

REGULAR MEETING – CITY COUNCIL

-NOVEMBER 22, 2004-

Regular meeting of the City Council of the City of Cranston was held on Monday, November 22, 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: Paul Grimes, Director of Administration; Robin Muksian-Schutt, Deputy Director of Administration; 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.

Council President Pastore recognized and welcomed Troop 6 Boy Scouts.

Council President Pastore stated that he asked that the medical leave for Mr. Casale and Mr. Rogers be placed on the docket and he stated that this item will be moved under the Public Hearing portion of Undocketed Items of the docket.

I. PUBLIC ACKNOWLEDGEMENTS AND COMMENDATIONS

“PROCLAMATION HONORING ARAM G. GARABEDIAN”

On motion by Councilman Lanni, seconded by Councilwoman McFarland, 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.

II. INTRODUCTION OF UNDOCKETED RESOLUTIONS

No Business.

III. EXECUTIVE COMMUNICATIONS

“REQUEST TO BE CONTINUED IN SERVICE DETECTIVE ALLAN L. HALL, CRANSTON POLICE DEPARTMENT”

Mr. Grimes appeared to speak.

On motion by Councilman Fung, seconded by Council Member Fogarty, 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.

III. EXECUTIVE COMMUNICATIONS (Cont.)

“REQUEST TO BE CONTINUED IN SERVICE *DEPUTY CHIEF JEFFREY WALL*, CRANSTON FIRE DEPARTMENT”

Mr. Grimes appeared to speak.

On motion by Councilman McDonough, seconded by Councilman Jackvony, 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.

Mr. Grimes appeared to speak regarding the emergency medical leave for Mr. Casale and Mr. Rogers and stated that he will authorize the City’s labor attorney, Vincent Ragosta, and have him meet with Mr. Quinlan, City Council legal counsel, to review this matter and advise the City and then the City will proceed on what they advise. As to the release, Mr. Grimes stated that he has not received any correspondence from the Fire Union as to this issue.

IV. COUNCIL PRESIDENT COMMUNICATIONS

Council President Pastore asked that the City Clerk contact Human Resources for recommendation regarding the medical leave request, which the Council has not received any communication on.

Mr. Igoe presented the following City Financials:

Through October, \$88,557,878 has been collected; \$68,602,881 has been expended; cash position of \$12.9 million. Areas of concerns: 1) Overtime and Severance account in the Fire Department; 2) Audit is 90% completed. We are waiting for actuarial reports and incurred, but not reported. Council President Pastore asked that if the Audit is done on time, the Council is to receive it a week or two before voting on it and the Auditor General is to be given a copy to review. He also stated that out of abundance of caution, the City should communicate with the Auditor General, checking to see if the City can have until January to approve this Audit, if need be.

Council President Pastore stated that he received a voice mail from the Auditor General today advising him that he was communicating with Council President-Elect Garabedian and the Mayor stating that the Financial Review Board can be laid to rest and that the Ordinance is no longer needed. This is a congratulations to not only the Administration, but also to the Council. He suggested that an Ordinance for deletion of this Board be introduced at the next Council meeting.

Council President Pastore announced that a meeting will be held on December 3, 2004 at 3:30 P.M. to review investment policy for the pension fund for Police and Fire and Council President-Elect Garabedian is invited to attend this meeting. Mr. Baron stated that this is a public meeting and everyone is invited to attend.

V. COUNCIL MEMBER COMMUNICATIONS

Councilwoman McFarland, Chair of the Insurance Risk Commission, stated that the Commission met and took testimony and what is left is to review the medical release form. At the last Council meeting, an opinion was asked from the Solicitor and to date, the Commission has not received that opinion. In order for the Insurance Risk Commission to review this medical release form, they need this opinion from the Solicitor. This request was made on October 26, 2004. Mr. Grimes stated that he has the Solicitor's opinion and he can give it to Councilwoman McFarland, if she wishes.

Councilwoman McFarland stated that she received a request today for a Citation for Vito Matarese of Vito's Towing. She requested and asked that a Citation be drafted for next month's Council meeting.

Councilwoman McFarland stated that she received correspondence from the Cranston Communication Action Program stating that they are looking for any type of donations to help approximately 70 families during the holiday season.

VI. PUBLIC HEARINGS

No Business.

VII. UNDOCKETED RESOLUTIONS

No Business.

VIII. DOCKETED RESOLUTIONS

No Business.

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

6-04-7 "ORDINANCE AUTHORIZING THE PURCHASING AGENT TO LEASE CITY LAND AND TO FACILITATE IMPROVEMENTS TO SAID PARCEL LOCATED OFF PONTIAC AVE. (KRISPY KREME)."

Council President Pastore stated that Assistant City Solicitor Kirshenbaum is to draft the amended lease, which is not yet completed.

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, it was voted to refer this Ordinance to the December Council meeting. 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.

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 Councilwoman McFarland, seconded by Councilman McDonough, it was voted to recommend approval of this Ordinance. 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.

-NOVEMBER 22, 2004-

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 Council Member Fogarty, 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 Council Member Fogarty, 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.

COMMITTEE ON PUBLIC WORKS

“RESOLUTION INSTITUTING PROCEEDINGS FOR THE ABANDONMENT OF A PORTION OF PINE RIDGE DR.”

On motion by Councilman McDonough, 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.

X. ELECTION OF CITY OFFICIALS

On motion by Council Member Fogarty, seconded by Councilman Lanni, it was voted to re-appoint **JOHN ENNIS** as a member of the **Probate Judge Advisory 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.

On motion by Council Member Fogarty, seconded by Councilman Lanni, it was voted to appoint **STEVEN LEVESQUE, ESQ.** as a member of the **Probate Judge Advisory 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.

On motion by Council Member Fogarty, seconded by Councilwoman McFarland, it was voted to appoint **CHELSIE HORNE** as a member of the **Probate Judge Advisory 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.

On motion by Councilman Fung, seconded by Council Member Fogarty, it was voted to appoint **ERIKA KRUSE, ESQ.** as a member of the **Probate Judge Advisory 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.

On motion by Councilwoman McFarland, seconded by Councilman Fung, it was voted to re-appoint **EDWARD DIMUCCIO** as a member of the **Zoning Board of Review**. Motion passed on a vote of 7-0 with 2 abstentions. 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. Councilmen Lanni and McDonough abstained.

XI. REPORT OF CITY OFFICERS

No Business.

XIA. OLD BUSINESS

“RESOLUTION AUTHORIZING THE ABANDONMENT OF A PORTION OF THOMAS ST.”

No action.

9-04-1 “ORDINANCE IN AMENDMENT OF CHAPTER 32 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MUNICIPAL COURT’ (MUNICIPAL COURT MAGISTRATE COURT).”

On motion by Councilman McDonough, seconded by Councilman Lanni, the above Ordinance was adopted on a vote of 6-3. The following being recorded as voting “aye”: Councilman Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilmen Lanni, McDonough and Council President Pastore -6. The following being recorded as voting “nay”: Councilman Fung, Councilwoman McFarland and Councilman Ferolito -3.

XII. NEW BUSINESS

On motion by Councilwoman McFarland, seconded by Councilman Ferolito, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, December 9, 2004 at 7 PM pursuant to Sec. 3.12 of the Charter. 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).” ORDINANCE COMMITTEE 12/9/2004.
- 11-04-2 Ordinance amending Chapter 33 of the Code of the City of Cranston, 1970, entitled “Juvenile Hearing Board”. ORDINANCE COMMITTEE 12/9/2004.
- 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”. ORDINANCE COMMITTEE 12/9/2004.
- 11-04-4 Ordinance in amendment of Chapter 24 of the Code of the City of Cranston, 1970, entitled “Police Department”. (Increase in Force). ORDINANCE COMMITTEE 12/9/2004.
- 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. ORDINANCE COMMITTEE 12/9/2004.
- 11-04-6 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 1970, entitled “Motor Vehicles and Traffic”, “Stop Intersection-Enumerated” by adding Overland Ave., portion of. ORDINANCE COMMITTEE 12/9/2004.
- 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. ORDINANCE COMMITTEE 12/9/2004.
- 11-04-8 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 1970, entitled “Administration” (Rules for Operation of City Buildings and Public Property). ORDINANCE COMMITTEE 12/9/2004.

Council President Pastore stated that there are four Ordinances introduced tonight one being an Ordinance amending the Insurance Commission and establishes the Insurance Risk Committee, which members are appointed by the Council President; another being an Ordinance dissolving the Financial Review Board. Council President Pastore also stated that a search Committee is being created to recommend Municipal Court Clerk and Committee members will be Councilwoman O’Hara, Chair; Councilman Jackvony, the minority leader; and Councilman McDonough.

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, it was voted to suspend Rule 31. Motion passed on a vote of 8-1. 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. The following being recorded as voting “nay”: Councilman McDonough -1.

-NOVEMBER 22, 2004-

XII. NEW BUSINESS (Cont.)

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, December 9, 2004 at 7 PM pursuant to Sec. 3.12 of the Charter. Motion passed on a vote of 8-1. 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. The following being recorded as voting “nay”: Councilman McDonough -1.

- 11-04-9 Ordinance in amendment of Chapter 34 of the Code of the City of Cranston, 1970, entitled “Insurance Claims and Risk Management Commission”. ORDINANCE COMMITTEE 12/9/2004.
- 11-04-10 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 1970, entitled “Police Department”. (Emergency Sick Leave). ORDINANCE COMMITTEE 12/9/2004.
- 11-04-11 Ordinance in amendment of Chapter 10 of the Code of the City of Cranston, 1970, entitled “Fire Department”. (Emergency Sick Leave). ORDINANCE COMMITTEE 12/9/2004.
- 11-04-12 Ordinance in amendment of Chapter 2 of the Code of the City of Cranston, 1970, entitled “Administration” (Cranston Financial Review Board). ORDINANCE COMMITTEE 12/9/2004.

XIII. MISCELLANEOUS BUSINESS ON CLERK’S DESK

“EMERGENCY MEDICAL LEAVE REQUEST FROM CASALE AND ROGERS”.

See notes under “Public Hearings on Undocketed Items”.

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS

“EMERGENCY MEDICAL LEAVE REQUEST FROM CASALE AND ROGERS”.

On motion by Councilwoman McFarland, seconded by Councilman McDonough, it was voted to approve this request.

Under Discussion:

Council President Pastore stated that this is a non-binding vote. He stated that this is approved by the Council, but denied by the Mayor. There is legislation pending for next month, which will rectify this. One is at the Committee process making Insurance Risk a standing Committee bring authority back to the Council. Councilman Fung stated that there has to be some type of limitation on anything that is passed. This is why he questioned how long the firefighters were going to be out.

Roll call was taken and motion to approve 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.

Paul Valetta, President of Firefighters Union, appeared and deferred to Chief Warren.

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS (Cont.)

Chief Robert Warren appeared to speak and presented names of firefighters who requested to be placed on medical leave and he supported their request for extension. He stated that both firefighters are just below five years of employment. Both firefighters are experienced cardiac technicians and both have several letters of commendations in their files. Councilman Fung asked how long Chief Warren feels these firefighters will be out. Councilwoman McFarland stated that this should be discussed in Executive Session. Council Member Fogarty asked Chief Warren if this type of request has ever been made to previous Councils. Chief Warren stated, not in his tenure. Councilman McDonough questioned what happens if this is approved by the Council and the Mayor denies it.

Councilwoman McFarland stated that two Ordinances have been introduced tonight to be heard next month (11-04-10 and 11-04-11) for Police and Fire sick time request.

Councilman Fung stated that Civil Service Rules refers to 10 years or more of service and questioned if this applies to extreme emergencies. He also asked that Mr. Quinlan and Mr. Kirshenbaum review this.

Ltd. Charles Benson appeared to speak and stated that he was involved in the auto accident with Mr. Casale. He stated that because he has been on the job for 19 years and does have sick time, he is in a better situation than Mr. Casale. He stated that he received a letter from Mr. Grimes on October 16, 2004 stating that his United Health would cover his medical expenses. The problem is that his provider is out of network and this is not covered. His expenses have exceeded \$1,600 out of his pocket.

Paul Valetta, President of Firefighters Union, appeared to speak and presented a handout regarding RI State Law. He stated that this is an emotional issue with these firefighters. They were injured on duty and they should be covered. In regards to getting a legal hearing on this issue, he stated that the Union appeared before the Safety Services and Licenses Committee on November 8, 2004 and the Insurance Risk Commission. At the Safety Services and Licenses Committee meeting, they were told by Mr. Kirshenbaum that they were before the wrong Committee. The Administration knew then that they would be coming before the Council tonight, so the statement about getting a legal opinion from Mr. Quinlan and Mr. Ragosta, is not fair. Mr. Valetta asked Solicitor's opinion regarding the State law he handed out. Ms. Ponte stated that she will have to review this statute and get back to him. Mr. Valetta asked what happens if the City is found to be in violation of State law. Ms. Ponte stated that there are all different penalties, but she would have to review the particular State law he is referring to. Councilman Lanni stated that he is ashamed of the City and he feels it is ethically, morally, despicably wrong and he feels bad for these two firefighters who are being bounced back and forth like ping pong balls. Mr. Valetta stated that he hopes the Mayor will place these two individuals on IOD tomorrow and resolve this issue once and for all.

Aram Garabedian, 173 Belvedere Dr., appeared to speak and stated that he is very supportive of the action taken by the Council tonight. He stated that the people of Cranston are reasonable. They do not want to read about people injured on the job and have legal issues. He believes that the City and the Fire Union will come to an agreement on an acceptable form and in the meantime, he hopes the Mayor is supportive of what the Council is trying to do.

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS (Cont.)

John DeGenova, Vice-President of Fire Union, appeared to speak and questioned what the recourse is when the City violates State and Federal laws. He stated that he has been asking this question at every meeting for months and he has not received an answer from the Solicitor yet. Ms. Ponte addressed Mr. Valetta's previous question regarding violation of State law and stated that she reviewed the Statute he presented and stated that if it is found that the City violated State law, they will be imposed whatever penalty is appropriate. She stated that the Administration believes that the City is not in violation of State law, nobody is going to go without pay and no decision has been made at this time for IOD status. If someone qualifies for IOD status, they will not be denied any benefits or pay.

Councilman McDonough questioned if the Ordinance introduced tonight could be made retroactive. Council President Pastore stated that the Council will set the perimeters for the retroactive.

Ken Rouleau, Cranston Firefighter, appeared to speak and stated that the City did violate State law by denying medical benefits to firefighters. The two firefighters will use up their sick leave and then be out with no pay.

Pat Cull, Cranston Firefighter, appeared to speak and reminded the Administration that there are seven people in the City who are in need of assistance and by Christmas, there will be two more.

Councilman Fung asked that the City Clerk make copies of the transcript of the Insurance Risk Commission meeting of October 28, 2004 available to the Council members. Councilwoman McFarland stated that she as Chair of the Insurance Risk Commission, had asked for a copy of the transcript, but has not received it. She asked Councilman Fung who gave him his copy. Councilman Fung stated that Mr. Kirshenbaum gave him the copy. Mr. Kirshenbaum stated that Mr. Grimes, Director of Administration, gave him the copy prior to this meeting and he read it and made some notes and was told to give it back to him. This was Mr. Grimes's copy that he ordered. Councilwoman McFarland stated that it is surprising that Mr. Grimes is the only one with the copy and he does not even sit on the Insurance Risk Commission. Mr. Kirshenbaum stated that maybe Anna Marino, Claims Examiner, has the Council's copy of the transcript and has not sent it to them yet or she has not ordered it yet.

Council President Pastore stated that the Council needs to address the Public Works Pastore Complex Sewer Contract, which was discussed at the Public Works Committee and the Investment Policies issues need to be dealt. He also stated that this Council should not be given multi-million dollar decisions information at the last minute.

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).