

(The following is not a verbatim transcript of comments or discussion that occurred during the meeting, but rather a summarization intended for general informational purposes. All motions and votes are the official records).

ORDINANCE COMMITTEE

Regular meeting of the Ordinance Committee was held on Thursday, December 10, 2020 via Zoom webinar.

CALL MEETING TO ORDER:

The meeting was called to order at 7:01 P.M. by the Chair.

Present: Councilmember Kenneth J. Hopkins
Councilmember Lammis J. Vargas
Councilmember Aniece Germain
Councilmember Edward J. Brady
Councilmember Christopher G. Paplauskas, Vice-Chair
Council Vice-President Michael W. Favicchio, Chair
Council President Michael J Farina

Also Present: Councilmember Steven A. Stycos
Councilmember John P. Donegan
Daniel Parrillo, Director of Administration
John Verdecchia, Assistant City Solicitor
Leanne Zarrella, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

MINUTES OF THE LAST MEETING:

On motion by Councilmember Brady, seconded by Councilmember Paplauskas, it was voted to dispense with the reading of the last meeting and they stand approved as recorded. Motion passed unanimously.

Chair stated that a continuance notice has been posted on the City's website and the Secretary of State's website in case we are no table to complete the agenda this evening.

CORRESPONDENCE/COMMUNICATIONS

None.

Chair stated that he received a request to take proposed Ordinance 8-20-04 out of order to accommodate Major Patalano. He asked for a motion to take this Ordinance out of order.

On motion by Councilmember Hopkins, seconded by Councilmember Brady, it was voted to take proposed Ordinance 8-20-04 out of order. Motion passed unanimously.

8-20-04 Ordinance in amendment of Title 9, of the Code of the City of Cranston, 2005, entitled “Public Peace, Morals and Welfare” (Social Security No. Police Complaint.). Sponsored by Councilmember Stycos. AMENDED AND CONT. FROM 11/12/2020.

On motion by Councilmember Vargas, seconded by Councilmember Brady, it was voted to recommend approval of this Ordinance.

Under Discussion:

Major Patalano appeared to speak and stated that the Police Department has made some changes to the online reporting portal form when someone goes online to file a report. The change was done today and they came up with a solution to address the requirement of social security number and basically the form states that you may choose to bypass that by imputing all zeroes. This is highlighted in yellow. At the bottom of the report form, it states that the person has read and understands that their social security number is not required to submit a report and “not” is in all caps. The issue of the use of social security number is not to use it for any other reason than to determine identity. He did a research going back to 2015 and we had 541 fraud complaints where 459 people were charged with obstruction of justice. We do not provide the information to any other agency, it is internal. We use that to determine the identity of someone if it needs to be. The Police Department has a concern the way the Ordinance is drafted stating that the Police shall not ask for social security number. He can’t agree with that because at some point, we may need to ask for a social security number. He asked that that be amended to state: “any person filing an online report with the online portal with the Cranston Police Department, shall not be required to import their social security number and shall be optional”.

Councilmember Stycos stated that what was done on the website is good. The language stated by Major Patalano is decent, but there are other ways to identify someone by their birthdate. His biggest concern is privacy concern and people who are here in this Country undocumented and we want them to report crimes and having their social security number is a big disincentive. It is important that all crimes are reported.

Major Patalano stated that he can guarantee that everyone has another person with the same name and same date of birth. You can get anybody’s date of birth online, but not their social security number.

Councilmember Vargas stated that she agrees with Major Patalano on the language he suggested, even though she does agree with Councilmember Stycos’s sentiments.

Councilmember Stycos stated that this is a positive step in the right direction.

On motion by Councilmember Vargas, seconded by Councilmember Brady, it was voted to amend this Ordinance as follows: delete lines 25-27 and add: “No person filing an online report with the online portal with the Cranston Police Department, shall not be required to import their social security number and shall be optional.”

Under Discussion:

Director Parrillo stated that he does not think there is a need to put an Ordinance in place. This was addressed by the Police Department by changing the online form.

Major Patalano stated that we made the change on the document and he does not think the Ordinance is needed at this point. We are going down a very dangerous road. The Council is setting policy for the Cranston Police Department, which would hamper investigations.

Councilmember Hopkins stated that we should be real careful about dictating Police policy in an Ordinance.

Councilmember Stycos stated that he will withdraw the Ordinance and it is up to the future City Council to see if something more needs to be done. He thanked the Police Department for addressing the problem.

Councilmember Germain thanked Councilmember Stycos for bringing this issue up and asked what the City Council's role is if we can't set policies. Chair stated that we make laws and the Administration makes policies. Some of our laws create policies.

Ordinance was withdrawn.

OLD BUSINESS:

7-20-01 Ordinance in amendment of Chapter 10.32 of Title 10 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles & Traffic" (New Hampshire St. and Southern St.).

On motion by Councilmember Paplauskas, seconded by Councilmember Brady, it was voted to amend this Ordinance by deleting Section 2 and replace it with the following language: "Section 10.32.020 entitled "Stop Intersections-Enumerated" is hereby amended by deleting therefrom the following: (Southern Street at its intersection with New Hampshire Street)." Motion passed unanimously.

On motion by Councilmember Hopkins, seconded by Councilmember Brady, it was voted to recommend approval of the above Ordinance as amended. Motion passed unanimously.

Councilmember Donegan asked if proposed Ordinances 9-20-05 and 9-20-06 can be taken out of order since Ordinance 7-20-04 may take a long time. Chair stated that it is up to the Committee, but he is not sure that Ordinances 9-20-05 and 9-20-06 will be short.

Councilmember Brady stated that he tends to favor with the Chair. We have a lot of people waiting to speak regarding Ordinance 7-20-04.

Council President Farina asked that the Committee let the people hear the Mulligan's Island Ordinance and we can take care of Councilmember Donegan's Ordinances on Monday, if we have to.

7-20-04 Ordinance in amendment of Ch.17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Change of Zone – New London Ave.). Petition filed by Coastal Partners LLC, Mulligan’s Island LLC, and State of Rhode Island. *Cont. from 11/12, 2020*

Council President Farina motioned to recommend approval of this Ordinance. Councilmember Brady seconded the motion for discussion.

Under Discussion:

John Bolton, Esq., appeared to represent the applicant and stated that this is really the first step in a multi-step process for this proposed development. If we receive approval from the City Council, if and when the applicant wishes to proceed with the development of each phase, the applicant would then submit an application for land development and go through that multi-stage process with the Planning Commission. That is when more details will be discussed for this proposal, such as landscaping, buffers, etc. Attorney Bolton stated that he has several witnesses to present this evening: Samuel Hemenway, Civil Engineer; Paul Bannon, Traffic Engineer; Phil Amato, Planning Expert; and Bill Coyle, Real Estate Appraisal Expert. Also present is Mark Tasano, Director of Development for Costco; Michael DiGiuseppe who is with Coastal Partners, the applicant; and Michael Friedman, the current owner of Mulligan’s Island.

Samuel Hemenway, Project Manager with Garofalo and Associates, appeared to speak and stated that he is a Registered Professional Engineer in the State of Rhode Island as well as several other States and gave some of his professional work and educational background. Attorney Bolton asked Mr. Hemenway if he and his colleagues prepared site plan as amended for the proposed development. Mr. Hemenway stated, yes, Garofalo developed plans from input from the development team. Attorney Bolton asked what Section 17.100.020F of the Zoning Ordinance requires with respect to a buffer between a proposed development that is Zoned MPD and adjacent residential properties. Mr. Hemenway stated that the Zoning Ordinance requires a 50’ buffer strip. Attorney Bolton shared his screen showing ten closest homes on Hilltop whose backyards are adjacent to the proposed development and asked what the distance is from the edge of pavement to those homes. Mr. Hemenway stated that the minimum distance is 308 feet, but on average for those homes, the distance is approximately 390 feet. Attorney Bolton showed slides of views from homes on Hilltop Dr. and Beeckman Ave. in the Winter and in the Summer. Mr. Hemenway stated that there is significant buffer around the entire development to shield the adjacent properties from lighting. Attorney Bolton stated that storm water and concerns about flooding has been a major topic of discussion with respect to this proposal. He asked Mr. Hemenway if he has investigated potential storm water management strategies for this development at this stage of the development. Mr. Hemenway stated, yes, they have and they submitted a letter to the Planning Department approximately one month ago. Attorney Bolton asked that Mr. Hemenway’s letter dated November 6th and submitted to the Planning Department on November 20th and the City Council received a copy of that, be made part of the record. Attorney Bolton asked Mr. Hemenway if he is confident that the storm water can be managed on this property such that there would be no increase in runoff from the current conditions. Mr. Hemenway stated, absolutely, and it will be mandated by the State. Attorney Bolton asked if any State permits will be required and what those permits are. Mr. Hemenway stated that from a drainage perspective, the State will cover to general areas. First is because more than an acre of disturbance will occur it would trigger review under the State’s pollution elimination discharge program. They will require water quality certification be provided and also will trigger detailed engineering review of the storm water management program as well as some

maintenance program for the final selected facilities. The second component would be through the Freshwater Wetlands Division. In addition to the storm water review, the Wetlands Department will look for impacts to those facilities as well. Attorney Bolton asked if it is true to state that those State agencies will not issue those permits unless you demonstrate to their satisfaction that there will be no additional runoff from this property. Mr. Hemenway stated, yes, absolutely. These State agencies have the final say.

Chair questioned if the people testifying should be sworn in. Solicitor stated that they should be. Stenographer swore in Mr. Hemenway and Mr. Bannon.

Paul Bannon, Associate Project Manager with Beta Group, appeared to speak and gave his educational and work background.

Attorney Bolton asked Mr. Bannon if he prepared the impact study related to this development. Mr. Bannon stated, yes, his team was retained to complete the traffic impact study for this project as part of the local and State permitting process. Attorney Bolton asked that the traffic study dated October 20th be entered into the record. He asked Mr. Bannon how the data was collected for the existing traffic conditions. Mr. Bannon stated that due to the current State of Emergency in the State of Rhode Island, they obtained information from the Department of Transportation for 2019. They also obtained record information from previous studies that have been completed in this area for the Department of Transportation as part of an intersection improvement project, as part of a previous development for this property and reviewed that information relative to the current information and determine what the appropriate volume should be to be conservative in representing these conditions. Attorney Bolton asked Mr. Bannon if he performed a safety analysis as part of his study. Mr. Bannon stated, yes, that is typical part of their study analysis. Attorney Bolton asked Mr. Bannon if there any roadway deficiencies or safety issues in the study based his analysis. Mr. Bannon stated that no safety deficiencies have been identified including review of the accident information. Attorney Bolton asked if there will be any delays at that intersection as a result of this development. Mr. Bannon stated that there will be a minor increase in delays, but the level of overall service will be in the acceptable level, between 5-10 seconds by movement typically. Attorney Bolton asked that the memo dated December 4th from the Planning Department to the Planning Commission, which was transmitted to the City Council, be entered into the record.

Joseph Lombardo, expert in Municipal Land Use and Planning, was present and was sworn in by Stenographer and gave his educational and work background.

Attorney Bolton asked Mr. Lombardo if he prepared a report analyzing the planning aspects of the proposed development, particularly with respect to the proposed development consistency with the City of Cranston's Comprehensive Plan. Mr. Lombardo stated, yes, he did and he submitted that report on November 23rd and should be part of the City record. Attorney Bolton asked that the Planning Report of JDL Enterprises be made part of the record and also indicated that it was disseminated to the City Council. Attorney Bolton asked Mr. Lombardo, in his expert opinion, if the applicant's proposed development complies with the requirement with the Mixed Use Planned District for MPD as set forth in the Cranston Zoning Ordinance. Mr. Lombardo stated, yes, it does. The uses are multiple in nature. There is a line scale retail building and there are several smaller retail developments north and south of that primary user. Attorney Bolton asked Mr. Lombardo, in his opinion, what effect this proposed

development would have on any potential future expansion of State facilities towards those residential homes. Mr. Lombardo stated that if the State decided it needed to expand their facilities, it does have opportunity to take land if they need it, but there is compensation involved. So, if you had mostly such an area of recreational facilities that is present now versus if you had a multi-million dollar development in place, they probably would not look to that site in the future. Whereas, in its present condition, it might not take a great deal for them to make that happen. Attorney Bolton asked Mr. Lombardo to discuss this proposal's consistency with the economic development element of the Comprehensive Plan. Mr. Lombardo stated that he thinks everyone would recognize this as an economic development project. It will certainly increase the tax base in the community, it is private development, it is certainly a site for that type of development and then provide many jobs during construction and then many permanent jobs afterwards. It is also bringing in outside money into the community. From an economic development point of view, this meets those goals.

William Coyle, Real Estate Appraiser and Consultant, was present and was sworn in by Stenographer and gave his educational and work background.

Attorney Bolton asked Mr. Coyle if he prepared a written report with respect to this development. Mr. Coyle stated, yes, he did. Attorney Bolton asked that the report of William E. Coyle, Jr. & Associates dated November 23, 2020 be submitted for the record. He also stated that this report was also submitted to the Planning Department and disseminated to the City Council on November 30, 2020.

Mr. Coyle described the character of the Summer of the surrounding property. In his opinion and based on his research, the proposed project would cause no impact on any of the valuations of the residential or impact of the commercial or State owned properties. The buffers themselves are unusually large. Attorney Bolton asked Mr. Coyle if he believes, in his experience, this proposed development would essentially foreclose the threat of further expansion of the State facilities particularly towards the residential properties and make any State condemnation more difficult and more expensive. Mr. Coyle stated that most certainly, if this building were built as proposed and the State would have great difficulty in trying to get them an operating business of this and would be potentially more expensive. Attorney Bolton asked Mr. Coyle if the proposed development would have an adverse effect on the property values of homes located nearby the proposed development site. Mr. Coyle stated that based on the information he has seen and the analysis, in his opinion, there will be no impact on the surrounding residential properties.

Michael L. Friedman, owner of Mulligan's Island, was present and was sworn in by Stenographer. He stated that he has been involved with this property in one way or another since 1997. To date, he thinks that they have represented themselves very well and have good neighbors and take a lot of pride in their relationship with their nearby neighbors and people throughout Cranston. He believes that the applicant has done a very good job of listening to comments and hearing what members of the public, nearby neighbors and elected officials have brought up throughout this process and have been very open even in the time of COVID when it is very difficult to get people together and has made a lot of changes. There will be more changes made. They have to go through a process with the State, they have to come back after this for major land development with the City and work with the Planning Department and the City Council and Planning Board. This is not in any way final. The people should take solace in knowing that this is a group that is very interested in making long-term improvement to the neighborhood and making sure that it works out for everyone.

Mark Marchisano, Director of Development at Costco Wholesale, was present and was sworn in by Stenographer. He gave background of Costco and stated that this location is a good location which is one of the reasons they signed a lease agreement with Coastal Partners for this location. Each warehouse typically employs between 250-300 full-time as well as part-time jobs and minimum wage of \$15 per hour. They offer tremendous benefits package.

Attorney Bolton shared slides showing fact sheet about jobs at Costco and also estimated property tax revenue, their hours of operation, addressing noise and gas facility.

Michael DiGiuseppe, applicant for Coastal Partners, was present and was sworn in by Stenographer and stated that they started this process approximately one year ago and at that time, it was prior to COVID and before the election and they met with all the department heads and Mayor's Office and showed them their plan. The first presentation was in June and they listened to all the comments from neighbors, City Council members and Planning Commission members. They came back with a design that everyone should be proud of. They were able to gift eighteen acres of land to the City, which was considered Parcel 4 to the City because they heard a lot about recreation. They thought that by giving the eighteen acres, the City had the ability to create bike paths, exercise walking trails, different than what is there today.

Public Speakers:

Amy Goins, Esq., appeared to represent the Cranston Neighbors for Smart Development and stated that she will be offering Kevin Flynn's testimony as an expert in Planning and Zoning and his resume was included with his report and she asked that he be recognized as an expert in Planning and Zoning. She will do the same for Benjamin Caito, Registered Professional Engineer who she will ask to offer comments from an engineering perspective and some additional documents that were submitted to the Committee via the City Clerk today and previously submitted to the Planning Commission and asked that Mr. Caito be recognized as an expert in Engineering. She summarized the procedural objections in the manner this has come before the Ordinance Committee. Under State Law, where an application requires approval from the Planning Commission, as well as City Council approval, for an amendment to the Zoning Ordinance, as this does, the process is as follows: the first step is the Planning Commission for two items. The first being an advisory recommendation to the Council, which you do have. The second, which you do not have, is conditional approval of the Master Plan for the Major Land Development Project. That second part of the process was missed here and it is absolutely critical because without that application for Major Land Development Project approval, details of the project remain essentially unknown. Although this proposal was submitted as an alteration to an existing MPD, the Zoning Ordinance states that major alterations to an MPD follow the same rezoning procedure as if this were an altogether new MPD. This should not even be before the City Council or the Ordinance Committee. She asked the applicant, why not file the Land Development application? This is a critical issue that will certainly be presented to a Court on appeal if necessary. You need to do it anyway so why not do it now?

Kevin Flynn was present and was sworn in by Stenographer. He stated that he served as Planning Director for the City from 1985-2005 and worked for the City for four years prior to 1985. After that, he was the Associate Director for the Statewide Planning Program. He gave his educational and work background. He stated that during his time with the City, he oversaw the development of

Mulligan's Island and other Mixed Use Plan Districts, such as Chapel View and many other projects as well. Mulligan's Island was approved as a Mix Use Planned District. That Zoning designation was chosen because there were a variety of uses proposed for the site that could not fit into any other single zoning district in the Cranston Code. In this case, the applicant is proposing an amendment to the current Mix Use District that is Mulligan's Island. We all know what an amendment is, a modification, an addition or deletion. What is proposed here is not a true amendment. It is a wholesale change. It removes what is there and replaces it with something entirely different. The applicant is not asking amending the Comprehensive Plan, which could have been done, but this proposal is being called a Mix Use Plan District except it is not. It is a highway commercial zone and Cranston has a zoning category for that, C-4. Calling it something it is not does not make it so. The application narrative itself states quite clearly that for the vast majority of the site, Parcel 1, 2 & 3, the applicant requests all the uses allowed in a C-4 Zone and several of the parcels nothing is shown as to what the buildings would be. There is a zone for that, C-4. To ask for that would have required a separate Ordinance amending the Comprehensive Plan and this has not been done and in his judgment, it is a critical flaw. The fundamental question in all zoning change deliberations is the proposal the right change and the right place? He would state, it is not. It represents an island of commercial activity and perhaps a single largest retail building in the City if it were to be built. That is unrelated to the neighborhoods that surround it both State Institutions and residential. He also addressed some comments made by previous testimonies.

- Garden City comparison – Garden City is actually a model sort of suburban mix use development. It had a commercial port surrounded by townhouse apartments and religious and school purposes institutional purposes then the single-family development and a donated site for an elementary school in the middle of the development. It was really ahead of its times in the 1950's.
- Stop & Shop on Garfield Ave. – the site was misidentified when it was mentioned. The site does not abut against Pomham St.
- Lighting was discussed, but it was just an opinion. There was no specifics and no detailed plans.
- Storm water – no plans showing any calculations. Question was asked if these things can be managed. He would be more confident if he saw it.
- Traffic – what is on the record from D.O.T. is a memo expressing a high level of concern based on the plans and data that they have now. The residential development that was originally shown as Open Space, it never showed access of how you would get there. You could not get there from New London Ave. even from the previous plan.
- Comment was made that this is part of a commercial corridor – Chapel View is a mile away.
- Expansion of State Facilities – this was brought up four times. He would like to see some evidence of that. It is totally hearsay and it is a red herring scare tactic.
- Jobs – nobody disputes there would be jobs and tax revenue, but is that the only consideration?

Mr. Flynn addressed Director Pezzullo's memo and reminded everyone that it is the Planning Commission that makes the recommendation and not the staff and not a staff memo that ends up making no recommendation. The staff memo makes positive comments, makes negative comments and in the end it did not offer the Commission a recommendation up or down. The Commission made the recommendation and it was a strong recommendation of a 6-1 vote. He also stated that he has to assume, at this point, that there was very little interaction with the State from the City. The reason he thinks that is, is if there had been interaction, you would not have the kinds of correspondence that you received from the State.

Ben Caito, 97 Hilltop Dr., Expert in Engineering and abutting property owner, was present and was sworn in by the Stenographer. He stated that he is a Registered Professional Engineer in the State of Rhode Island and spoke as a professional engineer and stated that when you look at some of the documents that have been provided by the applicant, you need to consider a few things. With respect to the artists' drawings of the site from various neighborhoods, it does not appear that the berm is depicted as shown on the drawings and the topography does need to be considered. He asked that everyone keep that in mind when you review those. He showed a slide of Costcos in the region and they are all over 1,000 ft. from the nearest residential house.

8-20-04 Ordinance in amendment of Title 9, of the Code of the City of Cranston, 2005, entitled "Public Peace, Morals and Welfare" (Social Security No. Police Complaint.). Sponsored by Councilmember Stycos. AMENDED AND CONT. FROM 11/12/2020.

Discussed and voted on earlier in the meeting.

9-20-05 Ordinance in amendment of Title 6 of the Code of the City of Cranston, 2005. Entitled "Health and Safety" (Fair Housing Practices) Sponsored by Councilmembers Donegan, Germain, Stycos and Vargas. CONT. FROM 11/12/2020.

Continued to December 14, 2020 meeting.

9-20-06 Ordinance in amendment of Title 2 of the Code of the City of Cranston, 2005, entitled "Committees, Commissions and Councils" (Affordable Housing Commission). Sponsored by Councilmember Donegan. Co-sponsored by Councilmembers Germain and Vargas. CONT. FROM 11/12/2020.

Continued to December 14, 2020 meeting.

PUBLIC HEARINGS/NEW BUSINESS:

11-20-01 Ordinance in amendment of Title 10.32 of the Code of the City of Cranston, 2005, Entitled "Motor Vehicles and Traffic" (Scaralia & Fox Ridge Drive- 4 way stop) Sponsored by Councilmember Brady.

Continued to December 14, 2020 meeting.

11-20-04 Ordinance in amendment of Title 10.32 of the Code of the City of Cranston, 2005, entitled "Motor Vehicles & Traffic" (Park Ave. and Grace St. – 4 Way Stop). Sponsored by Councilmember Germain.

Continued to December 14, 2020 meeting.

11-20-05 Ordinance in amendment of Title 10.32 of the Code of the City of Cranston, 2005, entitled “Motor Vehicles & Traffic” (Newell Rd. at Bedford Rd. Stop). Sponsored by Councilmember Germain. Referred to Ordinance Committee December 10, 2020.

Continued to December 14, 2020 meeting.

Chair asked for a motion to continue this meeting to Monday, December 14, 2020 at 6:30 p.m.

On motion by Councilmember Hopkins, seconded by Councilmember Germain, it was voted to continue this meeting to Monday, December 14, 2020 at 6:30 p.m. Motion passed unanimously.

The meeting recessed at 10:36 p.m.

Respectfully submitted,

/s/ Rosalba Zanni
Assistant City Clerk/Clerk of Committees