

REGULAR MEETING – CITY COUNCIL

-AUGUST 23, 2004-

Regular meeting of the City Council of the City of Cranston was held on Monday, August 23, 2004.

The meeting was called to order at 7:00 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: Mayor Stephen Laffey; Paul Grimes, Director of Administration; Robin Muksian-Schutt, Deputy Director of Administration; Nancy Garcia Ponte, Assistant City Solicitor; Mike Igoe, City Controller; 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. INTRODUCTION OF UNDOCKETED RESOLUTIONS

No Business.

III. EXECUTIVE COMMUNICATIONS

“REQUEST TO BE PLACED ON PENSION MICHAEL OSTRANDER, CRANSTON FIRE DEPARTMENT.”

Mr. Grimes appeared to speak.

On motion by Councilman Ferolito, seconded by Councilman Fung, it was voted to 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.

- Mayor Laffey appeared to speak regarding proposed Ordinance 6-04-4, which he vetoed last month and he reiterated that the money should be used to replace the roof at Cranston High School East. He asked the Council to reconsider this Ordinance for this use.
- Mayor Laffey spoke regarding proposed Ordinance 8-04-2, which is being introduced tonight to be used for middle school interscholastic sports and asked the Council’s support to approve this Ordinance.
- Mayor Laffey spoke regarding proposed Ordinance 6-04-3 regarding Sealer of Weights and Measures.

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Mr. Grimes appeared to speak and asked to be given opportunity to clarify some issues that were raised regarding Injured On Duty (IOD) policy and procedures.

On motion by Councilman Lanni, seconded by Councilman McDonough, it was voted to close the Executive Communication portion of this meeting and discuss this item at the end of the meeting, since the public cannot speak on this until the "Public Hearings of Undocketed Items". Motion passed on a vote of 7-2. The following being recorded as voting "aye": Councilman Jackvony, Councilwoman O'Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Lanni, McDonough and Council President Pastore -7. The following being recorded as voting "nay": Councilmen Fung and Ferolito -2.

IV. COUNCIL PRESIDENT COMMUNICATIONS

"Internal Auditor Report On Elderly Exemptions"

Council President Pastore asked that Mr. Woerner speak regarding this report. Mr. Woerner presented a copy of this report and stated that this issue came up at the last Council meeting when a taxpayer was originally denied an over 65 exemption. In doing this research, he found that Cranston is in line with other communities.

Council President Pastore stated that he received correspondence dated August 11 from the Attorney General relating to a Keyspan LNG Marine Terminal Proposal at the shipyard. Councilwoman O'Hara stated that it would be very helpful if some Council members would be willing to join in in the process and follow it.

"City Financials"

Mr. Igoe gave the following report on the City's financials:

Through end of July the City collected \$43,761,399 and expended \$18,960,353. Mr. Igoe stated that the majority of the revenue came from the first month property tax collection. To date, there is no major variances. Council Member Fogarty questioned the heading on the reports. Mr. Igoe stated that they are incorrect and a revised report will be sent out tomorrow. Mr. Igoe stated that there is \$8 million surplus for current year, excluding prior years. Councilman Jackvony stated that actual revenue year to date on the June, 2004 updated report seem to expand by \$5 million, he asked where this comes from. Mr. Igoe stated that the majority of that came from audit adjustments that were made, which was approximately \$4 million, the rest would be for accruals that are made during the year, such as rescue fund. The current cash position of the City is \$15 million.

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IV. COUNCIL PRESIDENT COMMUNICATIONS (Cont.)

“Auditor General Discussion of Financial Matters”

Council President Pastore stated that he was contacted by Ernest Almonte, Auditor General requesting that he be allowed to discuss some financial matters with the Council. Ernest Almonte, RI Auditor General, appeared to speak and stated that he asked to appear before the Council to tell them what they need to hear:

1. Ordinance 6-04-4 the Mayor vetoed last month was passed by the Financial Review Board by a vote of 5-0, supporting the Mayor's veto. If he knew that this was on the Financial Review Board's docket, he would have attended that meeting and spoken on it then. He stated that if the City loses the Police and Fire court cases, it would mean a \$3 million cost to the City per year. He had recommended that the City put in the pension fund \$1 million in the first year, \$2 million in the second year and \$3 million in the third year to have a minimal amount of impact to the taxpayers, if the court cases were lost by the City.
2. Erroneous information given - when the City came forward to get their Qualified Bond Act passed – in that documentation, the Administration addresses all the recommendations made by the Auditor General's Office and he pointed out #10. He stated that when looking at the documents, the required contribution was approximately \$25 million, the actual contribution was a discrepancy of \$12 million. It was not 101% going into this un-funded pension plan, as this was told to him at the time. If the correct information had been given to him at the time, the recommendations would have been different when the City asked to pass the Qualified Bond Act.
3. He has told the previous Administration that the COLA should be matching with the salary increases when actual pension amount was calculated.
4. \$2.5 million that was put into the pension fund upon the Qualified Bond Act – he recommended this, because by doing this, the contribution of 2.5% saved the taxpayers \$25 million in the future. In regards to using the \$700,000 for the school roof, he stated that he spoke to the School Department and their position is it cannot be done this school year because classes are in session and students are in the building. This is why the \$700,000 should be used for the un-funded pension liability and the roof at Cranston High School East could be done during the summer when school is closed, because doing it this year would put the children at risk. A problem with the pay as you go, is there is a huge liability that does not show up on the City's financial statements. There are debts that do not show up on the financial statements. Mr. Almonte stated that there is a seminar on October 6, 2004 at University of Rhode Island and he encouraged everyone to attend this seminar. He urged the Council to override the Mayor's veto on proposed Ordinance 6-04-4, otherwise the Council would be passing on a debt to future taxpayers and future generations.

Council President Pastore asked Mr. Woerner, as a priority, to work with the Auditor General's Office to fund health care costs. Council President Pastore asked the Auditor General to give a recommendation on numbers that are needed.

IV. COUNCIL PRESIDENT COMMUNICATIONS (Cont.)

Councilwoman McFarland stated that she along with Councilman Jackvony were in favor of placing money for the Cranston High School East roof repair because they thought the School Department supported the plan, but after speaking with the School Department, they said the roof could not be repaired this school year and after listening to the Auditor General's presentation, she is having second thoughts. Councilwoman McFarland stated that she had suggested putting this money into a separate fund, but this was not supported by the Council. She asked Mr. Almonte if he felt it is a good idea to put this money into a separate fund or putting it into the pension fund and does this need to be done right now. Mr. Almonte stated that this money should be placed in the pension fund right now because of the compounding effect, better than putting it towards a roof, which can be funded in other ways. Councilwoman McFarland asked how rating agencies look at the situation. Mr. Almonte stated that by placing the money in the pension fund, would help the City more then it would hurt. The bond rating agencies look at the whole picture. Councilwoman McFarland asked if the \$700,000 were to be put in the surplus, would this anticipate the bond rating to go to triple "B" like the Mayor had stated at the last meeting. Mr. Almonte stated that having a surplus alone is not going to help this community. He suggests that once it goes in the pension plan, it cannot be taken out. This City did have a surplus in the past and it was gone in one year.

Councilwoman O'Hara stated that since last May, the Administration has said that the bond rating agencies would not like it if the City draws down on the surplus. Since the City does not have the audit complete, the bond rating would not look unfavorably upon it. This is why this money should go into the pension fund now.

Mayor Laffey stated that as to the statement made by Mr. Almonte, in May, 2002, the Council voted to take money out of the pension fund, so money is not safe there. When he and Council members met with the Auditor General, it was not agreed to fully fund the pension plan. Mr. Almonte stated that as to taking the money out of the pension plan, he is well aware that the money was taken out and he was the first one to speak out on this and he stated to this Administration to stop that. Pension plan was moved to UBS so monies could not be taken out. The reason he agreed to the supplemental tax is because the Mayor agreed that he would come up with \$11 million in cuts, he has not seen any cuts in 2003 or 2004. His office made 48 recommendations to the City. The Administration told him that the City was 101% funded, when in actuality, it was 60% funded. Mayor Laffey asked the Auditor General what cuts he would recommend. Mr. Almonte stated that Mayors need the flexibility to make those decisions, but why give erroneous figures that the pension fund was being 101% funded.

Mayor Laffey stated that Mr. Almonte has been Auditor General for ten years. For two years, the City audits were late, and the Auditor General's Office never responded. The State Audit itself is late.

The Auditor General could not step in to take over the City because the law required a city or town to be under-funded two years in a row showed by audited financial statements. Since then, this law has been changed and they now intervene if a deficit occurs in first quarter. Mr. Almonte presented a packet for the record, which was previously forwarded to the Council members.

Council President Pastore stated that he advocated against taking the money out of the pension funds and has been trying since May to get this resolved. The Council adopted a very conservative budget this year and last year. The City has room to address both funding needs. The City Council could do both given the surplus that has accumulated. He asked that Mr. Almonte stay until the vote is taken on this Ordinance.

IV. COUNCIL PRESIDENT COMMUNICATIONS (Cont.)

Councilman Fung stated that his major concern in trying to address this problem first is we are looking at a potential liability and claims. If a hurricane hits, the tires on the Cranston High School East roof could hit cars or nearby homes. Mr. Almonte stated that he understands the potential liability, but there is a potential liability if the roof is repaired while school is in session and dust or asbestos leaks inside the building, and the School Department has stated that they will not be making the repairs this year.

Mayor Laffey stated that he spoke to the Principal at Cranston High School East and was told that there is \$40,000 worth of computers and if this roof is not repaired soon, this equipment could be damaged if there is a leak.

Councilman Lanni stated that the Auditor General alone has turned this City around and has made a tremendous difference in the way the City is running. He also stated that he agrees to placing this money in the pension fund.

Council President Pastore asked the Council to keep in mind that it is not just the a one time windfall, the cumulative surplus for the year is in the multi-million dollar range.

Gavel was passed to Council Vice-President O'Hara.

Councilman Jackvony stated that he discussed the Cranston High School East roof issue with Joel Zisseron of the School Department and was told that these repairs have to be done in the summer because it is more logistic and it would cost approximately \$950,000.

Gavel was passed back to Council President Pastore.

Councilman Jackvony stated that the decision that needs to be made is how the bond rating agencies will look upon the City if the money were to be used for the roof repairs.

Councilman McDonough asked Mr. Almonte if the State had offered to perform the Performance Audit for the School Department and how much he would have charged. Mr. Almonte stated that he had offered to do it at no charge because of the City's financial situation, but that the Mayor said no. Councilman McDonough stated that to pass this debt onto future generations is wrong. Mayor Laffey stated that he and the Auditor General did discuss who would do the audit and discussed if he should do it and Mr. Almonte expressed that he was very busy and the City felt that the most impartial way to do it would be to go out to bid on it. Mr. Almonte stated that what the Mayor did say to him was that he could not give him the audit report that he wanted, which would have been fact based, non-ideological.

On motion by Councilwoman O'Hara, seconded by Councilman McDonough, it was voted to move proposed Ordinance 6-04-4 from where it is placed on the Docket to after "Public Hearings" section. Motion passed on a vote of 8-1. The following being recorded as voting "aye": Councilman Jackvony, Councilwoman O'Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni, McDonough and Council President Pastore -8. The following being recorded as voting "nay": Councilman Fung -1.

V. COUNCIL MEMBER COMMUNICATIONS

Councilwoman McFarland spoke regarding proposed Resolution regarding the Cranston Street Hockey League Exempt Status. She stated that she has addressed this issue to this Administration a number of times and the Mayor's Office did not respond to her until she found out from a representative that the Mayor was holding a press conference regarding this. She stated that it is too bad that we collected more taxes than we should have. It is too bad that all these things did not come to light until the start of the political season.

Councilman McDonough stated that by this Council addressing proposed Ordinance 6-04-4 puts the Council in a precarious situation, since the Ordinance states that this Ordinance takes effect pursuant to Resolution being passed by the School Committee. As everyone knows, the Council cannot dictate how funds are spent by the School Department.

VI. PUBLIC HEARINGS

John DeGenova, Vice-President of Local 1363 Firefighters Union, appeared to speak. Administration has unilaterally withheld COLA for retirees. Mayor has said dates of retirement were unknown, but he has obtained a list from the Personnel Department showing the retirement dates. He stated that this Council passed a pension request earlier on a vote of 9-0. He stated that what he needs to know is what does he tell this member of what his pension is going to be. Council President Pastore asked that Mr. Grimes communicate this question with Mr. DeGenova on this question.

Thomas Ricci, 75 Knight St., appeared to speak and questioned if there is any structural damage to the roof at Cranston High School East. He stated that this should be looked into. Council President Pastore stated that the Ordinance regarding the school repairs will be voted on next month.

Aram Garabedian, 173 Belvedere Dr., appeared to speak and stated that he met with Mr. Zisseron from the School Department and Mr. Zisseron stated to him that the roof could not be repaired currently because of the potential effects on the students. He asked the Council to keep in mind that there was a 40% reimbursement for school repairs from State Aid. Currently, in this year's budget, there is \$500,000 for the Fire Code upgrade and a roof at Oaklawn School that have not been mentioned, which are Capital improvements that were approved. These issues have to be addressed. He stated that he has been attending Council meetings for years and Council after Council for years have come up with reasons after reasons why they should not put money in the pension plan. This has to be addressed.

Jeffrey Barone, 16 Samuel Ct., appeared to speak and stated that he attended the press conference held by the Mayor last week regarding the Cranston St. Hockey League and was very impressed. He asked that the Council do everything they can to pass the Resolution regarding the Exemption Status for the League.

Albert Benetti, 24 Concord Ave., appeared to speak and stated that this City has been in trouble since 1991 and the Auditor General never came into the City and recently, the Auditor General's Office has become politicized. It is very unfair for the Auditor General to make the remark that the Mayor did not come up with the \$11 million cuts. Mr. Benetti stated that at the Budget hearings he asked for a trigger to be put in and he was told that it could not be done. He asked where the Mayor was supposed to get the cuts from with what was done with the contracts. Everyone in the City is paying a lot more money in taxes and the services are collapsing.

“ORDINANCE AMENDING THE BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2003 AND ENDING JUNE 30, 2004 (PENSION FUND)”

On motion by Councilwoman O’Hara, seconded by Councilman McDonough, the above Ordinance was adopted on a vote of 7-2. The following being recorded as voting “aye”: Councilman Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Lanni, McDonough and Council President Pastore –7. The following being recorded as voting “nay”: Councilmen Fung and Ferolito –2.

VII. UNDOCKETED RESOLUTIONS

No business.

VIII. DOCKETED RESOLUTIONS

“RESOLUTION SUPPORTING TAX EXEMPT STATUS FOR THE CRANSTON STREET HOCKEY LEAGUE, INC.”

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

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

6-04-3 “ORDINANCE IN AMENDMENT OF CHAPTER 2 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘ADMINISTRATION’ (Weights and Measures).”

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, it was voted to adopt the above Ordinance.

Under Discussion:

Council Member Fogarty gave background information on how this Ordinance came about and why it was drafted. Councilman Fung stated that a concern that is not addressed in the Ordinance, which he noted at the Ordinance Committee meeting, is there is no cap limitation on the potential fees this individual can collect. Councilman McDonough stated that this Ordinance provides a checks and balance that we currently do not have. Councilman Fung stated that the amendment he offered at the Ordinance Committee meeting was setting a limitation on the amount of fees this individual would retain, set by the Council. Councilman Ferolito asked what is collected annually from the Sealer of Weights and Measures. Mr. Igoe stated that he is not sure that this is a budgeted line item. This money is normally given to the Clerk’s Office. Ms. Wall stated that this would go into the General Fund. The highest rate we received was \$1,700 for a two year period.

Roll call was taken on vote to adopt the above Ordinance and motion passed on a vote of 7-2. The following being recorded as voting “aye”: Councilman Jackvony, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Lanni, McDonough and Council President Pastore –7. The following being recorded as voting “nay”: Councilmen Fung and Ferolito –2.

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

7-04-2 “ORDINANCE AMENDING THE CAPITAL BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005 (Impact Fees-Briggs Farm Phase III).”

On motion by Councilwoman McFarland, seconded by Councilman McDonough, the above Ordinance 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.

7-04-3 “ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MOTOR VEHICLES AND TRAFFIC’, ‘NO PARKING ON CERTAIN STREETS-GENERALLY’, BY ADDING BOLTON ST., PORTION OF.”

On motion by Councilwoman McFarland, seconded by Councilman Fung, the above Ordinance 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.

7-04-4 “ORDINANCE IN AMENDMENT OF CHAPTER 17 OF THE CODE OF THE CITY OF CRANSTON, 1970, ENTITLED ‘MOTOR VEHICLES AND TRAFFIC’, ‘YIELD RIGHT-OF-WAY SIGNS’ BY ADDING DYER AVE. AND DYER AVE.”

On motion by Councilwoman McFarland, seconded by Councilman McDonough, the above Ordinance 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.

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 7-0. The following being recorded as voting “aye”: Councilman Fung, Councilwoman O’Hara, Council Member Fogarty, Councilwoman McFarland, Councilmen Ferolito, Lanni and McDonough –7. Councilman Jackvony and Council President Pastore abstained.

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

On motion by Councilwoman O’Hara, seconded by Councilman Fung, 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

No Business.

XI. REPORT OF CITY OFFICERS

No Business.

XIA. OLD BUSINESS

No Business.

XII. NEW BUSINESS

On motion by Councilwoman McFarland, seconded by Councilman Ferolito, the following introduced Ordinance be advertised for hearing before the Ordinance Committee on THURSDAY, September 16, 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.

8-04-1 Ordinance amending the Budget for the Fiscal Year commencing July 1, 2003 and ending June 30, 2004 (Meals Tax). FINANCE COMMITTEE 9/16/2004 and ORDINANCE COMMITTEE 9/16/2004.

On motion by Councilwoman McFarland, seconded by Council Member Fogarty, the following introduced Ordinances be advertised for hearing before the Ordinance Committee on THURSDAY, September 16, 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.

8-04-2 Ordinance amending the Budget for the Fiscal Year commencing July 1, 2004 and ending June 30, 2005 (Additional State Aid). FINANCE COMMITTEE 9/16/2004 and ORDINANCE COMMITTEE 9/16/2004.

8-04-3 Ordinance in amendment of Chapter 27 of the Code of the City of Cranston, 1970, entitled "Streets and Sidewalks" (Discharges To City Streets). PUBLIC WORKS COMMITTEE 9/16/2004 and ORDINANCE COMMITTEE 9/16/2004.

8-04-4 Ordinance in amendment of Chapter 18 of the Code of the City of Cranston, 1970, entitled "Offenses-Miscellaneous" (Damage To Trees). PUBLIC WORKS COMMITTEE 9/16/2004 and ORDINANCE COMMITTEE 9/16/2004.

8-04-5 Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 1970, entitled "Motor Vehicles and Traffic" (Wellington Ave.). ORDINANCE COMMITTEE 9/16/2004.

Councilman McDonough asked that the Solicitor provide the Council with a letter of a ruling of proposed Ordinance 8-04-2 on whether we can give money to the School Committee and direct them how to use it.

XIII. MISCELLANEOUS BUSINESS ON CLERK'S DESK

6-04-4 "ORDINANCE AMENDING THE BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2003 AND ENDING JUNE 30, 2004 (Pension Fund)."

This Ordinance was discussed and voted on after "Public Hearings" section of the Docket.

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS

Mr. Grimes appeared to speak regarding IOD issue and procedure emanating from questions from the Fire and Police Departments. He explained what brought on the instituting of uniform policies and procedures for IOD. He stated that on March 22, 2004, he sent a memo, after extensive consultation with Beacon Insurance and the Solicitor, establishing a uniform policy. This calls for: 1) employee is to fill out injured on duty report; 2) signed detailed narrative report; 3) signed medical release authorization; 4) signed physician's note with nature of injury and duration of injured on duty time. If this paperwork is not completed, then injured on duty status is not approved. This is not because of abuse, but in an effort to protect the taxpayer and the employee. The impact of this is no firefighters or police are being denied healthcare coverage. No medical treatment will be denied and he specifically told the healthcare providers that today. If there is a privacy issue for an employee for injury on duty, the employee has to think about that because once they file for IOD, this information will be open to the public.

Kristin Casale, wife of injured firefighter Private James Casale, involved in an accident on August 9, 2004, appeared to speak. She addressed her concerns on how the Mayor has treated her husband by denying his injured on duty status and denying his medical treatment. She asked that the Council legally place her husband on IOD with the Fire Department.

Paul Valetta, President of Local 1363 Firefighters Union, appeared to speak and stated that the firefighters who have United Health and are injured on duty, are not covered by United Health because the City's health insurance carrier is Blue Cross. If the member does not file an IOD claim, Blue Cross will not cover the member. This new procedure went into effect March 2 and he stressed that there is an IOD procedure in the contract. The new procedure the Administration has implemented asks for waiver of RIGL5-37.2, 42-CFR pt. 2. Presently, IOD forms are signed within 10 days of the injury and have to go to a physician or emergency room and given to the Fire Chief and then forwarded to Beacon Mutual Insurance. This is all by contract. Mr. Valetta stated that Mr. Grimes stated tonight that there is no abuse, but in the Cranston Herald he told reporter that there is. Mr. Valetta stated that an arbitration is scheduled for December 20 and decision probably won't be given until after the first of the year. He asked that the Council pass an emergency Ordinance or emergency Resolution directing the Administration to put these firefighters on IOD and get the treatment they deserve and to live by the contract until the arbitration is decided. Mr. Grimes stated that on March 24, Mr. Valetta received a memo from him regarding this new procedure and they met on April 19 and Mr. Valetta was told to address any alternative language acceptable to him and nothing was received from him. Council President Pastore suggested that everyone use their energy towards the following: both parties work on the clarification of the IOD procedure and any changes and in the interim, if anyone is injured, they not be prevented from getting medical attention. He suggested a motion stating that "whatever the contract dictates, that rules".

XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS (Cont.)

O motion by Councilman McDonough, seconded by Councilman Lanni, it was voted that the contract stays in place until arbitration case is heard and resolved and the Administration is requested to participate in clarifying the IOD documents and points dictated by the ACLU.

Under Discussion:

Council Member Fogarty asked why the need for this new form. Mr. Grimes stated that this would be to have a standard uniform policy for completing and applying for injured on duty status to protect the employee and taxpayers. Council Member Fogarty stated that according to State Statute, there are 23 exemptions for release of records. Mr. Valetta reiterated that the contract addresses IOD procedure. By doing this, Mr. Grimes is changing the present contract and he can't do that. Mr. Grimes suggested that Mr. Valetta meet with him tomorrow to discuss this and by the end of this week there may be an agreement reached. Mr. Valetta stated that he wants the Administration to agree that all firefighters injured be placed on IOD by 10:15 tonight, or no deal. Councilwoman McFarland stated that a few years ago, the Claims Committee handled IOD claims. The City then contracted Beacon Mutual Insurance as a third party, which now handles IOD. She questioned why not use a third party. Councilman McDonough stated that the Council should ask the Administration to return the IOD policy to the way it was before until the arbitration is decided.

Councilwoman O'Hara stated that it took years to pass the HIPPA Act at the Federal level and to wipe this out and implementing this release is outrageous. Councilman Jackvony asked if the paperwork has been filled out to the satisfaction of the Fire Department. Acting Chief stated, yes.

No roll call was taken on above motion.

Ken Rouleau appeared to speak and stated that at the May 9 meeting with Mr. Grimes, Ms. Alston and Ms. Bello were present and it was expressly discussed and communicated to them that the release was not acceptable.

John DeGenova, Vice-President of Local 1363 Firefighters Union, appeared to speak and asked question he asked earlier as to what he is to tell the retiree that was placed on pension earlier this evening and all the other retirees as to what their pension will be. Mr. Grimes stated that this is not a change. This is consistent with the Ordinance adopted June, 2003. Those who retired as of January 1, 1995 were withheld their raises inadvertently and they will be corrected. They are getting the same except the 3% until the decision is made in Court. Mr. DeGenova stated that this is a separate issue, a separate COLA, which was budgeted for and everyone agreed on. This is per the Judge. Council President Pastore asked that Councilman McDonough discuss with Mr. Quinlan to research Mr. DeGenova's points and advise the Council.

Meeting was interrupted by an outburst between the Mayor and Mr. Valetta. Council President Pastore asked Council members to clear the Chambers and a recess was taken. Meeting reconvened.

Council President Pastore announced that this meeting will be recessed until Wednesday at 7:00 P.M. to give the Administration and the Fire Union representatives time to review IOD form to see if this issue could be clarified and check release form and with Beacon Insurance on whether they use IOD form to see if this could be incorporated for the City to use. He also asked that the Administration get in writing from United Health whether coverage is available or not in an IOD issue.

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XIV. PUBLIC HEARINGS ON UNDOCKETED ITEMS

Council President Pastore asked that the following be made available by the Finance Committee meeting in September: Solicitor provide Council with written documentation of the basis for this recent change on the COLAS and this information be forwarded to the Council's Legal Counsel.

On motion by Councilman Fung, seconded by Councilman McDonough, it was voted to recess this meeting to Wednesday, August 25, 2004 at 7:00 P.M. Motion passed unanimously.

The meeting recessed at 10:40 P.M.

Maria Medeiros Wall
City Clerk

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Ron Ronzio, Stenotypist).

AUGUST 23, 2004 RECESSED MEETING – CITY COUNCIL

Reconvened -AUGUST 25, 2004-

The August 23, 2004 regular Cranston City Council meeting was reconvened at 7:10 P.M. in the Council on WEDNESDAY, August 25, 2004 in the Council Chambers, City Hall, Cranston, Rhode Island at 7:10 P.M.

Roll Call showed the following members present: Councilmen Fung, Jackvony (appeared at 7:15 P.M.), 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; Evan Kirshenbaum, Assistant City Solicitor; Nancy Garcia-Ponte, Assistant City Socilitor; Steve Woerner, City Council Internal Auditor; Patrick Quinlan, City Council Legal Counsel.

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Council President Pastore asked that any member of the public wishing to speak, limit their speaking to no more than five minutes. He asked the City Clerk to read, verbatim, Rule 30F of the City Council Rules which addresses the time limit for speakers. City Clerk read this section of the Rules.

Council President Pastore stated that if a member of the public gets out of hand during a speaking portion, he will ask the Police Officer to escort the person out of the building. He stated that this meeting is a continuation from the August 23 regular meeting to address what transpired in the last few days and to resolve the Injured on Duty (IOD) issue and he asked Mr. Valetta and Mr. Grimes to give update on this.

Mr. Grimes stated that he met with the Fire Union representatives on Tuesday afternoon and had a very constructive conversation and they have been working on some draft changes to this release. They met with attorney for IAFF and attorney for Beacon Mutual Insurance and have made good progress and he is sure that they can come to some kind of an agreement. Mr. Valetta appeared to speak and agreed and stated that the meetings were very constructive and they will be meeting again this week. Council President Pastore asked that once a consensus is reached on the form, the Council be kept apprised and shown the revised document.

Councilman McDonough asked if the same form will be offered to the Police. Mr. Grimes stated that it is the Administration's intention that they will have the same form and this revised form will be sent to the Police also.

Mr. Valetta stated that there is still a concern of the firefighters who have not been approved to be placed on IOD.

Council Member Fogarty stated that a question that was asked at the regular Council meeting, which has not been answered, is the firefighters who have United Health are not receiving treatment at this time. Mr. Grimes presented a letter dated August 25 from Sonia Millsom of United Healthcare regarding payments for members who may be covered under a third party insurance and also stating that, as requested by the City, United Healthcare will pay these claims on an exception basis and each exception will be approved in writing by the City.

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Public Hearings:

Thomas Ricci, 75 Knight St., appeared to speak regarding a Charter item. He stated that he has a problem with Attorney Quinlan sitting next to the Council President. He cautioned the Council that they are setting a dangerous precedent. He stated that he believes that the Council is in violation of the Charter. Council President Pastore stated that Mr. Quinlan does not write press releases. He also stated that Mr. Quinlan has represented the Council at numerous School Committee meetings. Council President Pastore stated that he is a firm believer of checks and balances between the Administration and the City Council. Mr. Ricci requested from the Solicitor's Office a finding on the legality of this.

Steven Antonucci, President of International Brotherhood of Police Officers Union Local 301, appeared to speak. He stated that earlier this year, he received correspondence from Mr. Grimes stating that the City was changing the IOD release form. After consulting with legal counsel, Mr. Antonucci stated that he was told that this would have to be changed in the contract and would have to be negotiated with the Union. He informed Mr. Grimes of this. The City went ahead and changed this form and the IBPO filed a grievance. The City made changes to this form and it was basically forced upon the police. The Union members were told to fill this form out and cross out Section 6, which they feel is illegal and does not apply. Council President Pastore asked Ms. Bello, Personnel Director, to come forward and speak regarding the grievance. Ms. Bello stated that there is a grievance filed and she was told that the Police union is going to hold off on this grievance until they had their attorney review this revised IOD form for input and further negotiate with their attorney. Mr. Grimes spoke regarding medical authorization form for the Police Department. He stated that the Administration conferred with the Police Department Administration and there are a few cases where the Police officers struck out sections of this form and the employees signed it. In terms of the actual language being stricken, this would have no impact on the medical release. This is why the Administration had no concern about the Police officers striking this language out. The Police officers have no problem allowing the City access to medical records, but they object to item #6, which gives a third party access to medical records.

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Albert Benetti, 24 Concord Ave., appeared to speak and stated that after the incident that occurred at the regular Council meeting the other night, the City needs to make sure that these incidents don't happen any more. He feels a Police officer should be present at every Council meeting, every Committee meeting and every School Committee meeting.

Aram Garabedian, 173 Belvedere Dr., appeared to speak and stated that the other night, the Council passed an Ordinance regarding impact fees for Briggs Farm. He quoted Section 11.06 of the Charter, which requires advisory opinion from the Advisory Commission on Parks and Recreation. He asked if the Administration is aware that this Commission has not been meeting every three months. Mr. Grimes stated that it is likely that they have not met in three months. He will research this and provide the answer to this concern to Mr. Garabedian. Councilwoman McFarland stated that she and Councilman Fung are members of this Commission representing the Council and there were two or three meetings scheduled, one of which was cancelled and they have not met since. Mr. Garabedian stated that the purpose of an advisory commission is to allow the public to give their input on what is important. The reason for him addressing the Council on this is because he knows for a fact that there are baseball leagues that are looking for fields.

Fred Wilson, 51 East Side Court, appeared to speak and asked who is responsible for negotiating with the Fire Union. Council President Pastore stated it is the Administration.

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Council Member Communications

Ms. Grady of Beacon Mutual Insurance appeared to speak regarding the release form and address questions from the Council. She stated that the release form is required in order for the Administration to be advised on the proper procedure for accepting or denying the claim. The insurance company is not interested in getting any broad information at all. They need just medical records that pertain to the injury that occurred on duty and any medical information that may have a direct effect on the injury. Councilwoman McFarland asked if Ms. Grady has discussed with the Administration what Beacon is looking for in this release form. Ms. Grady stated that she has been in discussion with the Administration. She did receive a sample of the release the Administration has placed in effect and she has made recommendations to the Administration on the language to be removed and language to be added. Councilman McDonough asked how many municipalities Beacon Insurance deals with. Ms. Grady stated 24 and the company does provide sample release forms and the municipality is directed to have their Solicitor develop their own forms to meet their needs. Councilman Fung asked what would happen if the authorization was revoked. Ms. Grady responded that they would recommend denial because they wouldn't be able to continue reporting on the validity.

The meeting adjourned at 8:00 P.M.

Rosalba Zanni
Assistant City Clerk/Clerk of Committees

Maria Medeiros Wall
City Clerk

(See Stenographic Notes of Ron Ronzio, Stenotypist).