

SPECIAL MEETING – CITY COUNCIL

-MARCH 27, 2008-

Special meeting of the City Council was held on Thursday, March 27, 2008, in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 6:35 P.M. by Council President Garabedian.

Roll Call showed the following members present: Councilmen Lanni, Lupino, Livingston (appeared at 6:45 P.M.), Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian -8.

Absent: Council Member Bucci -1.

Also Present: Vito Sciolto, City Solicitor; Patrick Quinlan, City Council Legal Counsel; Corsino Delgado, Director of Finance; Peter LaPolla, City Planner.

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Clerk read Call of the Meeting:

**CITY OF CRANSTON
RHODE ISLAND**

***AMENDED NOTICE
SPECIAL MEETING OF THE CITY COUNCIL**

In Accordance with the Home Rule Charter and Section 3.07 and Section 2.04.060 of the City Code thereof, I hereby call a special meeting of the City Council to be held on

Thursday, March 27, 2008 at 6:30 p.m.
Council Chambers, City Hall
869 Park Ave.
Cranston, RI 02910

The following items of business shall be transacted:

***Public Comment**

Executive Session

RIGL 42-46-5(a)(1) Municipal Court Auxiliary Judge interviews:
Raymond C. Coia, Esq. and David Gilligan, Esq.
RIGL 42-46-5(a) (1) and (2): Lillian Rivera
*RIGL 42-46-5(a)(2) Cullion settlement

Open Session

Appointment of Municipal Court Auxiliary Judge
*Cullion settlement

And I hereby request the City Clerk to notify all Council members of the Call of the special meeting.

Executed at Cranston, Rhode Island, this 25th day of March, 2008.

/s/ Aram G. Garabedian, Council President

Individuals requesting interpreter services for the hearing-impaired must notify the Office of the City Clerk at 461-1000 Ext. 3197 seventy-two (72) hours in advance of the hearing date."

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CERTIFICATION

I hereby certify that a true copy of the attached Call of a special meeting of the City Council to be held on Thursday, March 27, 2008 at 6:30 P.M. in the Council Chambers, third floor, City Hall, 869 Park Ave., Cranston, R.I. was delivered via electronic mail on the 25th day of March, 2008 and regular mail, postage prepaid to the addresses listed below.

Council President Aram G. Garabedian
173 Belvedere Dr.
Cranston, RI 02920
Aram@blissproperties.net

Council Member Maria A. Bucci
301 Wilbur Ave.
Cranston, RI 02921
MarBC4@aol.com

Councilman Terence Livingston
28 Tucker Ave.
Cranston, RI 02905
Terry@livingstonlaw.us

Councilman Jeffrey P. Barone
16 Samuel Court
Cranston, RI
Jeffreyb22@cox.net

Councilwoman Paula B. McFarland
100 Pomham St.
Cranston, RI 02910
p_mcfarland@verizon.net

Councilman John E. Lanni, Jr.
111 Woodview Dr.
Cranston, RI 02920
john.lanni@yahoo.com

Councilman Anthony J. Lupino
15 Black Oak Court
Cranston, RI 02921
tlupino@cox.net

Councilman Emilio L. Navarro
61 Autumn St.
Cranston, RI 02910
Navarro_emilio@hotmail.com

Councilman Richard Santamaria
20 Burr St.
Cranston, RI 02920
Ritatj10@yahoo.com

/s/ Rosalba Zanni, Assistant City Clerk

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On motion by Councilman Lanni, seconded by Councilman Santamaria, it was voted to go into Executive Session pursuant to RIGL 42-46-5(a)(2). Motion passed on a vote of 7-0. The following being recorded as voting "aye": Councilmen Lanni, Lupino, Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian -7. Councilman Livingston was not present for roll call vote.

The meeting went into Executive Session at 6:40 P.M.

Present in Executive Session: Councilmen Lanni, Lupino, Livingston (appeared at 6:45 P.M.), Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian; Mayor Napolitano; Ernest Carlucci, Director of Administration; Vito Sciolto, City Solicitor; Patrick Quinlan, City Council Legal Counsel; Colonel Stephen McGrath; Attorney Fred Marzilli; Raymond C. Coia, Esq..

Executive Session for purpose of interviewing Attorney Raymond Coia for position of Municipal Court Auxiliary Judge.

Council Vice-President McFarland asked that the Solicitor address the memo sent by the City Clerk regarding an issue or concern in regards to the Municipal Court Judgeship. Currently, the Council has appointed a Municipal Court Judge, an Associate Judge and an Auxiliary Judge. The Code only references a Municipal Court Judge and an Auxiliary Judge and not an Associate Judge.

Mr. Sciolto quoted Section 45-24-2 enabling Act and also the City Code. He stated that the Act talks about appointment of one Judge. What we have is we have one Judge and an Associate Judge. The Ordinance in the Code does not mention an Associate Judge, only an Auxiliary Judge. This issue has come up before and the timing of this is very awkward.

Councilman Livingston stated that his only concern is he does not want this Council to do anything that would hurt Tom Ricci, who has been serving as Associate Judge.

Councilman Livingston asked Attorney Coia, if he were appointed Auxiliary Judge and later it is determined that this would effect Judge Ricci, he asked if he would voluntarily resign. Attorney Coia stated that he is not looking to hurt anyone, it is up to the Council to correct this issue.

Attorney Coia gave his background to the Council. He stated that he has been an attorney since 1986. He is licensed in both Rhode Island and Massachusetts. He is right now working with the Laborer's International Union. He is presently Chair of the Juvenile Hearing Board since 2005. He has experience in the adjudication process. he has been appointed to the Coastal Management Resources for the State of Rhode Island since 2002. He has recently been appointed on the Board of Beacon Mutual Insurance Company.

Councilman Barone asked Attorney Coia, if appointed, would he be willing to step down as Chair of the Juvenile Hearing Board. Attorney Coia stated that if the Council feels he is not able to sit on the Juvenile Hearing Board and also serve as Judge, he has no problem stepping down.

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Councilman Livingston asked that the Solicitor check to see if there is a conflict with Attorney Coia serving as both Municipal Court Auxiliary Judge and member of the Juvenile Hearing Board.

Councilman Livingston withdrew the nomination of David Gilligan from the Municipal Court Auxiliary Judge position.

On motion by Councilman Lupino seconded by Councilman Navarro, it was voted to recess Executive Session. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen Lanni, Lupino, Livingston, Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian -8.

The Executive Session portion of the meeting recessed at 7:10 P.M.

On motion by Council Vice-President McFarland, seconded by Councilman Lanni, it was voted to appoint RAYMOND C. COIA to the position of Municipal Court Auxiliary Judge.

Under discussion:

Council Vice-President McFarland indicate that council Member Bucci had called her as to what time a vote would be taken on this item since she had a prior engagement. She would have been present if the interview had lasted longer.

Roll call was taken and motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen Lanni, Lupino, Livingston, Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian -8.

On motion by Councilman Lupino, seconded by Councilman Lanni, it was voted to return to Executive Session. Motion passed on a vote of 8-0. The following being recorded as voting "aye": Councilmen Lanni, Lupino, Livingston, Navarro, Santamaria, Barone, Council Vice-President McFarland and Council President Garabedian -8.

The meeting went back into Executive Session at 7:15.P.

Cullion Settlement

Mr. Quinlan stated that at the last Executive Session meeting, he presented a fourth draft of the agreement and Councilman Livingston had made suggestions to take back to Cullion's attorneys, which he did, and they agreed to regarding eminent domain. He indicated that page 3, third paragraph from the bottom of the page, this in his opinion, protects us better.

It was decided that this item will not be discussed evening and will be continued to a future meeting.

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Lillian Rivera

Clerk distributed a handout of payout to Ms. Rivera provided by the Mr. Woerner, City Council Internal Auditor and minute of August 23, 2006 Executive Session meeting. She indicated that at the August 23, 2006 meeting, the Administration at that time, presented two reports to the Council, which were to be provided by this Administration for this meeting and they have not been.

Mayor Napolitano read a statement regarding this issue. He stated that shortly after being sworn in as Mayor, he became aware that Ms. Rivera had several claims in different venues. He discovered that the former Director of Administration, Paul Grimes, had ordered Colonel McGrath not to complete the required internal investigation. On January 15, 2007, Colonel McGrath was given copies of explicit graphic offensive emails obtained by Major Blackmar sent by an officer in March, 2003 to Ms. Rivera and other employees in the City. In June, 2007, an agreement was reached with Ms. Rivera's attorney. This settlement was in the best financial interest of the City. Under State Law, officers on pending disability must remain on the City's payroll.

Councilman Livingston asked the Mayor if he has the two Sternick reports. Mayor Napolitano stated they have medical information and this is why they were not provided to the Council. Attorney Marzilli stated that he does have the reports, but they do contain medical information and cautioned the HIPPA Act. He stated that Attorney Sternick's findings were that there were no wrong doing by the Police Department. Councilman Livingston questioned why then the City is settling with Ms. Rivera. Attorney Marzilli stated that the reason the Mayor has brought up the emails is because they were not part of the Sternick reports. The Administration learned from Ms. Rivera's attorney that Attorney Sternick had no experience in sexual harassment cases. Councilman Livingston asked what Ms. Rivera's claims were. Attorney Marzilli stated that there was a sexual harassment claim, and a contractual claim for not getting IOD.

Councilman Lupino asked if Ms. Rivera was notified of this meeting and if either her or her attorney has responded. Mayor Napolitano stated that the Administration has been in contact with Ms. Rivera's attorney. Attorney Marzilli stated that Ms. Rivera's attorney called him and indicated that she was not attending this meeting this evening.

Mayor Napolitano stated that when the City started this investigation, he asked for a summary from Colonel McGrath, which he received and read to the Council.

Councilman Lanni asked if Ms. Rivera was the only person sexually harassed, since there are other women in the Police Department. Mayor Napolitano stated that in speaking with people, he found out that there were other women who left the job because they were not being treated with respect. This was covered up and was wrong. This could have been your sister, your mother, your daughter. This woman can never be a police officer again. Colonel McGrath was asked to speak regarding this issue.

Councilman Barone asked how the reporters received the emails. Mayor Napolitano stated that this Administration acknowledged that the Administration had the emails, but did not give them to the reporters, they were aware that the emails existed.

Colonel McGrath gave a presentation of this case.

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Councilman Lanni stated that the initial complaint was filed November, 2003 and it got resolved in 2008. It took five years to resolve this. This is absolutely ridiculous. He thinks this whole case should have been made public by the Administration. If this happened in the private sector, the person who harassed would be fired immediately.

Councilman Barone indicated to Colonel McGrath that he mentioned disciplinary action, but what about criminal. Colonel McGrath stated that the investigation only mentioned from the standpoint of violation of law.

Councilman Navarro stated that he has a lot of questions regarding the independent investigation that was conducted. He agrees with Councilman Lanni that this should be made public, because what occurred to Ms. Rivera is unacceptable.

Colonel McGrath stated that if an investigation was done in-house, this whole matter would have been resolved in 2005.

Councilman Barone stated that of the people who offered Ms. Rivera sick time, he asked if one of them was the person who sexually harassed her. Colonel McGrath stated that he does not know because this is handled through the Union and he is not privy to who donates them. Councilman Barone asked that this be researched. Colonel McGrath indicated that Ms. Rivera did not receive any donated time. She applied for it and was denied by then Solicitor Glucksman. Mr. Quinlan stated that he attended the August 23, 2006 meeting and then Solicitor Glucksman stated that he could not give the Council the Sternick reports until the Council legal counsel reviewed them. He did contact Mr. Glucksman a few times, but never received them.

Councilman Barone asked how claims like this relate to the Claims Committee. Mr. Quinlan stated that under the City Code, if it is an employer/employee matter, it be handled by the employer.

Council Vice-President McFarland stated that at the August 23, 2006 meeting, she asked pertinent questions and the Administration, at that time, never came back to the Council to update us. What bothers her is the Council was blind-sided when the reporter approached the Council and now she is back on the payroll and the Council knew nothing about this. This is disheartening. The Council cannot defend actions if they are not informed.

Mayor Napolitano stated that we had serious issues about Rivera's well-being and we did not want to jeopardize her well-being in discussing this settlement prior to agreement.

Council Vice-President McFarland stated that the Council was not part of the process of how this claim was ultimately settled. The money was expended out of the Budget Stabilization and Police Operating Funds without the Council having any say or any part of the process. She questioned what the purpose of this meeting is. She asked where this money came from.

Councilman Lupino questioned if anything can be done to the past Administrators who were involved in this case.

Councilman Barone asked if there are any other settlements out there that the Council should be made aware of similar to the Rivera case. Mr. Sciolto stated, not to his knowledge. Mayor Napolitano stated that, to his knowledge, Carrera and Montecalvo are settled. Councilman Barone asked where this money came from. Mayor Napolitano stated that the City is self-insured and he assumes the funds come out of the Claims Account. Mr. Carlucci stated that he will research this to make sure and report back to the Council.

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Councilman Barone addressed the handout of the payout to Ms. Rivera and asked where the \$97,000 for Worker's Comp. came from. Colonel McGrath stated that it came out of Salary. There are several years that add up to this amount. It should not state Worker's Comp. because Police Officers do not pay into Worker's Comp.

Council Vice-President McFarland asked Colonel McGrath what the new policy on the use of City computers is and what policy was in place when this case was settled. Colonel McGrath stated that it was a 1996 policy that was in place at the time.

Councilman Lanni stated that this case played out until statute of limitation ran out. He asked Colonel McGrath if he believes this was intentional or accidental. Colonel McGrath stated that he thinks Beacon's denial as to the no medical exam was intentional. He can't speak with Mr. Grimes as to what his motives were.

Councilman Lanni stated that he does not feel we should reseal minutes of the August 23, 2006 meeting and this evening's meeting. The public has a right to know.

On motion by Councilman Barone, seconded by Councilman Lanni, it was voted not to reseal the minutes of August 23, 2006 meeting and this evening's meeting.

Under Discussion:

The Administration was asked to provide Council with a timeline. Councilman Lupino stated that we need better communication between the Administration and the Council. Attorney Marzilli stated that the minutes of this meeting and the August 23, 2006 meeting should be kept sealed. He does not see any good coming out of making them public. Colonel McGrath agreed. He stated that you would just be hurting the City.

Councilman Lanni stated that the reason for keeping open the minutes is so we can discuss this if a reporter asks questions.

Mr. Quinlan stated that a concern he has is, normally, in Executive Session, if a reference is made to a document, that document is sealed with the minutes. He referred to the Colonel's summary that he referred to during the meeting and stated that he does not believe that this document should be made public and there are many references in the Clerk's notes that refer to it. He suggested the Council make a motion that any reference to the Colonel's notes, be sealed.

On motion by Councilman Lanni, seconded by Councilman Lupino, it was voted that this evening's minutes remain open to the public and seal only the Colonel's summary and any reference in the Clerk's notes regarding this document also be sealed. Motion passed on a vote of 5-1 with two members not present. The following being recorded as voting "aye": Councilmen Lanni, Lupino, Navarro, Santamaria and Council President Garabedian -5. The following being recorded as voting "nay": Council Vice-President McFarland -1. Councilmen Livingston and Barone -2.

The meeting came out of Executive Session at 9:35 P.M.

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The meeting adjourned at 9:40 P.M.

Maria Medeiros Wall, JD
City Clerk

Rosalba Zanni
Assistant City Clerk/Clerk of Committee