

REGULAR MEETING – CITY COUNCIL

-FEBRUARY 28, 2005-

Regular meeting of the City Council was held on Monday, February 28, 2005 in the Council Chambers, City Hall, Cranston, Rhode Island.

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

Roll Call showed the following members present: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

Absent: Councilman Fung -1.

Also Present: Paul Grimes, Director of Administration; Robin Muksian-Schutt, Deputy Director of Administration; Michael Glucksman, City Solicitor; Evan Kirshenbaum, Assistant City Solicitor; Jerome Baron, Director of Finance; Mike Igoe, City Controller; Steve Woerner, City Council Internal Auditor.

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

I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS

“CRANSTON COMMUNITY YOUTH CENTER OFFICERS.”

Council Vice-President McFarland presented Citations to the members of the Cranston Community Youth Center Officers.

II. EXECUTIVE COMMUNICATIONS

“REQUEST TO BE PLACED ON PENSION CRANSTON POLICE DEPARTMENT”:

“COLONEL MICHAEL CHALEK”

Mr. Grimes appeared to speak.

On motion by Councilman Lanni, seconded by Council Member Fogarty, it was voted to approve this request. Motion passed on a vote of 7-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone and Council President Garabedian - 7. Council Vice-President McFarland was not present for roll call vote.

“OFFICER MICHAEL DOUGLAS”

Mr. Grimes appeared to speak.

On motion by Councilman Barone, seconded by Councilman Livingston, it was voted to approve this request. Motion passed on a vote of 7-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone and Council President Garabedian - 7. Council Vice-President McFarland was not present for roll call vote.

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II. EXECUTIVE COMMUNICATIONS (Cont.)

“OFFICER CHARLES Q. JONES”

Mr. Grimes appeared to speak.

On motion by Councilman Livingston, seconded by Councilman Barone, it was voted to approve this request. Motion passed on a vote of 7-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone and Council President Garabedian 7. Council Vice-President McFarland was not present for roll call vote.

“REQUEST TO BE PLACED ON DISABILITY PENSION OFFICER GERTRUDE FITTA, CRANSTON POLICE DEPARTMENT.”

Mr. Grimes appeared to speak.

On motion by Council Member Fogarty, seconded by Councilman Barone, it was voted to approve this request. Motion passed on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

III. COUNCIL PRESIDENT COMMUNICATIONS

- ***Financial Up date***

Council President Garabedian asked for financials update. Mr. Igoe stated the following: Through end of January, \$141,160,886 has been collected; \$120,347,345 has been expended; cash position of \$10,759,444. To date, everything seems to be running fine.

Council Vice-President McFarland asked if there have been any provisions made regarding the recent Court decision for retroactive pension payments and escalator costs for the Police and Fire and where will these funds come out of in the budget and when will these payments be sent out. Mr. Igoe stated that \$130,000 was budgeted at the end of fiscal year 2003 for this. These payments should go out without any interest by the end of March. Council Vice-President McFarland questioned why the Police were paid after the arbitration hearing and not the Fire. Mr. Igoe stated that to his understanding, the Fire Department was willing to wait.

“PRESENTATION BY STEVE WOERNER, COUNCIL’S INTERNAL AUDITOR ON CITY’S FINANCIAL STATUS”

Mr. Woerner stated that he was asked to review the 12/31/2004 General Fund. He highlighted some of the major issues he looked at: tax revenues are running less than they were at this time last year; rescue revenue was extremely high; Clerk’s Office is doing very well due to the instrument recordings. He also stated that the City is looking at a \$13 million surplus range. On the expenditure side, as of February 25, the Snow Fund was \$150,000 over-budgeted. Severance pay for Police and Fire could be an issue and Fire Overtime has been a problem. He also stated that there is a potential \$16 million cumulative surplus.

III. COUNCIL PRESIDENT COMMUNICATIONS (Cont.)

“STATUS OF OFFICE SPACE FOR CITY COUNCIL USE”

Council President Garabedian asked Administration to report on the status of this issue. Ms. Schutt stated that the Administration has secured office space on the first floor of City Hall and there will be a desk, file storage area as well as shelving outside of the office.

“MAYOR LAFFEY’S ACCEPTANCE OF A RADIO TALK SHOW HOST POSITION ON WPRO AND ITS IMPACT ON HIS DUTIES AS MAYOR AND POSSIBLE VIOLATION OF OATH OF OFFICE.”

Council President Garabedian stated that he had asked the Mayor to attend this meeting to address this issue. He was told by the Administration staff that due to a personal problem, the Mayor will not be in attendance this evening. Council President Garabedian quoted Section 3.16 along with other sections of the Charter. He stated that he and other Council members and the Mayor took an Oath to uphold the City Charter. The Mayor, by taking another job, in his mind, violates the Charter and the Oath he took. By the Mayor accepting this position on the radio show, he is receiving in-kind contribution from a corporation, which is prohibited by law. He stated that he will file a complaint with the Board of Elections tomorrow. He asked that the Mayor have respect for the Council members and the citizens and refrain from personal attacks.

Councilman Lanni stated that he was in agreement with the Council President and felt the Mayor was stealing City time.

Councilman Livingston stated that he also shares the concern of the Council President that the talk show position violates in-kind contribution from a corporation. He stated that he received some calls from constituents who expressed their concerns that the Mayor was going to abandon the City of Cranston and pursue other interests. He tried to reassure them that that was not the case. He also asked that the Mayor refrain from personal attacks.

Councilman Pisaturo stated that he took offense to the remarks the Mayor made in today’s paper and making personal attacks. He asked that the Mayor stop the negative personal attacks and try and work together with the Council to address the City’s issues.

Council Member Fogarty expressed her agreement and that the personal attacks had to stop. She agreed that you should by Ordinance identify certain benefits, but that you can’t codify the Mayor’s hours and could not support that.

Council Vice-President McFarland stated that the biggest issue we have is the respect issue. If the Mayor wants to have a radio show, he can do that after hours or on weekends.

IV. COUNCIL MEMBER COMMUNICATIONS

Council Vice-President McFarland stated that she is appalled to have seen on the first floor of City Hall a magazine, “Cranston Monthly”, which promotes alcohol. She asked that the City do the right thing and remove these magazines since as of midnight tonight, the new State Law goes into effect. She also spoke regarding driving situation coming out of the Brewery Parkade. She stated that she witnessed a near accident there and asked that the Administration have appropriate signage placed there.

V. PUBLIC HEARINGS

No one appeared to speak.

VI. DOCKETED RESOLUTIONS

“RESOLUTION ADOPTING CRANSTON’S HAZARD MITIGATION PLAN”

Ms. Schutt appeared to speak.

On motion by Councilman Lanni, seconded by Councilman Barone, the above Resolution was adopted on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

“RESOLUTION REQUESTING THE AUDITOR GENERAL TO CONDUCT A FINANCIAL AND PROGRAM AUDIT OF THE SCHOOL DEPARTMENT”

On motion by Councilman Lanni, seconded by Council Vice-President McFarland, it was voted to adopt this Resolution.

Under Discussion:

Council Member Fogarty stated that her concern is there may be a personal conflict with the Charter. She is also concerned of putting additional burden on the School Administration so soon after an Audit was done.

Councilman Barone stated that a meeting is scheduled for March 22, 2005 to review the Audit and it would be a bit premature to pass this Resolution at this time.

Councilman Pisaturo stated that he spoke to the Chair of the School Committee and the School Administration and they have no problem at all with this Resolution because of their opinion of the Audit that has recently been don. He also stated that he spoke to the Auditor General and was told that they would do this Audit at no cost to the City. Since we will be starting the budget process soon, it would be a help to this Council to have accurate numbers.

Councilman Lanni stated that this is just a Resolution, not an Ordinance and if the Auditor General can do this, it would be great. We need a second opinion and this would be a second opinion.

Councilman Livingston stated that his only concern is that there is an Audit already completed by the Administration and paid for whether we like it or not. Instead of having another Audit conducted, maybe the Auditor General can be contacted and be asked to review the Audit that has already been done and give us his feed back.

Mr. Glucksman referred to Section 3.17 and stated that he Council does have power of investigation, but not on the School Committee. Mr. Grimes stated that the notion that the Auditor General would do an Audit for free is false. Council Vice-President McFarland stated that the Auditor General publicly stood before this body and told us he would do it for free. Mr. Grimes stated that there is no written document stating that he would do this for free.

VI. DOCKETED RESOLUTIONS (Cont.)

“RESOLUTION REQUESTING THE AUDITOR GENERAL TO CONDUCT A FINANCIAL AND PROGRAM AUDIT OF THE SCHOOL DEPARTMENT”

Councilman Pisaturo motioned to amend this Resolution to read: “Requesting the Auditor General to Review and Provide an Analysis of the School Department Audit and Give his Comments”. Motion passed on a vote of 7-1. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilman Lanni, Council Vice-President McFarland and Council President Garabedian –7. The following being recorded as voting “nay”: Councilman Barone -1.

On motion by Council Vice-President McFarland, seconded by Councilman Pisaturo, the above Resolution was adopted as amended on a vote of 7-1. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilman Lanni, Council Vice-President McFarland and Council President Garabedian –7. The following being recorded as voting “nay”: Councilman Barone -1.

“RESOLUTION FEASIBILITY STUDY FOR THE CONSOLIDATION OF CITY AND SCHOOL PERSONNEL DEPARTMENTS”

On motion by Council Member Bucci, seconded by Council Member Fogarty, the above Resolution was adopted on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

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

12-04-7 **“ORDINANCE AUTHORIZING THE PURCHASING AGENT TO LEASE CITY LAND AND TO FACILITATE IMPROVEMENTS TO SAID PARCEL LOCATED OFF PONTIAC AVE. (Krispy Kreme).”**

On motion by Council Vice-President McFarland, seconded by Councilman Lanni, it was voted to adopt the above Ordinance.

Under Discussion:

Council Vice-President McFarland asked that the Solicitor identify what items within the lease have been changed. Mr. Kirshenbaum stated that the only thing that was changed was #14 regarding the vacate issue.

Motion passed on a vote of 7-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone and Council Vice-President McFarland -7. Council President Garabedian abstained.

1-05-1 **“ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (Duties of Law Department-Endorsement of Ordinances).”**

On motion by Council Vice-President McFarland, seconded by Councilman Pisaturo, the above Ordinance was adopted on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

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

1-05-2 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (Duties of Law Department-Procedure for Ordinances Endorsement).”

On motion by Council Vice-President McFarland, seconded by Council Member Bucci, the above Ordinance was adopted as amended in Committee on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

1-05-4 ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (Immunity and Indemnification of Elected or Appointed Officials and Members of Boards and Commission).”

On motion by Council Vice-President McFarland, seconded by Council Member Bucci, the above Ordinance was adopted as amended in Committee on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

1-05-6 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (Department Head Nominees).”

On motion by Council Vice-President McFarland, seconded by Councilman Lanni, the above Ordinance was adopted as amended in Committee on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

COMMITTEE ON FINANCE

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

On motion by Council Member Fogarty, seconded by Council Vice-President McFarland, the above Resolution was adopted on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

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

On motion by Council Member Fogarty, seconded by Councilman Lanni, the above Resolution was adopted on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –8.

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VIII. ELECTION OF CITY OFFICIALS

“BOARD OF CANVASSERS”

Council President Garabedian stated that there is a question regarding the State Statute and a question in who actually makes the nominations and he asked that this be continued to next month so research can be done on this.

“AUDIT COMMITTEE”

On motion by Council Vice-President McFarland, seconded by Council Member Fogarty, it was voted to appoint **MARSHALL D’AMBROSIO, JR.** to the *Audit Committee*. Motion passed on a vote of 8-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8.

IX. REPORT OF CITY OFFICERS

No Business.

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X. INTRODUCTION OF NEW BUSINESS

On motion by Councilwoman McFarland, seconded by Council Member Bucci, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, March 17, 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 Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8.

- 2-05-1 Ordinance in amendment of Chapter 13 of the Code of the City of Cranston, 2005, entitled "Public Services" (Sewer Service System). PUBLIC WORKS COMMITTEE 3/17/2005 and ORDINANCE COMMITTEE 3/17/2005.
- 2-05-2 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 2005, entitled "Administration and Personnel" (Negotiations Joint Committee). ORDINANCE COMMITTEE 3/17/2005.
- 2-05-3 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 2005, entitled "Administration and Personnel" (City Council Office). ORDINANCE COMMITTEE 3/17/2005.
- 2-05-4 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles and Traffic" (City Hall Parking). ORDINANCE COMMITTEE 3/17/2005.
- 2-05-5 Ordinance amending the Capital Budget for the Fiscal Year commencing July 1, 2004 and ending June 30, 2005 (Recreation/Police). FINANCE COMMITTEE 3/17/2005 and ORDINANCE COMMITTEE 3/17/2005.
- 2-05-6 Ordinance authorizing the Director of Public Works to enter into an Easement Agreement relating to a portion of Terrace Avenue. PUBLIC WORKS COMMITTEE 3/17/2005 and ORDINANCE COMMITTEE 3/17/2005.
- 2-05-7 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (Drainage Erosion Standards). CITY PLAN COMMISSION 4/5/2005 and ORDINANCE COMMITTEE 4/14/2005.
- 2-05-8 Ordinance in amendment of Chapter 12 of the Code of the City of Cranston, 2005, entitled "Streets and Sidewalks" (Storm Drains). PUBLIC WORKS COMMITTEE 3/17/2005 and ORDINANCE COMMITTEE 3/17/2005.
- 2-05-9 Ordinance in amendment of Chapter 8 of the Code of the City of Cranston, 2005, entitled "Garbage, Rubbish, Etc." (Trash Violations). PUBLIC WORKS COMMITTEE 3/17/2005 and ORDINANCE COMMITTEE 3/17/2005.
- 2-05-10 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled "Zoning" (General Provisions, Administration and Enforcement-Household Defined). CITY PLAN COMMISSION 4/5/2005 and ORDINANCE COMMITTEE 4/14/2005.
- 2-05-11 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles and Traffic" (No Parking On Certain Streets-Ferncrest Ave.). ORDINANCE COMMITTEE 3/17/2005.
- 2-05-12 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles and Traffic" (Ten Minute Parking-Ferncrest Ave.). ORDINANCE COMMITTEE 3/17/2005.
- 2-05-13 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles and Traffic" (Amflex Dr. and Sailor Way). ORDINANCE COMMITTEE 3/17/2005.

Council Vice-President McFarland asked that the Snow Removal Ordinance be placed on the April agenda.

XI. MISCELLANEOUS BUSINESS ON CLERK'S DESK

"PETITIONS FOR PERSONAL INJURY CLAIMS."

City Clerk read the names of the petitioners:

- Raul Guzman personal injury claim.
- Natasha Valley personal injury claim
- Martin's Maintenance, Inc. breach of contract
- Anna Gowen personal injury claim

On motion by Councilman Pisaturo, seconded by Council Vice-President McFarland, it was voted to refer these petitions to the Insurance Risk Commission. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen Pisaturo, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8.

XII. PUBLIC HEARINGS ON UNDOCKETED ITEMS

Fred Joslyn, 23 Gaglione Ct., appeared to speak and presented a packet to the Council. He stated that he has addressed a matter to the Building Inspections Office and he has received no satisfaction whatsoever. He stated that where he lives, it is zoned single family. His neighbor, 15 Gaglione Ct. also has a one family home and is renting out part of the building as an apartment. He brought this to the attention of the Building Inspections Office and nothing has been done. This is a quality of life issue. He is before this Council out of total frustration. Council President Garabedian asked Mr. Grimes to look into this matter and make a report to the Council. Council Vice-President McFarland stated that the Council should have a sub-committee of one of our standing committees to look at this. Mr. Joslyn stated that he has spoken to Assistant Solicitor Vito Sciolto, former Solicitor Alston and Solicitor Glucksman along with the Building Inspections Office. Councilman Lanni asked Mr. Glucksman how we can get this into Court and get this issue straightened out as soon as possible because this has been going on for one year. Mr. Glucksman stated that he has been speaking to Mr. Sciolto and will speak to him again on what progress has been made and see if we can violate the homeowner. He stated to Mr. Joslyn that he can bring civil action against the person himself. The problem is the proof that this person has a tenant living there. Council President Garabedian stated that under State Law, if there is a zoning matter, and Building Inspections does not do anything, the person can take the matter to the Zoning Board. He asked Mr. Joslyn if he has done that. Councilman Lanni stated that it is appalling that the Solicitor would give a taxpayer the suggestion to file a civil suit. That is the Solicitor's job and the Building Inspections job. Mr. Kirshenbaum suggested that he and Mr. Sciolto meet with Mr. Joslyn and he will report back to the Council by the end of the week. Mr. Joslyn stated that he would rather have this reported back at the next meeting. Council President Garabedian asked that Mr. Kirshenbaum report back at the next Council meeting. Council Vice-President McFarland asked that the Solicitor go back to the Building Inspections Office and ask what their process is when they get these types of complaints for next month and if there is no such procedure in place, maybe one should be drafted for next month for the Council.

Kevin Morris, Representative of Local 1363 Firefighters Union, appeared to speak regarding arbitration and Judge's ruling two weeks ago.

Thomas Ricci, 75 Knight St., appeared to speak regarding the problem stated by Mr. Joslyn and stated that this is happening throughout the City.

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XII. PUBLIC HEARINGS ON UNDOCKETED ITEMS (Cont.)

Richard Tomlins, 400 Farmington Ave., appeared to speak regarding the issue of the Mayor's position on the radio show and stated that the Mayor's position is 24-7. The main focus for this Council should be taxes.

Anthony Lupino, 15 Black Oak Court, School Committee member, appeared to speak regarding the Resolution requesting the Auditor General to conduct audit for the School Department. He stated that the School Committee actually welcomed the audit that was conducted.

Albert Benetti, 24 Concord Ave., appeared to speak regarding the issue of the Mayor's position on the radio show and stated that the Council President can take whatever action he would like, but he cautioned that when May 1 comes around and taxes come due, the people in the City will see what the Council and Administration did for them.

The meeting adjourned at 9:45 P.M.

Maria Medeiros Wall
City Clerk

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Ron Ronzio, Stenotypist).