

ORDINANCE COMMITTEE

Regular meeting of the Ordinance Committee was held on Thursday, October 15, 2009 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:30 P.M. by the Chair.

Present: Councilman Anthony J. Lupino, Chair
Councilman Robert J. Pelletier, Vice-Chair
Council Member Michelle Bergin-Andrews
Councilman Mario Aceto
Councilman Emilio L. Navarro
Council President John Lanni, Jr.

Also Present: Councilman Richard D. Santamaria, Jr.
Robin Muksian-Schutt, Director of Administration
Evan Kirshenbaum, Assistant City Solicitor
Pat Quinlan, City Council Legal Counsel
Robert Strom, Director of Finance
Maria Medeiros Wall, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

MINUTES OF THE LAST MEETING:

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

Chair deferred to Councilman Pelletier to conduct the meeting.

CORRESPONDENCE:

OLD BUSINESS:

8-09-11 Ordinance in amendment of Title 8 of the Code of the City of Cranston, 2005, entitled "Health and Safety" (Foreclosure Requirements for Owner Occupied Residential Properties). Referred from City Council 9/28/2009.

8-09-12 Ordinance in amendment of Title 8 of the Code of the City of Cranston, 2005, entitled "Health and Safety" (Foreclosure Requirements for Rental Properties). Referred from City Council 9/28/2009.

George Babcock, Esq. appeared to speak in favor of the above two Ordinances. He stated that he has twenty seven clients who live in this City, all of whom are either at the beginning or have been foreclosed upon. People in this City need help. A similar Ordinance passed in Providence has helped people. Some banks, such as Fannie Mae, snub their nose at Ordinances such as Providence's and foreclose anyway.

Charles Lavalle, Partridge, Snow & Hahn, appeared to represent RI Mortgage Bankers Association. He stated that the Providence Ordinance was based on an Ordinance from Philadelphia. The Philadelphia process is a judicial foreclosure process. This issue is a matter of General Assembly. Lenders lose money by foreclosing. Lenders do not want to foreclose. Realistically, some foreclosures are not poor homeowners. Most foreclosures are non-homeowner occupied. Looking at the legal issue, this Ordinance does not pass any constitutional muster. If you are challenged on this, you will not be successful. The City of Providence has not been challenged yet. If there is going to be a change in the foreclosure law, do it at the State level.

Faith Anders appeared to represent the RI Bankers Association and asked that the Council consider not passing these Ordinances. She is confident that the General Assembly will pass legislation addressing these issues soon. A letter was sent to the City Council by the RI Bankers Association regarding this.

Todd Dionne, Esq., appeared to speak in favor of these two Ordinances and stated that a lot of his clients are in a modification process and they are foreclosed on. These Ordinances need to be passed for that reason.

Diana Gordon, 363 Pontiac Ave., appeared to speak and stated that the Council should possibly table these Ordinances until the General Assembly addresses this issue.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to recommend approval of these two Ordinances.

Under Discussion:

Council President Lanni stated that the reason for his motion is because people who are foreclosed on are not owners who willfully do not want to pay their mortgage, it is because of the economy and they are in dire financial straits. We cannot wait a month or two for the General Assembly to act on this.

Councilman Lupino stated that the Council used to get a list of the foreclosures and the majority, are owner-occupied.

Councilman Santamaria stated that if the banks are opposed to these Ordinances, he is in favor of it. When banks foreclose, the property is not taken care of and the City has to put a lien on the property and the City has to clean the property. The City has to call all over the country to locate who the lien holder is on the property. This is costing the City money.

Councilman Aceto stated that passing these Ordinances protects the taxpayer and keeps the City the way it is.

Council Member Bergin-Andrews stated that it is not the Council's job to determine if this passes constitutional muster. Our job is to protect the people of the City. If it goes to court, the Judge will decide.

Councilman Lupino stated that the letter from the RI Bankers Association does not state the Bill number, it should.

Solicitor Kirshenbaum stated that he understands the reason for these Ordinances, but he feels this is an area that should be granted by State Law. To pass these Ordinances amending statutory power of sale, he does not know how you would do that. If this were constitutional, which it is not, he suggested: how many time would someone mail notices and what would be the procedure to determine whether or not the home was occupied. There should be a mechanism to determine this.

Councilman Santamaria asked Attorney Lavalley if he knows for sure that the General Assembly will take this issue up. Attorney Lavalley stated that there is no guarantee. His organization is pressing for this issue to be taken up. Councilman Santamaria stated that by the time the General Assembly takes this up to vote on, it will be June of next year, if they even take it up. This is just a smoke screen.

Roll call was taken on motion to recommend approval of the above two Ordinances and motion passed unanimously.

PUBLIC HEARINGS/NEW BUSINESS:

None.

The meeting adjourned at 8:15 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees