

REGULAR MEETING – CITY COUNCIL

-JULY 25, 2005-

Regular meeting of the City Council was held on Monday, July 25, 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, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –9.

Also Present: Paul Grimes, Director of Administration; Nancy Garcia-Ponte, Assistant City Solicitor; Pat Quinlan, City Council Legal Counsel; Jerome Baron, Director of Finance; Steve Woerner, City Council Internal Auditor.

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

I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS

No Business.

II. EXECUTIVE COMMUNICATIONS

“MAYORAL OBJECTIONS FILED 6/30/2005 FOR ORDINANCE 5-05-2 ‘IN AMENDMENT OF CHAPTER 2.08.110 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘DEPARTMENT HEAD NOMINEES’. PASSED 6/27/2005.”

On motion by Councilman Pisaturo, seconded by Councilman Lanni, it was voted to override the Mayor’s veto on the above Ordinance. Motion passed on a vote of 7-2. 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”: Councilmen Fung and Barone -2.

“REQUEST TO BE PLACED ON PENSION, MELODY CASSEL, CRANSTON POLICE DEPARTMENT”.

Mr. Grimes appeared to speak.

On motion by Councilman Pisaturo, seconded by Council Member Fogarty, it was voted to approve the above-listed request. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –9.

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III. COUNCIL PRESIDENT COMMUNICATIONS

“LEASE OF ORCHARD FARMS ELEMENTARY SCHOOL ORDINANCE NO. 2005-33”

Lisa Gargaro, 29 Scaralia Rd., PTO President of Orchard Farms Elementary School, appeared to represent the parents of students at Orchard Farms Elementary School. She stated some concerns the parents have with City property being leased to Confreda for planting of cornfields:

- Are there going to be any pesticides used?
- Does school have outside circulation system?
- How tall will cornfields be?
- How long the lease is for?

Council President Garabedian asked that this issue be placed on the Public Works Committee Agenda for the August 11, 2005 meeting for further discussion. Council Vice-President McFarland stated that she has documentation from 1996 regarding the property at Hope Highlands Elementary School of what types of pesticides and what type of caution would be used there, and the same type of documentation was asked from Mr. Confreda for this school since the Ordinance was passed and this was never produced.

Council President Garabedian read a letter from Dave Macksam, Director of Libraries, regarding the Arlington Library project on Cranston St., across from the Printworks. Councilman Lanni asked if this is the same land the Police Station was planned to go on. Ms. Schutt stated, yes. Councilman Lanni stated that at the time this land was looked at for the Police Station, it was stated that this was polluted property.

IV. COUNCIL MEMBER COMMUNICATIONS

Councilman Fung asked the City Clerk to distribute copies of a Police report regarding the Harbor Master, Jeffrey Kelly. He stated that this report is of a complaint was filed by a resident of Ward 1. Mr. Quinlan stated that this matter has to be taken up in Executive Session and the employee needs to be present. Councilman Fung asked that Mr. Kelly be asked to appear at the next meeting to present his side and defend himself in these allegations and request the resident who made the allegations also be present to present his side of the story. Council President Garabedian asked Solicitor what the process should be. Ms. Ponte stated that she would need to look at the rules and regulations regarding this process, but suggested that this issue be addressed in Executive Session in the presence of the employee in question. It would be premature for the Council to discuss this issue today. Mr. Quinlan suggested that the Council direct the City Clerk to give the employee notice so he has the opportunity to be present in Executive Session and the employee has the option of having this discussed in public forum, if he so wishes. Councilman Livingston stated that he spoke to the resident who made the allegations and he expressed to the resident that if there are further problems, he should contact him as Council member. He also stated that this should be handled in a dignified manner rather than a political manner. Council Vice-President McFarland quoted Chapter 15 of the Charter, which addresses this issue.

Councilman Barone announced that the Parks and Recreation Advisory Board meeting scheduled for Tuesday at 5:30 P.M. has been cancelled.

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Councilman Livingston stated that he has been contacted by approximately 25 residents regarding the protests that have been taking place at the Woman's Clinic on Elmwood Ave. He asked that the Solicitor, Police Department and the City Council Legal Counsel look at ways that these protests at this location can be addressed. He also presented pictures of these protests. Council Member Fogarty stated that the Council needs to look at the prior settlement between the City and the protesters and we also need to look at what restrictions need to be based on that.

Council Vice-President McFarland stated that she, along with the rest of the Council received a follow-up addressed to Mr. Grimes from Robert Clarkin, Director of Parks and Recreation regarding the following:

- Stadium parking lot for Freedom Celebration – Mr. Clarkin states that Parks and Recreation did the cleanup. Council Vice-President McFarland asked the Administration to forward her the cost that was born by the City for this cleanup.
- Batting cages at the Stadium – Mr. Clarkin states that the Cranston Babe Ruth League team did work and rehabbed that space. He also states that there is no written agreement, the Council did not approve this and the Council does not have jurisdiction. Council Vice-President McFarland asked that Mr. Quinlan to review this to see if the Council has jurisdiction of the concession stand at the Stadium.

Council Vice-President McFarland spoke regarding problem at Sabra St. and Humbert St. and a minimum housing issue on Farmington Ave. She stated that a foundation was taken apart and has been made into a dangerous situation. There are huge pieces of concrete and someone is going to get hurt. She asked the Administration to have this debris removed and charge whoever caused this. This has been going on since last week. She spoke to the Building Official and has not heard from him since. She would like an answer by tomorrow morning on how this will be handled.

V. PUBLIC HEARINGS

No Business.

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VI. DOCKETED RESOLUTIONS

“RESOLUTION PROCLAIMING THE CITY OF CRANSTON’S DESIRE TO IMPOSE A RESTRAINT ON ITS EXERCISE OF THE POWER OF THE EMINENT DOMAIN FOR PUBLIC PURPOSES, AND FOR OTHER PURPOSES, AND TO REQUEST THAT THE RHODE ISLAND GENERAL ASSEMBLY ENACT LEGISLATION TO IMPOSE A RESTRAINT ON THE EXERCISE OF THE POWER OF EMINENT DOMAIN FOR PUBLIC PURPOSES, AND FOR OTHER PURPOSES”

On motion by Councilman Fung, seconded by Councilman Barone, it was voted to approve this Resolution.

Under Discussion:

Council Vice-President McFarland stated that she does not support this Resolution for a number of reasons. One being, Representative Charlene Lima for the past two years has tried to pass this type of legislation. In March of this year, Representative Mumford asked for a study for eminent domain and Representative Lima recently introduced another legislation regarding this. There are three legislations currently pending that have not made it through the House of Representative.

Councilman Livingston stated that he feels there should be a study commission on the State level.

Councilman Lanni stated that this Resolution is a good idea, but it should be done at the State level and this issue needs further study.

On motion by Councilman Fung, seconded by Council Member Fogarty, it was voted to amend this Resolution as follows: last paragraph, second line, after the words “General Assembly”, add “form a study commission and/or”. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

On motion by Councilman Fung, seconded by Council Vice-President McFarland, the above Resolution was adopted as amended on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

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“RESOLUTION DIRECTING THE REMOVAL OF ROBERT CUSHMAN AS HEAD OF ECONOMIC DEVELOPMENT AND DIRECTING THE CITY SOLICITOR TO OBTAIN A WRIT OF MANDAMUS AND TO SEEK RESTITUTION FROM THE RESPONSIBLE PARTIES”

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

Under Discussion:

Councilman Barone stated that Mr. Cushman came before the Finance Committee for Advice and Consent for the position of Economic Development Manager. Since the City Planner, Mr. Flynn and his assistant, Mr. DeLuca are both retiring from the City soon, and knowing that this Administration will be leaving in 1 ½ years, he believes there will be no economic development in the City if Mr. Cushman leaves. Councilman Livingston stated that there has not been any economic development in the City for the past two or three years. He cannot support this Resolution because he does not want to spend taxpayers' dollars doing it, even though he feels Mr. Cushman is in this position illegally. Council Member Fogarty stated that the Cranston Chamber of Commerce polled their members and they do not believe that the Economic Development Director or Manager belongs under the Planning Department, as it was suggested in prior meetings by the Administration. She also stated that Mr. Cushman's Advice and Consent was denied and he should not be in the Economic Development Manager position or whatever position he serves in and he should not be paid by City funds today.

Councilman Pisaturo stated that this goes beyond the denial of the Advice and Consent. This is pure arrogance of the Mayor, who does not want to be accountable to anyone. He stated that he does not want to go to Court either, but this seems to be the only avenue that is open to the Council. If the Mayor does not follow this Resolution, he suggests that the Council appoint a special commission and proceed to investigate these matters.

Council Vice-President McFarland stated that the reason she co-sponsored this Resolution and supports it, is because this Council layed off two employees due to the elimination of their jobs in the budget and to have Mr. Cushman serve and get paid for a position that was not approved by the Council in the budget is pure arrogance on the Mayor's part.

Gavel was handed to the Vice-President McFarland.

Council President Garabedian stated that the voters of the City approved the Referendum regarding Advice and Consent. This is an insult to those voters. The Council has been patient. The Council has stated over and over again that Mr. Cushman is serving illegally and the Mayor continues to violate the City Charter. However, there comes a time where you have to take action. Mr. Cushman was denied Advice and Consent. He sits in a position that was never approved by the Council and he receives a salary that the Council never approved. If the Council lets these types of things continue, then the Council should not be Council members because they would not be upholding the Oath which each of the members took. He noted that the Council is being prudent and fiscal, it is not being political.

Gavel was handed back to the Council President Garabedian.

Roll call was taken on motion to adopt this Resolution and motion passed on a vote of 6-3. The following being recorded as voting “aye”: Councilman Pisaturo, Council Member Fogarty, Council Member Bucci, Councilman Lanni, Council Vice-President McFarland and Council President Garabedian -6. The following being recorded as voting “nay”: Councilmen Fung, Livingston and Barone -3.

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“RESOLUTION PROPOSING AN AMENDMENT TO THE CRANSTON HOME RULE CHARTER SEC. 14.08 ‘PROMOTIONS’ AND DIRECTING THE SECRETARY OF STATE TO PLACE ON THE BALLOT THE FOLLOWING REFERENDUM QUESTION”

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

Under Discussion:

Councilman Fung stated that he is opposed to this Resolution because there needs to be a flexibility. This is not the proper way to go with a Charter amendment. He quoted Section 15.10, whereby any amendments need to go through a Charter Review Commission. Council President Garabedian stated that over the years, this City has made Charter changes and proposed Charter changes without a Charter Review Commission. This Council has the power to place questions on the ballot to the Secretary of State for a Charter amendment to be placed before the voters. Ms. Ponte asked if this issue was presented to the Solicitor prior to this meeting. Council Vice-President McFarland stated that she spoke to Solicitor Glucksman this afternoon and he stated to her that he had no problem with this being placed before the Secretary of State. Ms. Ponte stated that she has no knowledge of this.

Roll call was taken on motion to adopt this Resolution and motion passed on a vote of 7-2. 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”: Councilmen Fung and Barone -2.

VII. REPORT OF COMMITTEES

**COMMITTEE ON ORDINANCE
(Paula McFarland, Chair)**

6-05-1 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (TAX INCENTIVE INDUSTRIAL - 10 YEAR)”

On motion by Council Vice-President McFarland, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

6-05-2 “ORDINANCE AMENDING THE BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2005 AND ENDING JUNE 30, 2006 (MUNICIPAL COURT CLERK)”

On motion by Council Vice-President McFarland, seconded by Councilman Pisaturo, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

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**6-05-3 “ORDINANCE AMENDING THE BUDGET FOR THE FISCAL
YEAR COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005
(SUPPLEMENTAL APPROPRIATION)”**

On motion by Council Vice-President McFarland, seconded by Councilman Fung, the above Ordinance was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

**COMMITTEE ON FINANCE
(Cynthia M. Fogarty, Chair)**

**“RESOLUTION AUTHORIZING TAX ABATEMENTS – RECOMMENDED BY
CITY ASSESSOR (REAL ESTATE ABATEMENTS)”**

On motion by Council Member Fogarty, seconded by Councilman Barone, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

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

On motion by Council Member Fogarty, seconded by Councilman Barone, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

**“RESOLUTION AUTHORIZING TAX ABATEMENTS DUE TO BOARD OF
REVIEW ADJUSTMENTS FOR 2004”**

On motion by Council Member Fogarty, seconded by Councilman Pisaturo, the above Resolution was adopted on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

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VIII. ELECTION OF CITY OFFICIALS

“CRANSTON PUBLIC LIBRARY BOARD OF TRUSTEES”

On motion by Council Vice-President McFarland, seconded by Councilman Pisaturo, it was voted to re-appoint **HENRY PRIEST and NANCY DAVIS O’HARA** as members of the *Cranston Public Library Board of Trustees*. Motion passed on a vote of 9-0. The following being recorded as voting “aye”: Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Council Member Bucci, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -9.

On motion by Councilman Pisaturo, seconded by Councilman Livingston, it was voted to appoint **FRANK A. MONTANARO** as a member of the *Cranston Public Library Board of Trustees*.

Under Discussion:

Council Member Fogarty asked if the Library Board of Trustees has made any recommendation regarding this appointment. Councilman Pisaturo stated that there is no recommendation needed, since the Council is the appointing authority.

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. Councilman Fung abstained.

“AUDIT COMMITTEE”

Council President Garabedian stated that he will provide the City Clerk with a copy of Mr. Freitas’ resume and this appointment will be made at a Special Council meeting.

IX. REPORT OF CITY OFFICERS

No Business.

IXA. OLD BUSINESS

5S-05-4 **“ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 2005, ENTITLED ‘ADMINISTRATION AND PERSONNEL’ (Summer Program Employees)” Tabled 5/23/2005 and 6/27/2005.**

No action. This Ordinance will be removed from the Docket.

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X. INTRODUCTION OF NEW BUSINESS

On motion by Council Vice-President McFarland, seconded by Councilman Barone, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, August 11, 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, Fung, Livingston, Council Member Fogarty, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8. Council Member Bucci was not present for roll call vote.

- 7-05-1 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 2005, entitled "Administration and Personnel" (Special Meetings Advertising). ORDINANCE COMMITTEE 8/11/2005.
- 7-05-2 Ordinance in amendment of Chapter 8 of the Code of the City of Cranston, 2005, entitled "Health and Safety" (Residential Noise Control). ORDINANCE COMMITTEE 8/11/2005.
- 7-05-3 Ordinance authorizing the Purchasing Agent to sell a portion of former Highway Garage site (Knightsville). PUBLIC WORKS COMMITTEE 8/11/2005, FINANCE COMMITTEE 8/11/2005 AND ORDINANCE COMMITTEE 8/11/2005.
- 7-05-4 Ordinance authorizing the Purchasing Agent to lease City land and to facilitate improvements to said parcel located off Pontiac Ave. (Krispy Kreme). PUBLIC WORKS COMMITTEE 8/11/2005, FINANCE COMMITTEE 8/11/2005 AND ORDINANCE COMMITTEE 8/11/2005.
- 7-05-5 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles and Traffic" (Brayton Ave., Oaklawn Ave. and Roseview Dr.). ORDINANCE COMMITTEE 8/11/2005.
- 7-05-6 Ordinance repealing Ordinance No. 2005-21 amending the Civil Service Rules and Regulations. ORDINANCE COMMITTEE 8/11/2005.

Petition for Abandonment of a portion of Fox Run St. PUBLIC WORKS COMMITTEE 8/11/2005.

Petition for Abandonment of a portion of Apple House Dr. PUBLIC WORKS COMMITTEE 8/11/2005.

XI. MISCELLANEOUS BUSINESS ON CLERK'S DESK

"PETITIONS/NOTICE OF CLAIMS TO CITY COUNCIL"

Personal injury claim of Donna Davis. REFERRED TO INSURANCE & RISK MANAGEMENT COMMISSION.

"REQUEST FROM ST. MARY'S FEAST SOCIETY FOR RELEASE OF FUNDS"

Council President Garabedian stated that he spoke to John Nardolillo of St. Mary's Feast Society and stated that as to the issue discussed last month regarding some of the Council members being members of this Society, there seems to be no problem with the Council members voting on this matter.

On motion by Councilman Fung, seconded by Councilman Lanni, it was voted to release funds in the amount of \$1,000 to the St. Mary's Feast Society. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen Pisaturo, Fung, Livingston, Council Member Fogarty, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian -8. Council Member Bucci was not present for roll call vote.

Council Vice-President McFarland stated that she received this evening from a firefighter, information regarding the Personnel Manual and the firefighters have some concerns stated in this letter. She asked that the Administration send a copy to the Clerk's Office so the Council can view it for any questions and forward to the Ordinance Committee to be discussed.

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XII. PUBLIC HEARINGS ON UNDOCKETED ITEMS

Joseph Castellone, 27 Mauran St., appeared to speak regarding an incident that occurred at St. Mary's Feast. He stated that he attended the Feast and noticed gangs presence that wear their colors. He asked what can be done to eliminate this element from these types of City activities. He also stated that there was a stabbing and a few fights at the Feast. He did notice Police presence, but he is concerned for the safety of the children and elderly attending these activities. Council Vice-President McFarland stated that she would promote in doing the following: continue Police presence. One thing she suggests for next year is the Safety Services and Licenses Committee shut down the vendors at 7:00 P.M. on the last night of the Feast and then have fireworks display later on. She stressed that there was not stabbing. This was misreported in the news and she would hate to see a tradition for many years be ruined by a few. Councilman Lanni stated that he has a lot of faith in the St. Mary's Feast Society. They have plenty of security and if needed, they will add additional security in the future. He is very sure that the Society will take care of this problem. He does not think we should do anything to change this, but maybe have more security.

Paul Valetta, President of Local 1363 Firefighter Union, appeared to speak and stated that there will be a program which is tentatively scheduled for September 17, called "Fire Obstacle #1" and he invited the Council to attend this program to understand the staffing issue in the Fire Department. The Council will be receiving correspondence regarding this.

Councilman Pisaturo announced that the Chamber of Commerce will be holding a fundraising event at Confreda Farms on Scituate Ave. on Sunday, July 31 from 12-5.

Council President Garabedian asked Councilman Fung to please speak to the Administration and ask the Mayor to stop using the "veto" stamp on the Ordinances the Mayor vetoes. This creates more work for the Clerk, by having to reprint a clean Ordinance and have it resigned every time this is done.

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 Melanie Chase, Stenotypist).