

SPECIAL MEETING – CITY COUNCIL

-AUGUST 3, 2006-

Special meeting of the City Council was held on Thursday, August 3, 2006 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:05 P.M. by the Council President.

Roll Call showed the following members present: Councilman Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –7.

Absent: Councilmen Pisaturo and Livingston -2.

Also Present: Paul Grimes, Director of Administration; Robin Muksian-Schutt, Deputy Director of Administration; Michael Glucksman, City Solicitor; Vito Sciolto, Assistant City Solicitor.

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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 Thursday, August 3, 2006 at 7:00 P.M., in the Council Chambers, City Hall, 869 Park Ave., Cranston, RI 02910 at which meeting the following items of business shall be transacted:

- Public Hearing and consideration of Ord. 6-06-11 Transferring Appropriations and Amending the Budget for the Fiscal Year Commencing July 1, 2005 and ending June 30, 2006 (4th Quarter Transfers) As Amended in Committee.
- 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 1st 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 Thursday, August 3, 2006 at 7:00 P.M. in the Council Chambers, City Hall, 869 Park Ave., Cranston, R.I. was delivered via electronic mail on the 1st 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@blissporoperties.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 Michael S. Pisaturo
17 Warren Ct..
Cranston, RI 02920
michaelpisaturo@cox.net

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

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

/s/ Rosalba Zanni, Assistant City Clerk

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**6-06-11 “ORDINANCE TRANSFERRING APPROPRIATIONS AND
AMENDING THE BUDGET FOR THE FISCAL YEAR
COMMENCING JULY 1, 2005 AND ENDING JUNE 30, 2006 (4th
Quarter Transfers) As Amended in Committee”**

On motion by Councilman Barone, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 7-0. The following being recorded as voting “aye”:
Councilman Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni,
Barone, Council Vice-President McFarland and Council President Garabedian -7

Council President Garabedian stated that this meeting is not a public hearing for public to speak other than just individuals from various City departments who were requested to appear before the Council. Councilman Barone asked to suspend the Rules and take up new business first. No one objected.

“Introduction of New Business”

**8S-06-1 Ordinance amending Chapter 24 of the Code of the City of Cranston,
2005, entitled “Police Department” (Police Pension Fund)**

On motion by Council Vice-President McFarland, seconded by Councilman Fung, it was voted to refer the above Ordinance to the August 17, 2006 Ordinance Committee. Motion passed on a vote of 7-0. The following being recorded as voting “aye”:
Councilman Fung, Council Member Fogarty, Council Member Bucci, Councilmen Lanni,
Barone, Council Vice-President McFarland and Council President Garabedian -7

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

Council President Garabedian asked Kerry Anderson, Building Inspector, to approach the Council and give his testimony regarding this issue.

Mr. Anderson appeared to speak and presented a folder of documents in regards to the permit process for this applicant. He stated that the permit documents were brought to his office on March 8, 2006 by Kartleator, LLC at 2 Marine Dr. and application was logged in. At that time, their Attorney, Robert Murray, requested expedition of the process, which this service is available to all applicants that come into the department. There were two applications filed. One for a 7,500 square foot metal building and one for the batching facility. The applicant had DEM permit for the metal building, but had not established a DEM permit for the batching facility. Plan Review staff looked at both applications. Five issues were brought up to the applicant, which were taken care of to the department's satisfaction. On March 23, 2006, a building permit was issued for the concrete plant. Council Member Fogarty asked who the Plan Review staff consists of. Mr. Anderson stated that this staff consists of Gary Stepalavich and Richard Case from his office. He stated that a route slip, completed application, inspection requirement form and construction documents are some of the documents his office looks at to make sure that there are no zoning issues in regards to set backs and make sure that the project is in compliance with the State Building Code. The set back issues includes looking at surrounding homes compared to where the project will go. Mr. Stepalavich did the review and submitted it to him and was agreed on.

Councilman Fung asked Mr. Anderson why he did not wait for DEM approval for the batching facility. Mr. Anderson stated that at the time, his office took the route of examining all site plans. On an expedited permit application, a decision reasonably would be done within fifteen days. The permit was issued based on approval of the building from DEM. He is confident that DEM will approve the modification.

Councilman Barone asked if it is normal procedure for the Building Inspector's Office to issue a permit still not having approval from every department that is involved. Mr. Anderson stated that he would not say it is normal, but it does happen occasionally. Councilman Barone asked if a lot of applicants use the fast track system that his office has. Mr. Anderson stated, yes, a lot do, mostly for commercial permits.

Councilman Lanni asked Mr. Anderson if he feels a traffic study should have been done to see if highway and bridges could handle large trucks in that area. Mr. Anderson stated that traffic is not his call. This is not his area. He would defer to the Public Works Director or City Planner on this issue.

Council President Garabedian addressed a letter dated March 20, 2006 from Kevin Morin of DiPrete Engineering to Gary Stepalavich and a letter from the Building Inspector dated June 2, 2006 to Attorney Murray. He stated that these two letters show that there is an error by the Building Inspector. Mr. Anderson stated that he still maintains that the permit is valid based on Plan Review and there is substantial documentation. He does agree that DEM approval is required before this project obtains a Certificate of Occupancy.

Council Member Fogarty asked when applicants pay for application to be expedited. Mr. Anderson stated that expedited fees would normally be paid at the end of the process.

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Council Member Fogarty stated that residents have voiced concerns of where the inventory would be stored. She asked Mr. Anderson if applicant has stated to him where the inventory will be stored. Mr. Anderson stated that the inventory would be stored in closed bins and stored in these bins via a vacuum system and nothing goes into the air.

Council Vice-President McFarland stated that in the documents presented by Mr. Anderson, she does not see any correspondence of conversations that she and he have had regarding this issue. She asked Mr. Anderson if there are any alterations of modifications as of today. Mr. Anderson stated, no. She stated that two processes were overlooked, one being the Industrial Performance Commission. She asked if there have been any other approved industrial projects during Mayor Laffey's tenure. Mr. Anderson stated the Taco buildings. Council Vice-President McFarland stated that this went through the Site Plan Review. She stated that two months later, we still do not have alteration modification permit and a permit has been issued without going through the Industrial Performance Commission. She asked Mr. Anderson if he reviewed the designs himself of the batching facility. Mr. Anderson stated, no. Council Vice-President McFarland asked Mr. Anderson if he has past experience in regards to concrete plants. Mr. Anderson stated, no. Council Vice-President McFarland stated that she did research of other states in regards to this type of facility and found that some states have actual professionals who work for their city or town who have experience in cement or concrete plants. She stated that a consultant could have been hired to oversee this project to make sure that this neighborhood would be getting a project that was good for the community and safe.

Council President Garabedian quoted Section 17.36.010 of the Code regarding Industrial Uses. He asked Mr. Anderson what steps he took to make sure that the standards of this section were met to a point that they were accurate. Mr. Anderson addressed Section C-3, whereby the applicant would comply with all the standards in this section. Council President Garabedian stated that C-3 is an Affidavit from the applicant. That is a total and different matter. He also stated that there are standards in the Code, which Mr. Anderson did not comply with.

Mr. Anderson left the meeting at 8:10 P.M.

Marco Schiappa, Director of Public Works, appeared to speak and was sworn in by Stenographer. Council President Garabedian asked if his office ever issued an address of 2 Marine Dr. to this applicant. Mr. Schiappa stated that there was no address given to this applicant for this application. The applicant came into his office with 2 Marine Dr. on the application. Council President Garabedian stated that since there is no official address and there is an Ordinance which requires an address is needed for a permit, he feels that the issuance of that building permit to this applicant should be null and void.

Councilman Fung questioned if taxes are being paid on that lot and what the address on the tax bill is. Council President Garabedian stated that the City's tax records show mailing address is not 2 Marine Dr. Mr. Schiappa stated that the records his office has for sewer bill is identified as -0-. Council President Garabedian stated that the applicant pays \$5,400 in taxes for a little over nine acres, with the assumption that this is in a flood zone.

Councilman Fung asked Solicitor what legal significance of what Council President Garabedian has presented, could be on the application.

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Council Vice-President McFarland suggested that she would like to move forward and hire an outside consultant to review all the documentation and our Ordinances to see if this process was followed correctly.

Councilman Lanni stated that there is no street address, the bridges cannot handle cement trucks. He questioned how this got this far. The permit should never have been issued. He asked Mr. Schiappa if he has ever heard of any projects being approved in this City with no street address. Mr. Schiappa stated that the paperwork that came into his office did have an address. Councilman Lanni asked why this application was not checked. Mr. Schiappa stated that there was an operational facility at this location already. The application that was filed was for an outdoor machinery facility and this is why the address was not questioned.

Council Vice-President McFarland addressed the letter dated March 17, 2006 from Paul Bannon of RAB Professional Engineering, Inc. to the Building Inspector. She stated that she is very concerned that the Public Works Director had no input in PAPA regulations.

Council President Garabedian stated that the process for public knowledge is filing of appeal to the Zoning Board of Review and there is a process and notification to abutters and advertisement.

Kevin C. Morin of DiPrete Engineering, appeared to speak and was sworn in by Stenographer. Council President Garabedian addressed a letter dated March 20, 2006 from Mr. Morin to Gary Stepalavich. Mr. Morin stated that this letter refers to the 2004 permit.

Jared Rhodes, City Planner, appeared to speak and was sworn in by Stenographer. Council President Garabedian asked Mr. Rhodes to address the process of what role the Planning Commission or he had in this application. Mr. Rhodes stated that this application did not qualify for review of the Planning Commission. It was proceeded through the building permit process. It was done through a route slip. The first time the application came to his office, the site plan that his office was shown depicted a metal building of 7,500 square feet and applicant was told that this would require Site Plan Review approval. Lynne Furney, of his office, signed the route slip. Subsequent to that, the applicant came back to his office with a revised site plan and stated that this project would not include the 7,500 square foot metal building and because of this, it did not require Site Plan Review approval and proceeded with route slip process. Council President Garabedian asked Mr. Rhodes if his department gets involved with the exact location and size of building. Mr. Rhodes stated, no, this comes under the Building Inspector's Department.

Council Vice-President McFarland asked Mr. Rhodes, when looking at this project, did he take into consideration the existing buildings or structures already in place. Mr. Rhodes stated, no. Council Vice-President McFarland asked if the Planning Commission gets involved in determining the roadway. Mr. Rhodes stated, not in this case, where it involves an existing structure that does not require Planning Commission review. His office does look at flood zones and Ms. Furney, from his office, did determine that this property is not in a flood zone.

Councilman Lanni asked if Marine Dr. is City property. Mr. Rhodes stated that Marine Dr. does not touch applicant's property. Marine Dr. is City property. Marine Dr. physically does not abut or touch applicant's property or did it ever.

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Frank Smith, City Assessor, appeared to speak and was sworn in by Stenographer. He stated that this property is Assessor's Plat 5, Section 4, Lot 2425. According to the Tax Assessor's Office, taxes on this lot is \$5,491.55. There is notation in the Tax Assessor's Office of 5' of water on property when it rains. This notation was placed during the 1983 revaluation. An employee of this business, at that time, gave this information during the revaluation.

Councilman Fung asked Mr. Smith if there are any other further notations subsequent to that. Mr. Smith stated, no. There is subsequent to that, notes such as most recent, building referred maintenance, dirt and gravel road to property and a notation of a building being razed at one time. There is also a sewer easement going across the property.

Council Member Fogarty added to the record a photo album of approximately 18 pictures provided by a landowner who lives 150' away from the property in question. She stated that Attorney Murray stated at the Council meeting in July that the applicant was in agreement of stopping any construction. These pictures show otherwise.

Councilman Barone questioned if copies of the material Council President Garabedian addressed and referred to be given to the rest of the Council members. Council President Garabedian stated that anything that has been discussed this evening will be placed in a package to be distributed to all Council members.

Councilman Lanni questioned if the Council could place a cease and desist order on the applicant. Council Vice-President McFarland asked for Solicitor's opinion. Mr. Sciolto stated that State Law addressing cease and desist orders, states upon filing of an appeal.

Councilman Barone asked if DEM and DOT will be asked to appear before the Council. Council President Garabedian stated that the Council can ask anyone and any other State official that had anything to do with this issue.

The meeting adjourned at 9:40 P.M.

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Heather Finger, Stenotypist)