

REGULAR MEETING – CITY COUNCIL

-DECEMBER 20, 2004-

Regular meeting of the City Council of the City of Cranston was held on Monday, December 20, 2004.

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

Roll Call showed the following members present: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

Also Present: Mayor Stephen Laffey; Paul Grimes, Director of Administration; Robin Muksian-Schutt, Deputy Director of Administration; Evan Kirshenbaum, Assistant City Solicitor; Nancy Garcia-Ponte, Assistant City Solicitor; Jerome Baron, Director of Finance; Mike Igoe, City Controller; Pat Quinlan, City Council Legal Counsel; Steve Woerner, City Council Internal Auditor.

Minutes of the last meeting were dispensed with and stand approved as recorded.

I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS

“PROCLAMATION RECOGNIZING CATHERINE CIARLO AS SUPERINTENDENT OF THE YEAR.”

On motion by Councilwoman McFarland, seconded by Councilman Lanni, it was voted to approve this proclamation. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

Councilwoman McFarland recognized outgoing Council members and presented them with plaques for their service on the Council. Mayor Laffey also presented plaques to the outgoing Council members.

Mr. Grimes stated that arbitration hearing was scheduled for today regarding the resolution of IOD matter. The hearing never went into arbitration because the City and the Union both arrived at an agreement. That issue has been taken care of and he stated that he can make copies of this agreement available to the Clerk’s Office. Council President Pastore asked Paul Valetta, President of Local 1363 Firefighters Union, if he agrees with the statement made by Mr. Grimes. Mr. Valetta stated, yes.

II. INTRODUCTION OF UNDOCKETED RESOLUTIONS

No Business.

III. EXECUTIVE COMMUNICATIONS

**“REQUEST TO BE PLACED ON PENSION DETECTIVE MICHAEL FALLS,
CRANSTON POLICE DEPARTMENT”**

Mr. Grimes appeared to speak.

On motion by Councilwoman McFarland, seconded by Councilman Ferolito, it was voted to approve this request. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

IV. COUNCIL PRESIDENT COMMUNICATIONS

Council President Pastore stated that it has been brought to his attention that the Solicitor will not sign as to form and legality the Ordinances passed last month by the Council (Ordinance regarding Tax Relief for Seniors; and several on tonight’s docket, Ordinances 11-04-9, 11-04-10, 11-04-11, as well as the two Ordinances regarding Johnson & Wales). He stated that these Ordinances will require the next Council session to deliberate on them. He also stated that it would be prudent to have these Ordinances re-introduced at the end of this meeting and the next Council can do as they see fit.

Councilwoman McFarland asked that for the Ordinance Committee meeting, the Solicitor prepare suggestions to Ordinance 11-04-9 in regards to the legality, so it can be discussed at the Ordinance Committee meeting. She also asked that in regards to Ordinances 11-04-10 and 11-04-11, the Personnel Director prepares rules and regulations and the Solicitor give written opinion on these two Ordinances.

Councilman McDonough asked why the Tax Deferral Ordinance was not signed by the Solicitor. Ms. Wall stated that it was the Solicitor’s opinion that enabling legislation was required before this Ordinance was passed. Councilman McDonough stated that at the Ordinance Committee meeting, Mr. Kirshenbaum stated that since it was not a levy issue, this Ordinance would not need enabling legislation. Councilman McDonough asked Mr. Kirshenbaum to elaborate on this. Mr. Kirshenbaum stated that he assumes the Solicitor researched the issue and found that she does not feel this Ordinance can be passed without enabling legislation. He also stated that he is not prepared to state if he agrees or disagrees with that and he would like to research this. Councilman Lanni asked if Mr. Quinlan has any opinion regarding this issue. Mr. Quinlan stated that he was not aware of this opinion, but he can research this. Councilman Lanni asked Mr. Quinlan if the Solicitor does not sign this Ordinance, is this considered a moot issue. Mr. Quinlan stated that he believes it is valid if it is passed this way. Council President Pastore suggested that if any Council member would like to re-introduce this Ordinance and place in the Ordinance wording stating “subject to General Assembly or other regulatory approval, if necessary”, that would be fine. Ms. Wall stated that this is being introduced at the end of this meeting. Councilman McDonough asked that Mr. Quinlan provide the Council with a written opinion and also forward it to the Administration and also implement this bill that was passed on a vote of 9-0.

Council President Pastore recommended tabling the two Ordinances regarding Johnson & Wales since the Council has not received a legal opinion from the Solicitor and they be re-introduced for the next Council. He also spoke regarding Resolution regarding Investment Policy and suggested to the next Council that the Investment Policy must be approved by the City Council every year and any changes to the policy must be approved by the Council, even though the Investment Commission is the one who prepares the policy. He suggested that an Ordinance be introduced and passed by the Council requiring the Council’s approval for any investment policy decisions. He also recommended that the Resolution on the Docket be tabled and an Ordinance be introduced addressing this issue.

Council President Pastore spoke regarding the Krispy Kreme Lease and stated that some revisions have been made.

IV. COUNCIL PRESIDENT COMMUNICATIONS (Cont.)

“2004 AUDIT PRESENTATION BY PRESCOTT, CHATELLIER, FONTAINE & WILKINSON”

James Prescott appeared to speak and presented the final draft of the Audit. Also present was Debbie Mitchell, Manager in the Audit for the City of Cranston.

Mr. Prescott spoke regarding this draft and explained the changes from the previous draft. He also gave highlights of the financial statements and opinion. He stated that there is approximately \$1 million in the Insurance Risk Fund and approximately \$15 million cumulative, of a total cumulative surplus of approximately \$16 million. Council President Pastore spoke regarding the Sewer Enterprise Fund and asked Mr. Prescott if he is aware that in the 2002-03, the City borrowed money for the Clean Water Fund. Mr. Prescott stated, yes, approximately \$2 million. Council President Pastore asked if this was told to the Council at the time. Mr. Baron stated that this was discussed approximately two years ago with Bond Counsel and the City followed instructions given by Bond Counsel. Council President Pastore stated that the Council should also have been made aware of this, since the Council adopts the Budget.

Mr. Prescott spoke regarding the Pension Trust Fund and stated that approximately \$23 million did get into this fund. The City contributed 109% this year. Council President Pastore addressed Mr. Prescott and stated that he had asked that the Audit be sent to the Auditor General. He asked if there are issues with the Auditor General with the changes. Mr. Prescott stated that there have been no comments received from the Auditor General. Mr. Woerner stated that he spoke to the Auditor General's Office on Tuesday and they did not have any comments on the draft. Councilwoman O'Hara, Chair of Audit Committee, stated that the Audit Committee met last week and reviewed the draft Audit and forwarded this Audit report to the Council to accept it.

On motion by Councilman Ferolito, seconded by Councilman McDonough, it was voted to accept this draft of the Audit. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O'Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -9.

V. COUNCIL MEMBER COMMUNICATIONS

Councilwoman McFarland spoke regarding the Ordinances that the Solicitor will not sign and asked if there are any plans to have any type of legal opinion from outside Counsel in regards to the Solicitor arbitrarily deciding not to sign these Ordinances. Council President Pastore stated that he had suggested this before.

Councilwoman McFarland stated that she has received numerous complaints regarding the fees the City is charging for white goods being picked up. She stated that this program has been disastrous and she suggested to the new Council coming in and the Administration to appropriate money to that program. This City looks terrible with white goods all over our City.

Councilman McDonough stated that there is a problem with deer in the Garden City area. He asked if the Colonel knew anything about this. Colonel Chalek stated that he is aware of one instance where deer created a lot of damage and it was taken care of. He is not aware that DEM is doing anything specific. He will contact DEM tomorrow to see what advise they may have to help the people with this problem.

V. COUNCIL MEMBER COMMUNICATIONS (Cont.)

Council Member Fogarty suggested that maybe we should obtain declaratory judgment from Superior Court regarding the Ordinances in question that the Solicitor will not sign. She stated that the Council needs an answer on this issue soon and not wait until January. Mr. Kirshenbaum stated that in the Solicitor's memo, she cites some Statutes. He asked the Council pass these Ordinances tonight and wait three to four days for the declaratory judgment so he and Mr. Quinlan can review these Statutes and if there is a problem, he will let the Council know. Councilman Lanni agreed in obtaining a declaratory judgment. Council President Pastore stated that Mr. Kirshenbaum has informed him that given the status of the Judiciary Council, an answer will not be made available by the end of the year. Councilman Lanni stated that the Council seeks the Solicitor's advise prior to Ordinances being passed and by vetoing it, there is something wrong.

Council President recognized Maria Wall, City Clerk and Rosalba Zanni, Assistant City Clerk, for all their support and assistance, they have been great.

In response to questions on the Johnson & Wales Ordinances, his involvement at the request of the Council President was that looking into the tax structure with particular preferred funding of project. Johnson & Wales sought to establish a parachute for the City, which is the focus of the agreement presented tonight. Changes in the document were just made at 6:50 in Mr. Flynn's office.

Mr. Flynn asked that he be allowed to clarify three Ordinances regarding Johnson and Wales. The first two, he hopes the Council will consider tabling them. The first Ordinance is very lengthy and very expensive to advertise. The second Ordinance creates a Zone. As far as he knows, there are no issues on this. The third Ordinance, if the Council wishes to table this Ordinance and re-introduce it for January, that would be fine, but the other two Ordinances are very lengthy and expensive to advertise. Councilwoman McFarland asked if these Ordinances could be referred to a date certain. Council President Pastore suggested that if Mr. Kirshenbaum has no objection to it, they be referred to the Ordinance Committee if the Ordinance Committee is willing to accept them, this would eliminate incurring the costs Mr. Flynn spoke about.

VI. PUBLIC HEARINGS

Aram Garabedian, 173 Belvedere Dr., appeared to speak regarding spending money in the Police Department as far as new positions, which he addressed in Committee.

Andrew Teitz, Esq., appeared to represent Johnson & Wales and spoke regarding Ordinances 9-04-5, 9-04-6 and 9-04-7. He stated that Ordinances 9-04-5 and 9-04-6 were discussed by the Planning Commission and do not effect what Johnson & Wales can do without Ordinance 9-04-7, but at least we will have the framework for it. He asked that Ordinances 9-04-5 and 9-04-6 be passed. He stated that he believes the Council can act on Ordinance 9-04-7. He presented a memorandum of understanding. He stated that his client believes that if the project is tabled, they pay taxes, and if it is not taxable, the City gets pilot fund. He stated that if this is delayed, the project may be delayed a year or two or it may not get developed at all and the City would lose revenues. Council President Pastore stated that he does not want this Council to make a decision at its last meeting and get criticized for rushing something through and the Administration needs to agree with the Council. It is either a joint venture or it does not get approved.

VI. PUBLIC HEARINGS (Cont.)

Mr. Kirshenbaum stated that he was asked for legal opinion on the taxable issue. He, Mr. Flynn and Mr. DelBonis discussed this and researched this in finding out whether a recommendation could be made to this Council. He does not have an opinion on this because Johnson & Wales instead of going out for an opinion on the issue of whether they are taxable or not, they sought to set up a parachute net for the City. Two things he pointed out in the Memorandum of Understanding are: 1) if pilot is eliminated, then these payments will continue; 2) if we get pilot money, they have to make up the difference that they promised the City that is contained in the Memorandum of Understanding. Councilman McDonough asked if we would need General Assembly approval for this type of transaction. Mr. Kirshenbaum stated that he would have to research this. We have authority from the General Assembly for a ten year tax freeze. Councilwoman McFarland stated her concern: the new Council will have to deal with this. We have not seen the tax structure, we do not know who the entities are. Due to these issues, she does not feel comfortable passing these Ordinances tonight. Councilwoman O'Hara stated that she does not think it is fair to say that this is being rushed. These Ordinances were reviewed at the Ordinance Committee and Planning Commission and amendments were made in Ordinance and then came back to the Ordinance Committee. An informal neighborhood meeting was also held and no one is present here tonight. She stated that she understands there are some questions regarding the third Ordinance (Zoning Change Ordinance), but the first two (Comp. Plan and EI Zone Ordinances), she does not see tabling them.

Steven Antonucci, President of IBPO Local 301, appeared to reiterate the statements made earlier for the new lieutenant position and other officers positions in the Police Department. He stated that the lieutenant position would help in forming rules and regulations and bring the City up to speed with other departments throughout the country.

Wayne Kazarian of Johnson & Wales, appeared to speak and suggested to the Council that rather than tabling the entire project, which is time sensitive, Johnson & Wales provided a safe parachute for the City. This is not a tax treaty, it is a voluntary position taken by Johnson & Wales. If this project is found to be taxed, it will be taxed in full under the law and Johnson & Wales has provided an agreement to voluntarily make payments if this is found to be a non-taxable project.

Council President Pastore asked Mr. Grimes what the Administration's position is on these Ordinances and did the Mayor support the Ordinances. Mr. Grimes stated that the Administration, which includes the Mayor, urges passage and supports these Ordinances.

Council President Pastore asked Mr. Kazarian if Johnson & Wales has obtained an IRS financial letter of whether this project is taxable or non-taxable. Mr. Kazarian stated that they do not have a letter specifically to this project. Council President Pastore questioned whether this project is taxable or non-taxable, if this will impair the financial aspects. Mr. Kirshenbaum stated, no. Council President Pastore asked if any of the Council Members-Elect present in the audience had any objections to passing these Ordinances. No one objected.

VII. UNDOCKETED RESOLUTIONS

No Business.

VIII. DOCKETED RESOLUTIONS

“RESOLUTION ADOPTING AN INVESTMENT POLICY FOR THE FIRE AND POLICE PENSION FUNDS”

On motion by Councilman McDonough, seconded by Councilwoman McFarland, the above Resolution was tabled on a vote of 8-1. The following being recorded as voting “aye”: Councilman Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -8. The following being recorded as voting “nay”: Councilman Fung - 1.

**IX. REPORT OF COMMITTEES
COMMITTEE ON ORDINANCE**

9-04-5 “ORDINANCE AMENDING THE COMPREHENSIVE PLAN OF 1992 (Johnson & Wales)”

On motion by Councilman McDonough, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

9-04-6 “ORDINANCE AMENDING THE ZONING ORDINANCE ESTABLISHING AN EDUCATIONAL INSTITUTION ZONING DISTRICT (EI ZONE)”

On motion by Councilman Fung, seconded by Council Member Fogarty, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

9-04-7 “ORDINANCE IN AMENDMENT OF CHAPTER 30 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘ZONING’ (Change of Zone-Johnson & Wales)”

On motion by Councilman Lanni, seconded by Council Member Fogarty, the above Ordinance was referred to the January Finance and Ordinance Committees. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-1 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘ADMINISTRATION’ (Oath of Office)”

On motion by Councilwoman McFarland, seconded by Councilman Ferolito, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

**IX. REPORT OF COMMITTEES (Cont.)
COMMITTEE ON ORDINANCE**

11-04-2 “ORDINANCE AMENDING CHAPTER 33 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘JUVENILE HEARING BOARD’

On motion by Councilwoman McFarland, seconded by Councilwoman O’Hara, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-3 “ORDINANCE AMENDING CHAPTER 18 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘OFFENSES-MISCELLANEOUS’, ‘SECTION 18-5.1 NOISE UNNECESSARY, ANNOYING, ETC., NOISES PROHIBITED”

On motion by Councilwoman McFarland, seconded by Councilman Jackvony, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-4 “ORDINANCE IN AMENDMENT OF CHAPTER 24 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘POLICE DEPARTMENT’ (Increase in Force)”

On motion by Councilwoman McFarland, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-5 “ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MOTOR VEHICLES AND TRAFFIC’, ‘SAME-ENUMERATED’ BY ADDING ACROSS BROAD ST., PORTION OF”

On motion by Councilwoman McFarland, seconded by Councilwoman O’Hara, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-6 “ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MOTOR VEHICLES AND TRAFFIC’, ‘STOP INTERSECTIONS-ENUMERATED’ BY ADDING OVERLAND AVE., PORTION OF”

On motion by Councilwoman McFarland, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

**IX. REPORT OF COMMITTEES (Cont.)
COMMITTEE ON ORDINANCE**

11-04-7 “ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MOTOR VEHICLES AND TRAFFIC’, ‘STOP INTERSECTIONS-ENUMERATED’ BY ADDING RIDGEWAY RD., PORTION OF”

On motion by Councilwoman McFarland, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-9 “ORDINANCE IN AMENDMENT OF CHAPTER 35 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘INSURANCE CLAIMS AND RISK MANAGEMENT COMMITTEE.’”

On motion by Councilwoman McFarland, seconded by Councilman Fung, it was voted to refer the above Ordinance to the January Ordinance Committee. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-10 “ORDINANCE IN AMENDMENT OF CHAPTER 24 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘POLICE DEPARTMENT’ (Emergency Sick Leave).”

On motion by Councilwoman McFarland, seconded by Councilman Ferolito, it was voted to refer the above Ordinance to the January Ordinance Committee. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-11 “ORDINANCE IN AMENDMENT OF CHAPTER 10 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘FIRE DEPARTMENT’ (Emergency Sick Leave).”

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, it was voted to refer the above Ordinance to the January Ordinance Committee. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

11-04-12 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘ADMINISTRATION’ (Cranston Financial Review Board).”

On motion by Councilman McDonough, seconded by Councilman Jackvony, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore –9.

**IX. REPORT OF COMMITTEES (Cont.)
COMMITTEE ON FINANCE**

“RESOLUTION AUTHORIZING TAX ABATEMENTS – RECOMMENDED BY CITY ASSESSOR (REAL ESTATE/TANGIBLE ABATEMENTS).”

On motion by Councilwoman O’Hara, seconded by Councilman Ferolito, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni , McDonough and Council President Pastore -9.

“RESOLUTION AUTHORIZING TAX ABATEMENTS – RECOMMENDED BY CITY ASSESSOR (MOTOR VEHICLE ABATEMENTS).”

On motion by Councilwoman O’Hara, seconded by Councilman Ferolito, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -9.

“TAX INTEREST WAIVER LIST.”

On motion by Councilwoman O’Hara, seconded by Councilman Ferolito, it was voted to approve the Tax Interest Waiver List. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -9.

VIII. ELECTION OF CITY OFFICIALS

On motion by Councilwoman O’Hara, seconded by Councilman McDonough, it was voted to appoint **JUDY PELKEY** as a member of the **Juvenile Hearing Board**. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -9.

XI. REPORT OF CITY OFFICERS

No Business.

XIA. OLD BUSINESS

“RESOLUTION AUTHORIZING THE ABANDONMENT OF A PORTION OF THOMAS ST.” (Tabled 9/27/2004; 10/25/2004; 11/22/2004).

No action.

XII. NEW BUSINESS

On motion by Councilwoman McFarland, seconded by Councilman Fung, it was voted to suspend Rule 25B regarding the noon deadline for introduction of new business. Motion passed on a vote of 7-2. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilman Ferolito and Council President Pastore -7. The following being recorded as voting “nay”: Councilmen Lanni and McDonough -2.

On motion by Councilwoman McFarland, seconded by Councilman Fung, it was voted to re-introduce the Ordinance regarding Krispy Kreme Lease. Motion passed on a vote of 7-2. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilman Ferolito and Council President Pastore -7. The following being recorded as voting “nay”: Councilmen Lanni and McDonough -2.

On motion by Councilwoman McFarland, seconded by Councilman Fung, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, January 13, 2005 at 7 PM pursuant to Sec. 3.12 of the Charter. Motion passed on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Fung, Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni and Council President Pastore -8. Councilman McDonough was not present for roll call vote.

- 12-04-1 Ordinance adopting the recodification of the Code of the City of Cranston, 1970. ORDINANCE COMMITTEE 1/13/2005.
- 12-04-2 Ordinance in amendment of Chapter 24 of the Code of the City of Cranston, 1970, entitled “Police Department” (Police Pension Fund Investment Policy). FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-3 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 1970, entitled “Fire Department” (Police Pension Fund Investment Policy). FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-4 Ordinance amending the Budget for the Fiscal Year commencing July 1, 2004 and ending June 30, 2005 (Police and Fire Supplemental Appropriation Grants). FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-5 Ordinance amending the Budget for the Fiscal Year commencing July 1, 2004 and ending June 30, 2005 (Elimination of Contingent State Aid-Schools). FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-6 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 1970, entitled “Administration” (Elderly and Disabled Tax Deferral and Recovery Program). FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-7 Ordinance authoring the Purchasing Agent to lease City land and to facilitate improvements to said parcel located off Pontiac Avenue (Krispy Kreme). PUBLIC WORKS COMMITTEE 1/13/2005, FINANCE COMMITTEE 1/13/2005 and ORDINANCE COMMITTEE 1/13/2005.
- 12-04-8 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 1970, entitled “Motor Vehicles and Traffic”, “Through Ways Enumerated” by deleting Auburn St., portion of; “Multi-Way Stop Intersections-Enumerated” by adding Auburn St. and Midler St., 3 way stop. ORDINANCE COMMITTEE 1/13/2005.

XIII. MISCELLANEOUS BUSINESS ON CLERK'S DESK

9-04-3 "ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED 'ADMINISTRATION' (Elderly and Disabled Tax Deferral and Recovery Program)."

On motion by Councilman McDonough, seconded by Councilman Lanni, it was voted to direct the City Clerk to codify the above Ordinance in the Code of Ordinances.

Under Discussion:

Councilman Fung stated that if this Ordinance is passed and it is determined that the Solicitor is correct in the opinion she gave, we will be facing a potential for back taxes with potential interest. Council President Pastore stated that Mr. Quinlan believes we can put this Ordinance in the Code of Ordinances. Councilman Fung questioned if the legality can be raised any time similar to what happened at the State level with the lottery opinion, as to the constitutionality. Mr. Quinlan stated that even if this Ordinance is passed, he and Mr. Kirshenbaum can review the legality issue that Councilman Fung mentioned.

Roll call was taken and motion passed on a vote of 8-1. The following being recorded as voting "aye": Councilman Jackvony, Councilwoman O'Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -8. The following being recorded as voting "nay": Councilman Fung - 1.

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS

Judith Monticelli, 51 Uxbridge St., appeared to speak. She stated that her taxes were frozen since the late 1990's. This year, her application was refused by the Tax Assessor as a two-family. Since 1984, she has been taxed for two-family. The Tax Assessor made recommendations for her to remove a sink and cap the plumbing and sign an affidavit that she will not rent the upstairs. She went to the Zoning Board to research the property and it is a two-family. She would like her taxes to be frozen and return to a one-family starting in 2004. Mr. DelBonis appeared to speak and stated that he inspected the home and found it was a two-family home and unfortunately, found she has been paying two sewers. The rule about taking the sink out is not his. It is a rule that Public Works has been using for years. Ms. Monticelli stated that this home has been a one-family since 1966. The sink is there and it is going to stay there. She was told by Steve Rioles, of the Building Inspector's Office, that Mr. DelBonis cannot override this. Mr. DelBonis stated that he will speak to Mr. Rioles regarding this.

Aram Garabedian, 173 Belvedere Dr., appeared to speak and stated that he attended the Audit Committee meeting the other night and he is concerned about the remarks the Mayor made about why we have such a large surplus. He stressed that the taxpayers of the City have paid dearly out of their pockets, which is not attributed to the Administration making any cuts. He commended this Council for bringing the City where it is financially.

Paul Valetta, President of Local 1363 Firefighters Union, appeared to speak and stated that the arbitration was scheduled for today. We do have an agreement and signed it. Unfortunately, the press release put out to the media by the Mayor is false.

The meeting adjourned at 9:00 P.M.

Maria Medeiros Wall
City Clerk

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Ron Ronzio, Stenotypist).