

(The following is not a verbatim transcript of comments or discussion that occurred during the meeting, but rather a summarization intended for general informational purposes. All motions and votes are the official records).

ORDINANCE COMMITTEE

Regular meeting of the Ordinance Committee was held on Thursday, July 14, 2011 in the Council Chambers, City Hall, Cranston, Rhode Island.

CALL MEETING TO ORDER:

The meeting was called to order at 7:55 P.M. by the Chair.

Present: Councilman Paul H. Archetto, Chair
Councilman Steven A. Stycos, Vice-Chair
Councilman James E. Donahue
Council Vice-President Robert J. Pelletier
Council President Anthony J. Lupino

Absent: Councilman Emilio L. Navarro

Also Present: Councilman Michael W. Favicchio
Gerald Cordy, Deputy Director of Administration
Carlos Lopez, Director of Constituent and Government Affairs
Evan Kirshenbaum, Assistant City Solicitor
Robert Strom, Director of Finance
Steve Woerner, City Council Internal Auditor
Maria Medeiros Wall, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

MINUTES OF THE LAST MEETING:

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

CORRESPONDENCE:

OLD BUSINESS:

4-11-5 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Change of Zone – 800 Oaklawn Ave. and 828-836 Oaklawn Ave.) Cont. 6/16/2011. [\[click here to view\]](#)

Robert Murray, Esq., appeared to represent the applicant and presented a handout of directory of tenants of his client. He stated that if this Ordinance is approved, much of what is there today will continue. He also presented a letter from his client to Mr. and Mrs. Pagano dated June 21, 2011 addressing the lighting issue that was addressed by the Pagano’s at the last meeting. As to the buffer zone issue addressed last month, he stated that the buffer zone, he believes his client is in compliance.

Louis DeMarco, 16 Miles Ave., appeared to speak and presented pictures of what the property owner did the day after the last meeting. He stated that the first set of pictures shows a car being pulled out of a garage and body work being done in a C-2. This has been going on for many years. The second set of pictures shows a U-Hhaul blocking his driveway. He also presented a Police Report of the owner of the property removing cars. Use of this property should be limited to what is allowed.

Attorney Murray stated that as to the picture of the vehicle in the garage and body work being done, this is operated by his client’s brother and there is a Court case in Superior Court regarding this. His client has been trying to evict the brother. The operation of body shop or repairs is not going on now. His client has an office at this site and is not an absent landlord.

On motion by Council Vice-President Pelletier, seconded by Councilman Donahue, it was voted to recommend approval of this Ordinance.

Under Discussion:

Council President Lupino asked what Unit number the applicant’s office is. Attorney Murray stated, Suite LB1, but it is not listed on the handout listing the tenants he presented.

Council President Lupino asked Attorney Murray why his client would want a C-3. Attorney Murray stated that Commercial or Services would be allowed in a C-3 Zone, for example, palladi studies or yoga. Also, there is a variations for signage between a C-2 and C-3 Zone.

Council President Lupino indicated that if this Ordinance does not pass, the applicant still has options or recourses by going before the Zoning Board of Review.

Council President Lupino motioned to amend the above Ordinance to state “800 Oaklawn Ave. will remain C-2 and 828-836 Oaklawn would go from A-6 to C-2”. Council Vice-President Pelletier seconded the motion.

Under Discussion:

Councilman Stycos asked Attorney Murray if a nightclub is allowed in a C-2 Zone. Attorney Murray stated that presently it is not. Councilman Stycos asked if a nightclub is allowed in a C-3. Attorney Murray stated, yes, but his client has no intention of this and would be willing to make it part of the record.

Councilman Favicchio stated that he visited the site and the property has been maintained and buffer has been restored. As to the parking issue, part of the problem may be that Mr. DeMarco may have problems in front of his home. He does not see any reason why this Zone Change should not be granted. He also stated that he even saw a new fence that the applicant installed for one of the neighbors.

Council Vice-President Pelletier stated that last year, the City Council approved the Comprehensive Plan, so we have to deal with problems, with issues like this, granted there are some neighborhood issues. That part needs to be addressed as well.

Council President Lupino indicated that some people are looking at what is there now, which is C-2. What bothers or concerns him is the word "intent". The applicant may not own the property in five to ten years. If this Zone Change is approved, the owner of the property could put up a Burger King tomorrow.

Solicitor stated that he was provided with some documents by the City Clerk and he had Solicitor Marsella do some research. He indicated that he will ask Solicitor Marsella to give a written opinion and do some further research.

Attorney Murray stated that the vehicles shown in the pictures provided by Mr. DeMarco are on his client's property. The U-Haul truck shown in the picture is there because his client was moving items out.

Mr. Cordy stated that the Administration's position is that it is in favor of this Zone Change since it would be in consistent with the Comprehensive Plan.

Councilman Favicchio stated that the amendment made earlier by Council President Lupino could violate State Law.

Council Vice-President Pelletier motioned to move the question. No one seconded the motion.

Roll call was taken on amendment made by Council President Lupino and motion passed on a vote of 3-2. The following being recorded as voting "aye": Councilmen Archetto, Stycos and Council President Lupino -3. The following being recorded as voting "nay": Councilman Donahue and Council Vice-President Pelletier -2.

Discussion took place on the Ordinance as amended.

Solicitor Kirshenbaum stated that there are significant questions and he will provide legal opinion prior to the Council meeting.

Roll call was taken on above Ordinance as amended and motion passed unanimously.

5-11-3 Ordinance in amendment of Chapter 2.08, of the Code of the City of Cranston, 2005, entitled “City Departments” Cont. 6/16/2011. [\[click here to view\]](#)

Council President Lupino, sponsor, asked that this Ordinance be continued.

PUBLIC HEARINGS/NEW BUSINESS:

6-11-1 Ordinance in amendment of Title 5, of the Code of the City of Cranston, 2005, entitled “Business Licenses and Regulations” (Business Hours of Operation). [\[click here to view\]](#)

Steve Gilchrist, 200 Albert Ave., appeared to speak in favor of this Ordinance.

Kathy Daley, 132 Arnold Ave., appeared to speak in favor of this Ordinance.

Don Wells, 152 Columbia Ave., appeared to speak in favor of this Ordinance.

Robert Murray, Esq., appeared to speak and asked if this Ordinance would relate to specific business owners or all businesses. Councilman Stycos stated that it is for all license holders. Attorney Murray stated that he is not sure it is appropriate for all license holders. The Ordinance does not specify how notices will be done and whether notice would be advertised. Councilman Stycos indicated that the City Clerk drafted this Ordinance and she modeled it after the Zoning notices to abutters Ordinance, so he would think that this would be handled in the same manner as Zoning notices.

No one appeared to oppose to this Ordinance.

On motion by Councilman Donahue, seconded by Councilman Stycos, it was voted to recommend approval of this Ordinance.

On motion by Council President Lupino, seconded by Councilman Stycos, it was voted to amend line #29 after the words “shall be sent”, add “by regular mail”. Motion passed on a vote of 3-1. The following being recorded as voting “aye”: Councilmen Archetto, Stycos and Donahue -3. The following being recorded as voting “nay”: Council Vice-President Pelletier -1.

Councilman Donahue asked if the Solicitor has an opinion regarding this Ordinance. Solicitor Kirshenbaum stated that he will contact the City Council attorney to discuss this with him. Some licenses are permitted by law to stay open until a certain time. He believes it may cause an under burden on the business owner.

Council Vice-President Pelletier indicated that to such licenses as gun dealers and private detectives that operate out of their homes, now you would be requiring them to state their hours of operation and to notify the area residents.

Council President Lupino questioned if an Ordinance can be drafted so that when someone requests their hours to be changed, some form of notification go out at that time. Solicitor Kirshenbaum stated that he would like the opportunity to speak to the City Council legal counsel and obtain his opinion on this Ordinance and different scenarios.

On motion by Councilman Stycos, seconded by Councilman Archetto, it was voted to amend this Ordinance as follows: line #31 after the words “said notice”, add “and radius map”. Motion passed on a vote of 3-1. The following being recorded as voting “aye”: Councilmen Archetto, Stycos and Donahue -3. The following being recorded as voting “nay”: Council Vice-President Pelletier -1.

Roll call was taken on motion to recommend approval of this Ordinance as amended and motion passed on a vote of 3-1. The following being recorded as voting “aye”: Councilmen Archetto, Stycos and Donahue -3. The following being recorded as voting “nay”: Council Vice-President Pelletier -1.

The meeting adjourned at 9:40 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees