Hall, 869 Park Ave., Cranston, RI 02910 at which meeting the following items of business shall be transacted:

- 6 p.m. Executive Session pursuant to RIGL 42-46-5(a)(2) and (a)(4)
Cranston Police Department Investigation
- 7 p.m. Continuation of Investigation of Building Permit for Marine Drive
(Cement Plant).
- Introduction of New Business

And I hereby request the City Clerk to notify all Council members of the Call of the special meeting.

Executed at Cranston, Rhode Island, this 18th day of August, 2006.

/s/ Aram G. Garabedian, Council President

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CERTIFICATION

I hereby certify that a true copy of the attached Call of a special meeting of the City Council to be held on Wednesday, August 23, 2006 at 6:00 P.M. in the Council Chambers, City Hall, 869 Park Ave., Cranston, R.I. was delivered via electronic mail on the 18th day of August, 2006 and regular mail, postage prepaid to the addresses listed below.

Council President Aram G. Garabedian
173 Belvedere Dr.
Cranston, RI 02920
Aram@blissporoproperties.net

Council Member Maria A. Bucci
21 Red Hawk Dr.
Cranston, RI 02921
MarBC4@aol.com

Council Member Cynthia M. Fogarty
60 Ausdale Rd.
Cranston, RI 02910
Fogarty1@msn.com

Councilman Allan W. Fung
252F Mayfield Ave.
Cranston, RI 02920
alfung@cox.net

Councilman Terence Livingston
28 Tucker Ave.
Cranston, RI 02905
Terry@livingstonlaw.us

Councilman Jeffrey P. Barone
16 Samuel Court
Cranston, RI 02920
Jeffreyb22@cox.net

Councilwoman Paula McFarland
100 Pomham St.
Cranston, RI 02910
pmcfarland@prodigy.net

Councilman Kirk McDonough
67 Dellwood Rd.
Cranston, RI 02920
kirkmcdonough@cox.net

Councilman John E. Lanni, Jr.
111 Woodview Dr.
Cranston, RI 02920
jlanni@peterpanbus.com

/s/ Rosalba Zanni, Assistant City Clerk

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Cranston Police Department Investigation

On motion by Councilman McDonough, seconded by Council Member Fogarty, it was voted to go into Executive Session pursuant to RIGL 42-46-5(a)(2) and (a)(4). Motion passed on a vote of 7-0. The following being recorded as voting "aye": Councilmen McDonough, Fung, Council Member Fogarty, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -7. Councilman Livingston and Council Member Bucci were not present for roll call vote.

The meeting went into Executive Session at 6:07 P.M.

Present in Executive Session: Councilmen McDonough, Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian; Pat Quinlan, City Council Legal Counsel.

The meeting came out of Executive Session at 7:00 P.M.

On motion by Councilman McDonough, seconded by Councilman Barone, it was voted to come out of Executive Session. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen McDonough, Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8. Councilman Livingston was not present for roll call vote.

On motion by Council Member Fogarty, seconded by Councilman Lanni, it was voted to seal the minutes of the Executive Session. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen McDonough, Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8. Councilman Livingston was not present for roll call vote.

Portion of this meeting ended at 7:05 P.M.

*Minutes unsealed by City Council on March 27, 2008.

Continuation of Investigation of Building Permit for Marine Drive (Cement Plant).

Council President Garabedian stated that there are concerns regarding concrete plants and a Resolution was passed by the Council to follow through with an investigation. What the council is doing is looking over the process, which started on March 8, 2006. Council President Garabedian presented a packet of documents. He noted that part of this packet are the following:

- An application filled out by Karleator LLC dated March 8, 2006 and filed with the Building Inspections Department on this date. The application states the address as 2 Marine Dr. and there is no record of 2 Marine Dr. This application refers to a concrete batching facility. What he would like to have answered is who determined that the height of that structure would be 34 feet and 11 7/8 inches.
- A document from the Building Inspector, which states certain things that needed to be met before the permit would be issued. This indicates that that particular permit was for another building to be built. He questioned if anyone checked to see if 2 Marine Dr. even existed and if there were streets.

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- A permit route slip signed by Lynn Furney from the City Planning Department, which was filled out on March 7, 2006. The route slip states that a Site Plan must accompany this route slip. This route slip has to be signed by the Tax Assessor, Planning Department and the Public Works Department. As to the area checked off for Site Plan Review required, according to a phone call of March 8, 2006, it states “no”. In this particular case, there was no Site Plan Review.

Jared Rhodes, City Planner, appeared to speak and was sworn in by Stenographer. Council President Garabedian asked Mr. Rhodes who in his office decides if a Site Plan Review is needed or not. Mr. Rhodes stated there are three people on his staff who are authorized to review and process route slips, himself, Ms. Furney and Jason Pezzullo. Ms. Furney is the one who reviewed and processed this particular route slip. He stated that the original plan showed construction of additional 7,500 sq. ft. of building and applicant was advised that the project would require a Site Plan Review. The applicant, subsequently, came into his office a day later with a revised site plan removing this 7,500 sq. ft. of gross floor area and by removing this, a Site Plan Review was not needed. At the time, Planning and Zoning opinion was that concrete batching machinery did not constitute gross floor area because it does not contain walls and this would not need Site Plan Review. Mr. Rhodes asked that the Council consider the way the Ordinance reads, which does not mention total square footage of gross floor area. The Planning Department’s interpretation at the time was that the concrete batching equipment that was to be installed on the property did not constitute gross floor area and it did not contain, it was not contained by the walls.

Council Vice-President McFarland stated that as of July, 2006, there was a new and revised Site Plan. She asked Mr. Rhodes, when a project or plans are revised, if his office gets to look at the previous site plans. Mr. Rhodes stated only if referred to his office. Council Vice-President McFarland questioned if the City has on file a new and revised plan. Mr. Rhodes stated that if plans do change, circumstances could change and a Site Plan Review could be required. Council Vice-President McFarland asked Mr. Rhodes if he thinks it is a flaw in our City system that we would allow plans to be revised over and over. Mr. Rhodes stated that in this particular case, it is too early to tell because as far as he knows, it has not completed DEM requests. Council Vice-President McFarland quoted State Law regarding 45-days notice period. She indicated that State Law under freshwater wetlands, states that there is a process whereby approval shall not be granted if the Council with the borders of the projects lies disapproves within 45 days provide for objection set forth. She stated that the Council has not been given that ability to even object to this project and as a Council member, she has not been given her 45 days to give her objection to this process. Mr. Rhodes stated that he believes the 45-days notice period relates to DEM’s activities in processing the application and once application has been submitted to DEM, the notice is then sent out. Council Vice-President McFarland stated that she believes that the system is flawed. The permit was issued to another entity, for another project, for another structure. She asked Mr. Rhodes if he thinks our system is flawed, due to the fact that when a permit was issued in March, she notified the Building Inspector that the application was incorrect and there still is a permit sitting out there waiting for an application process from DEM. Mr. Rhodes stated, yes, but in his colleagues defense, this mistake has been recognized and a lesson has been learned and now we have to figure out how to move forward.

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Council Member Fogarty stated that in the past, she has asked the Mayor to revoke the permit because the information presented to our departments by the applicant was fraudulent. At this point, it lies in the Mayor's Office, since he has authority over the Building Inspector's Office.

Councilman McDonough stated that we can appreciate that a mistake was made, but we have to think about the people who live in this area and the people that travel these roads and they should not be made to suffer and we need to seek a remedy for them.

Councilman Lanni stated that the interpretation stated by Mr. Rhodes is incorrect as to the reason why this application did not require Site Plan Review and the fast track is not a good system. He suggested voiding the entire permit and start over. Mr. Rhodes stated that the fast track is not a process used in his office. As to the interpretation of the requirement for Site Plan Review, the Council writes and passes the laws and it is his job to interpret and follow the law.

Council President Garabedian referred to a letter dated June 2, 2006 from the Building Inspector to Attorney Robert Murray, recognizing that there was a problem in the application, but the process continued on a fast track.

Councilman Fung asked if the company in question will appear before the Council to answer questions regarding the application and if DEM will be asked to appear also. Council President Garabedian stated that if the Council wishes, DEM representative can be asked to appear. He spoke to a representative and he is in the process of placing his testimony in writing, but if the Council wishes him to appear in person, he can be requested to appear. Council Vice-President McFarland stated that according to a conversation she had with a member of DEM, at this time, DEM is not even close in approving this application. She also stated that the Council has the opportunity to object within 45 days and as Council members, they should be objecting to DEM findings.

Council President Garabedian referred to Section 17-16 of the Code regarding flood hazard districts. He asked if the Planning Office reviewed a soil erosion plan. Mr. Rhodes stated that his office has no formal role in reviewing soil erosion plan. They do make a determination if one should be provided to the Building Inspector's Department based on site plan his office is provided with.

Council Vice-President McFarland stated that this property is in a flood zone and showed pictures taken June 8, 2006 of flooding and stated that there is a landscaping firm there and employees have to get into the building by tractor. There is also a well there and there is a concern regarding contaminants. Mr. Rhodes stated that there is common knowledge that the property has a flooding problem.

Councilman Lanni questioned if the property owner has a right of way and he does not cross anyone's property. Mr. Rhodes stated that in order to get into the property in question, you do have to cross property of the State of Rhode Island, which is the Pontiac secondary railroad right of way. There is an easement granting applicant ability to cross that railroad track. He has not reviewed it to analyze whether that easement grants the applicant the ability to cross the railroad track, nor is it the role of his department in completing the route slip to do that..

Mr. Rhodes presented a copy of a Glossary of Zoning Development and Planning Terms, which contains definitions of what is commonly accepted as floor area. Councilman Barone questioned Mr. Rhodes if he used this glossary to determine if the revised project needed to go through the Site Plan. Mr. Rhodes stated that he did not use this glossary proactively. He used it to help him explain to the Council what gross floor area would be considered.

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Councilman Barone questioned, because the application was completed improperly and information presented to the Building Inspector was incorrectly and false, he questioned if the Council, as a body, or does the Solicitor have power to pull the permit. Council President Garabedian stated that he would like to hear the applicant before a conclusion is reached.

Lynn Furney of the Planning Department, appeared to speak and was sworn in by stenographer. Council President Garabedian referred to the route slip. Ms. Furney stated that the revised site plan was brought into her office showing a building of 7,500 square feet that was removed from the original plan she approved stating that a Site Plan Review was not needed. She received a phone call from Gary Stepalavich, of the Building Inspector's Office, asking her if the building was removed from the plan, would it still need Site Plan Review. She indicated to him it would not. The revised plan submitted to her office did not show the building. The current building was still on the revised plan and when approving the route slip, it conformed with the Code and it did not need Site Plan Review.

Gary Stepalavich of the Building Inspector's Office, appeared to speak and was sworn in by stenographer. Council President Garabedian referred to Page 1 of the application. He indicated that under "estimated cost of material and labor", there is no amount listed. He questioned Mr. Stepalavich if he ever received an estimated cost. Mr. Stepalavich stated that he obtained a confirmation of the cost of the machinery, electrical and concrete. Council President Garabedian asked if it is normal customary to get the estimated cost of the project. Mr. Stepalavich stated, yes. Council President Garabedian referred to Page 2 of the application and number 4, there is a circle around "DEM". He questioned Mr. Stepalavich what approval he received in this case. Mr. Stepalavich stated that in the next few days, he received approval of DEM wetlands. Council President Garabedian asked Mr. Stepalavich if he handled this application by himself. Mr. Stepalavich stated, yes, this was his assignment. When he received the DEM approval for 2004, he verified that it was the same location and did not go any further and continued with the process. Council President Garabedian asked Mr. Stepalavich if he looked into area, which was in a flood zone. Mr. Stepalavich stated that he had a discussion with the application's engineer regarding this and looking at the equipment that the permit they applied for, his department looked at it and said this does not really constitute a flood hazard. Council President Garabedian asked if any documents were submitted to him from the engineer pertinent to the requirement of 17-16. Mr. Stepalavich stated that he does not recall if he received anything in writing from the engineers. Council President Garabedian asked Mr. Stepalavich if he was aware that this property is in a flood zone. Mr. Stepalavich stated that he knew it was in a flood zone. Council President Garabedian asked Mr. Stepalavich if he was aware of tax records that this property floods. Mr. Stepalavich stated, no.

Councilman McDonough asked Mr. Stepalavich if he would change his mind in the application, knowing what he knows now. Mr. Stepalavich stated that he would have probably have gotten the engineer's letter.

Councilman Barone questioned who determines what State agency approvals are needed on different projects. Mr. Stepalavich stated that this determination, per the State, is made based on the owners. His office does not have knowledge of what approvals are needed. The owner is required to note a wetlands approval or a ISDS approval. His office looks at the information and see if it is on file. Councilman Barone asked Mr. Stepalavich is he would agree that the applicant can omit any type of state approval that he may need and not knowing that he needs them. Mr. Stepalavich stated that it is possible.

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Council Vice-President McFarland asked why this permit did not have a statement from a RI Registered Professional Engineer. Mr. Stepalavich stated that not all projects require project certification forms. Council Vice-President McFarland asked Mr. Stepalavich if he has expertise in cement plants. Mr. Stepalavich stated, no he does not. Council Vice-President McFarland questioned Mr. Stepalavich, when reviewing original site plan and issuing permit, if he asked for a consultant to help in this matter. Mr. Stepalavich stated that he requested an Industrial Performance Commission and referred to page 6 of Council President's packet, item #5, which addresses this. Council Vice-President McFarland asked who decided to overlook that process. Mr. Stepalavich stated that he handed this over to his Director at that point. Council Vice-President McFarland asked Mr. Stepalavich if at this point he feels he issued this permit to the best of his ability and if he feels his superiors overlooked tools in place and if he would issue a permit based on all items presented this evening. Mr. Stepalavich stated that he feels he did a proper job. Council Vice-President McFarland asked Mr. Stepalavich if he feels that his suggestions were overlooked. Mr. Stepalavich stated that his superior handled this matter the way he thought it was proper.

Council President Garabedian asked Mr. Stepalavich if he found out that there were no appointments made to the Industrial Performance Commission. Mr. Stepalavich stated that at a later time, he did find out. He did not make the final decision regarding the Industrial Performance Commission.

Council Vice-President McFarland questioned if applicant would need a permit for the silos. Mr. Stepalavich stated that this would fall under electrical or machinery and not part of the building permit. The Building Code does not require a permit for machinery. That would be considered electrical or mechanical.

Councilman McDonough asked Mr. Stepalavich if this issue seems to be a rush to him and is it uncommon for applications to be filed incomplete. Mr. Stepalavich stated, not at all. This is not uncommon. 99.9% of the applications filed in his office for building permits are incomplete.

Council Vice-President McFarland suggested a Resolution be drafted for the Council meeting asking Administration to revoke the permit that was issued, because there are so many flaws.

Council President Garabedian stated that he invited Attorney Murray to appear before the Council this evening and would like to hear from him. He also stated that there is a Resolution that was already passed stating that if the Council feels that after this investigation is completed, that the application should be revoked, the Council has the ability to move forward.

Council Vice-President McFarland stated that it is a shame that the Mayor of the City has the ability to protect its citizens and he can revoke this permit at any time and he won't. Ms. Schutt stated that the Mayor has conferred with the Solicitor regarding this. We have a responsibility to 80,000 residents. We have a responsibility to the neighbors and we care and respect the process. This is why the City staff is present this evening and have done an eloquent and tremendous job to answer questions about supervisors without the benefit of counsel for themselves. As to the issue of revoking the permit, there is a checks and balance in the City, such as the Zoning Board of Review and when a Mayor or if a Mayor begins to arbitrarily revoke permits or arbitrarily grant permits, we would be opening the door for something we certainly do not want in the City.

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Council President Garabedian asked the Solicitor for Mr. Quinlan's opinion regarding the appropriate action of the City in this particular case. Mr. Quinlan stated that State Law provides that the City may bring an action in Superior Court or the Supreme Court to revoke or to enjoin any violation of the Zoning Code and that would include the violation of issuance of a permit without appropriate fines for compliance with the Ordinance would be one of the reasons why the City would bring an action terminating a violation or enjoin a violation of the Code. In reading Section 5.01, it is his opinion that the City, it does not say the City Council, it says the City Council act for the City as its body of the City. If the Mayor feels that the Ordinance has been violated, he can take steps to enforce the Ordinance, if he refuses to do that, the Council can bring an action in the Superior Court in the name of the City to seek to enjoin or prevent the further continuance of this construction process.

Councilman Lanni stated that this Council will take whatever action is needed to ensure that the residents of our community are protected.

Councilman McDonough stated that he will be referring a Resolution to the City Clerk tomorrow regarding stopping this project. Council Vice-President McFarland asked to be listed as co-sponsor of this Resolution.

Robert Murray, Esq., appeared to represent the applicant of cement plant. Council President Garabedian stated that Attorney Murray will not need to be sworn in and the Council will accept his testimony as attorney for the applicant. Attorney Murray read a prepared statement to the Council. He stated that earlier in the meeting, a Council member stated that application submission was fraudulent. He was involved in the submission of the application to the Building Inspector. In his opinion, there was no fraud involved. Council Member Fogarty stated that she might have used the word fraudulent, but she corrected it with the Journal reporter and used the word "incorrect" and apologized to Mr. Murray for misspeaking.

Councilman Fung asked Attorney Murray to refer to his letter dated March 13, 2006, page 2, regarding the Industrial Performance Commission. Attorney Murray stated that he was familiar with the provision of this Commission in the Code. He inquired whether it was an active Commission or not. He stated that in his letter to the Building Inspector, he states that the purpose of this Commission was to provide technical and scientific advice to the Inspector of Buildings. He offered to have his client sign an affidavit that is referenced in the Ordinance, which was done and he assumes that satisfied the Building Inspector's Department and nothing else was asked and he provided the affidavit. He went to the various City Departments with the route slip and his recollection is that Ms. Furney reviewed the wetlands site plan and not this particular site plan (referring to the plan approved by Ms. Furney) and between the City Planning Department and the Inspector's Office, they made a determination that Site Plan Review was not needed.

Attorney Murray stated some misinformation regarding this project:

- Scope of this project have been grossly exaggerated. This is a satellite facility. There are other industrial uses on this property. There was an anonymous submission made to DEM sometime in May.
- The plans submitted to the Building Inspector on March 8, 2006 and approved March 23, 2006 are the same as the plans that have been submitted to DEM.
- There have been no silos added to the plans.
- This will be a dry batch facility. There are no spewing of particles in the air. Material is all self-contained in the facility.
- Issue of flooding – his client has been in this area for ten years. Electrical plugs are above flood level. The statement made in the Assessor's records regarding the flood zone was placed in the records thirteen years before his client owned the property.

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Councilman Fung addressed the issue of the self-containment and stated that there is still a concern from the land and the water. Attorney Murray stated that there is no disturbance of freshwater or alteration of wetlands buffer.

Councilman Lanni stated that he is concerned about the right of way. Attorney Murray stated that his client does not cross over the property of the Northeast Tree Service property. His client owns Assessors Plat 54 Lots 24, 25, which is on the building permit, which is approximately nine acres. He also owns Lot 25, 16, which is approximately four acres and last year his client purchased adjoining lot 24, 26, which was formally owned by the Pocasset Brothers. It is not owned by Karleator LLC. It is owned by another entity. There is a reference to a right of way and an easement across the State railroad track that initially was given to Forest Hills Nurseries many years before. His client has permission to cross over the State property in deed and that is how they get access to the site. Councilman Lanni asked Attorney Murray his opinion regarding the Code in regards to access to a public street. Attorney Murray stated that he does not believe Marine Dr. is totally a paper street. He believes that a permit can be issued. His recollection is when he submitted the paperwork for a building permit, he said Marine Dr. with the Plat and Lot and sometime after that, he believes he was told by the Building Inspector that it was 2 Marine Dr. and he then inserted 2 Marin Dr.

Council President Garabedian asked Attorney Murray what his opinion is on how a conclusion is reached based on our Ordinances. He believes that the criteria for jurisdiction for the site plan review is not very user friendly and the Council should look at that with the guidance of the City Planner to clarify the jurisdiction. Attorney Murray stated that the building permit issued was for a concrete batch plant production and he does not believe that requires Site Plan Review on the basis of the area. He stated that his client has a wetlands permit. His client has never been cited by DEM.

Council Vice-President McFarland addressed the building permit application and stated that under "h", dimension show 34'11". She asked who filled this information in. Attorney Murray stated that Geisser Engineering prepared that. Council Vice-President McFarland stated that she received information from an engineering firm and it shows these dimensions are off by 3 to 4 feet. She questioned, if it is found that his client is not in compliance with the Code, would a variance be requested in the future. Attorney Murray stated that based on what he knows, his client will be in compliance with the height requirement. Council Vice-President McFarland asked Attorney Murray if he would be willing to provide the Council with the product number that Geisser Engineering utilized their drawings on or behalf of. Attorney Murray stated that he will check with his client.

Councilman Barone referred to an appeal letter dated August 23, 2006 from the Building Inspector to Attorney Murray stating an appeal has been issued with the Zoning Board of Review and appeal shall stay all proceedings and cease all work being done immediately. He asked if this means work was being done previous to today. Attorney Murray stated that from June 2, 2006 until today, his client voluntarily agreed to do no further erection of any equipment. He might have done some minor painting of some of the equipment on the ground. Attorney Murray stated that after speaking with the Building Inspector and based on the stay, the Building Inspector asked that no further work be done including painting of the rusted equipment. His client will abide by that until he gets relief from some court or other means. He did clarify with the Building Inspector that there are other operating businesses on this property which should not be affected.

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Councilman Barone addressed the issue of owner of project providing or knowing what approvals are needed. Attorney Murray stated that to a certain extent, the owner is responsible for providing different State approvals. Councilman Barone questioned who would be responsible to notify neighbors, if needed. Attorney Murray stated that most notifications in Cranston come from the City. Applicant would provide radius maps with list of abutters based on the Tax Assessor's records, and the City would notify the abutters. In this case, there was no notice requirement based on the scope of the project.

Kevin Morin of DiPrete Engineering, appeared to speak and was sworn in by stenographer. He addressed the March 20, 2006 letter from him to Mr. Stepalavich regarding a question raised during the planning review process by Mr. Stepalavich. This letter addresses the permit which was based on the plan prepared by Carrigan Engineering for a 7,500 sq. ft. building. He looked at that permit and looked at the proposal based on the Geisser plans that were part of the building permit application. It is his professional opinion based on the permit issue, the limit of work, the pavement was less expensive than normally.

Council President Garabedian asked Kerry Anderson, Building Inspector, to appear. Councilman McDonough stated that the Council has been hearing testimony for five hours and it is time to adjourn.

Councilman Barone motioned to adjourn and Councilman McDonough seconded the motion.

Under Discussion:

Council Member Fogarty stated that Mr. Anderson was present at the August 3, 2006 Special City Council meeting and questioned if we are going to repeat what was discussed then and questioned what the Council is going to hear that it did not hear on August 3, 2006. Council President Garabedian stated that the meeting will end within ten minutes, but Mr. Anderson should be heard.

Motion and second were withdrawn.

Kerry Anderson, Building Inspector, appeared to speak and was sworn in by stenographer. He stated that he is very disappointed in the way he and his staff have been treated. He has a staff of highly skilled people and by-product of this investigation, has destroyed their credibility. During the last two budget sessions, he has asked the Council and Administration for budget items to help improve his department and has received none. As to this case, zoning delineations are very poor. They are archaic and need to be changed.

“Introduction of New Business”

None.

The meeting adjourned at 11:30 P.M.

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Tracy Shepard, Stenotypist)

***SPECIAL CITY COUNCIL – EXECUTIVE SESSION MINUTES**
AUGUST 23, 2006

Present: Council President Aram Garabedian, Council Vice-President Paula McFarland, Council Members Kirk McDonough, John Lanni, Jeffrey P. Barone, Cynthia Fogarty, Allan Fung, Maria Bucci.

Also Present: Paul Grimes, Director of Administration; Michael Glucksman, City Solicitor; Patrick Quinlan, City Council Legal Counsel; Maria Wall, City Clerk; Rosalba Zanni, Assistant City Clerk/Clerk of Committees.

Council President asked that initially, he would like to have just the Council members and legal counsel present and, if needed, Mr. Grimes will be asked to be present.

Solicitor presented a memo of summary from him to the Council regarding a report by Jennifer Sternick of a summary in regards to a sexual harassment case. He stated that this report is regarding the first investigation that Attorney Sternick conducted. The complaint was filed with the RI Human Rights Commission and it is currently pending. The City is representing all parties in this case unless there was criminal behavior.

Council Vice-President McFarland asked if Beacon ever handled this IOD claim. Solicitor stated that he does not know, but he would think that at some point, they did. Council Vice-President McFarland asked who made the decision to return the employee's sick days in 2005. Solicitor stated that most likely, Attorney Vincent Ragosta recommended this. He will check into this because he thinks it was in 2004 and not 2005. This employee is looking to get disability pension.

Councilman Fung stated that he worked with Attorney Sternick in the Attorney General's Office and he had no input, no decision making role in hiring her for this case.

Council Vice-President McFarland stated that the issue of sexual harassment case has been resolved according to this report and the Human Rights Commission has no information at this time.

Solicitor stated that after Attorney Sternick's report came out, he met with the claimant and her attorney and the Personnel Director, at which time the claimant's attorney requested a full disability pension and based on sexual harassment in the workplace or that they would file a complaint with the Human Rights Commission. Named in the complaint is Mr. Grimes, the Police Department and the defendant.

Solicitor stated that in January, 2005, a year later, the claimant slipped and fell and hurt her shoulder at work. She was ready to come back to work after she as healed and stated she could not come back because of the environment she would be coming back to. She was offered another place in the Police Department, but she refused.

Solicitor stated that process of the Human Rights Commission is they give a right to sue letter, and within six months of that letter, the claimant could file lawsuit.

Councilman Barone asked if a doctor's findings could be used in her favor. Solicitor stated that she would have to present documents to a court of law of the stress she is having and the injuries she sustained.

Council President asked if there were any questions from Mr. Grimes on this issue.

Solicitor presented the second Sternick report of the second investigation she conducted for the City.

Council Member Fogarty asked how many hours these two reports took. Solicitor stated the following: \$13,000 for the second report at \$100 per hour. This report was an in-depth report and it was very thorough. The Chief implemented the four items that Attorney Sternick had advised. Solicitor stated that he met with the claimant, her attorney and Attorney Vincent Ragosta to work out a settlement and offered that if she came back to work, we would grant IOD status and address some of her concerns by forming an oversight committee of herself, her attorney and Attorney Vincent Ragosta. To his knowledge, this is still a pending arbitration matter.

Councilman Fung asked where we are with this matter and why is it an arbitration matter. Solicitor stated that because she filed a grievance after offer was made.

Councilman McDonough asked when the Council will be able to review the Sternick report. Solicitor stated that he would like to have legal counsel for the Council review it first.

Council Vice-President McFarland stated that she feels that these are very serious allegations.

Solicitor indicated that the people being complained about are contesting these claims and there are two sides to the story.

Councilman Fung questioned what could be the result of the grievance process. Solicitor stated that this is the confusion because we granted the IOD. Worst case scenario would be she would be granted her IOD.