

(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, April 15, 2021 via Zoom webinar.

CALL MEETING TO ORDER:

The meeting was called to order at 6:32 p.m. by the Chair.

Present: Councilman Robert J. Ferri
Councilwoman Aniece Germain
Council Vice-President Edward J. Brady
Councilwoman Nicole Renzulli, Vice-Chair
Councilman Matthew R. Reilly, Chair
Council President Christopher G. Paplauskas

Absent: Councilwoman Lammis J. Vargas

Also Present: Councilman John P. Donegan
Councilwoman Jessica M. Marino
Anthony Moretti, Director of Administration
John Verdecchia, Assistant City Solicitor
David Dimaio, City Council Budget Analyst
Leanne Zarrella, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

MINUTES OF THE LAST MEETING:

On motion by Councilman Ferri, seconded by Council President 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 Ordinance 1-21-05 will be continued to next month's meeting.

Chair stated that Ordinance 2-21-01 has been withdrawn. Council Vice-President Brady stated that there were questions online of what this means for that application and he asked Solicitor to address the following questions: Will this remain on the docket for three months? When will we be able to see this again? Will the residents be notified again? Solicitor stated that it would not be tabled so there would not be a 90-day rule that applies here. There is no action being taken by the Committee. This is unilateral action that is being taken by the applicant by withdrawing it and in order to get this back on the docket, that would have to go through the entire process again just as if it were a new application.

Councilman Ferri asked if there is a time limit when that could happen. Solicitor stated that there is no time limit because if they had gone forward and this was denied, then there would be a one-year wait or they would have to appear before the Committee and they would have to establish change of circumstances to be heard again, but because there is no vote, it is not being denied or approved, there is just no action taken on it so there are no time limitations. Councilwoman Renzulli asked if that would be the same if they were to ask for a variance. Would they have to go through the complete process again? Solicitor stated, yes, anytime anything is unilaterally withdrawn, the process begins again by reintroducing, new business, refer to Committee and have the hearing and advertise.

CORRESPONDENCE/COMMUNICATIONS

None.

COMMITTEE MATTERS CARRIED OVER:

1-21-05 *Ordinance in amendment of Chapter 17.84 of the Code of the City of Cranston, 2005, Entitled "Zoning" (Conformance to District Regulations Required & Substandard Lots of Record). Sponsored by Mayor Hopkins. (Cont. from 3/18/2021).*

On motion by Council President Paplauskas, seconded by Councilman Ferri, it was voted to continue this Ordinance to next month's meeting. Motion passed unanimously.

PUBLIC HEARINGS/NEW BUSINESS:

Michael Favicchio, 153 Belvedere Dr., appeared to speak regarding proposed Ordinance 3-21-04 and cautioned the Council on this and stated that there are five or six elements that are troublesome. It targets restaurant merchants and delivery services. It does not apply to other industries or other services. There are issues interfering with contractual rights of those merchants and delivery services. What about Amazon, UPS and Fed Ex, they are also delivery services, they are not regulated with this Ordinance. There are certainly some contractual rights that are being violated in the content of this because it effects all communities. It is something that has jurisdiction throughout the State. You may also be affecting interstate commerce with this because some of these companies may be headquartered in other States and you are not going to have any jurisdiction over them. Enforcement is also a problem. There is no authority for \$1,000 fine, it is \$500. There is no authority to assess damages or provide some kind of equity relief in Municipal Court. Mr. Favicchio also stated that he thinks it is going to be very Radicchio difficult to create an enforceable Ordinance. He understands the intent, but he does not see how this can be enforced at all.

Robert Murray, Esq., 21 Garden City Dr., appeared to speak regarding proposed Ordinance 3-21-04 and stated that he shares many concerns Attorney Favicchio just raised. He stated that he represents a number of restaurants in the community that survived during the 2020 pandemic with the help of these third-party delivery services. He cautioned any attempt to regulate these businesses that may discourage them from continuing to work in the City of Cranston. He believes the City Council recently formed a Small Business Advisory Committee and this may be a topic that could be considered by them first to discuss the issue. He also stated that there are some provisions in the Ordinance that warrant review. First, under the enforcement violation penalties, we have created a mechanism where a

merchant could bring a suit in our Municipal Court and he is not sure the Court has jurisdiction to the enabling Statute or whether or not we want to allow a merchant to bring a suit against Door Dash in the Municipal Court. That is not really what it is set up for. He urged the City Council to look at that. It also states that the Ordinance can be enforced by any City department designated by the City of Cranston. He thinks the Mayor would have to designate a City department, but it is a little open-ended and vague on that. The notices sent for violations section is not particularly clear who sends those notices. He urged the City Council to be cautious and thinks that this Ordinance needs further study and more work.

Michael Castello, 3 Russet Way, appeared to speak regarding traffic flow on Baldwin Orchard and Russet Way and asked if the City has a plan to address high traffic and speeding at this time. Chair stated that this will be addressed when the Ordinance comes up on the agenda. Mr. Castello read a statement into the record regarding the traffic on these streets.

City Clerk read the following question posted on the chat of Zoom from someone named Alex: “Will any action by Mr. Delfino and his representatives for petition thereof concerning Pepper Mill project initiate public notice to all property owners in the 400 ft. radius of the land designated as Plat 35 Lot 13 on 0 Pepper Mill Lane? Chair stated that he believes that question was answered and, yes, it would have to be. He asked Solicitor to confirm that. Solicitor stated that this is still in the public comments is not supposed to be a question and answer session. People have a right to speak on any topic, but he does not think this is a proper form. A specific question that would have to be done in a different manner and different form. Chair asked if we are able to answer the question of the 400 ft. notice requirement at this time. Solicitor stated that it is going to trigger all the requirements that is in place.

2-21-01 *Ordinance in amendment of Chapter 17 of the Code of the City of Cranston, 2005, entitled “Zoning” (Change of Zone – Extension of Pepper Mill Lane). Petition filed by David DelFino, owner.*

This Ordinance is withdrawn by applicant.

3-21-01 *Ordinance in amendment of Title 10.32 of the City of Cranston Code of Ordinances, 2005, Entitled “Motor Vehicles and Traffic “(Baldwin Orchard Drive & Russet Way – 3 way stop) Sponsored by Councilmen Reilly and Ferri.*

On motion by Council President Paplauskas, seconded by Councilwoman Germain, it was voted to recommend approval of this Ordinance.

Under Discussion:

Council President Paplauskas stated that by law, the Traffic Engineer has 90 days to provide a traffic report. He asked if there is a traffic report from the Traffic Engineer yet. Clerk stated that there is none received yet.

On motion by Council President Paplauskas, seconded by Councilwoman Germain, it was voted to recommend approval of this Ordinance pending traffic report. Motion passed unanimously.

3-21-05 *Ordinance in amendment of Title 10 of the Code of the City of Cranston, 2005 Entitled “Vehicles and Traffic” (Riding of Mini-Bikes, Etc. on Public Property) Sponsored by Council President Paplauskas.*

On motion by Councilman Ferri, seconded by Councilwoman Germain, it was voted to recommend approval of this Ordinance.

Under Discussion:

Council President Paplauskas stated that this Ordinance strengthens what we already have on the books for ATV’s and also gives a clause of alluding Police and for forfeiture.

On motion by Council President Paplauskas, seconded by Council Vice-President Brady, it was voted to amend this Ordinance as follows: line #28, after “property”, delete “or” and add after “public roads” the following: “or protected conservation areas, lands and trails within the City of Cranston”. Motion passed unanimously.

On motion by Council President Paplauskas, seconded by Council Vice-President Brady, it was voted to amend line #54 as follows: after “owner”, add new sentence to read: “The penalty shall be \$1,000 when on protected conservation lands and trails”.

Under Discussion:

Solicitor stated that he does not know if we can go as high as \$1,000. He believes that we are limited to \$500. Council President stated that he is fine making that \$500.

On motion by Council President Paplauskas, seconded by Council Vice-President Brady, it was voted to amend the fine to \$500. Motion passed unanimously.

On motion by Council President Paplauskas, seconded by Council Vice-President Brady, it was voted to recommend approval of this Ordinance as amended. Motion passed unanimously.

3-21-02 *Ordinance in Amendment of Title 2 of the City of Cranston Code of Ordinances, 2005, Entitled “Administration and Personnel-Diversity Commission” by Councilwomen Marino, Vargas and Germain.*

On motion by Council President Paplauskas, seconded by Councilwoman Germain, it was voted to recommend approval of this Ordinance.

Under Discussion:

Councilwoman Marino stated that there has been a lot of outreach and outcry from the community across the City for this Commission.

Council President Paplauskas asked to be added as co-sponsor.

Councilman Donegan thanked sponsors for making this a permanent commission.

Councilwoman Germain stated that she is in favor of this Ordinance to reducing the number of elected officials and appointments of the Mayor’s Office. We need to open it to more community leaders in this City.

Council President Paplauskas stated that he is in favor of amending the Ordinance and tweaking it the way the Ordinance reads, the Personnel Director is Chair and he asked that the City Council reach out to Director Parrillo to get his feedback on tweaking the composition.

Councilwoman Marino stated that Councilwoman Vargas, who is a member of this Committee and is not able to be present this evening, is in full support of this. She also stated that she agrees with Council President Paplauskas that we can come to an agreement on amendments before the City Council meeting.

Council Vice-President Brady agreed with his colleagues and asked to be added as co-sponsor.

Councilman Ferri stated that he has no objections to moving this forward and fine tuning it at the Council meeting.

No one appeared to speak in favor or to oppose.

Director Moretti stated that this may be a question for the Solicitor, in Section “A”, it states that the Commission is to encourage and assist in the implementation of City policies, etc. He asked for clarification of what the Commission would be doing with the Administration. Councilwoman Marino stated that further in the body of the Ordinance, Section B(4), it sets forth that the Committee will report back and submit a report every June and December to the City Council. Director Moretti asked for further clarification. Solicitor stated that he thinks the concern is the word “assist” in Section “A”. He stated that “assist” seems to suggest or go beyond merely making a recommendation. Councilwoman Marino stated that perhaps it can be changed to “encourage and advise”. Solicitor stated that that is an excellent suggestion. Director Moretti agreed.

On motion by Councilwoman Germain, seconded by Councilwoman Renzulli, it was voted to amend line #29 to remove “assist” and add “advise”. Motion passed unanimously.

On motion by Council President Paplauskas, seconded by Councilwoman Germain, it was voted to recommend approval of this Ordinance as amended. Motion passed unanimously.

3-21-04 *Ordinance in amendment of Title 5 of the Code of the City of Cranston, 2005, Entitled “Business Licenses and Regulations” (Third Party Delivery Services). Sponsored by Councilman Donegan.*

On motion by Councilwoman Germain, seconded by Council President Paplauskas, it was voted to recommend approval of this Ordinance.

Under Discussion:

Councilman Donegan stated that this is similar to an Ordinance he had proposed last year. This Ordinance would require that the third-party delivery service obtain an annual permit from the City for a fee of \$100 and would require the third-party delivery service to provide a written consent from the local business establishment prior to listing them on their platform. The reason this is needed is for several reasons. One being a matter of consent. From a business standpoint and he has spoken to some local businesses, another issue is that it brings up is a lot of the time a business is not aware that they are listed on this platform until they get an order. This can lead to more issues, such as the menu on the application may not be up to date or the hours of operation may not be updated on the app. That can lead to adverse experience for the person with the local business.

Council Vice-President Brady stated that he spoke to the Solicitor and he advised him today not to vote on this being his involvement to these organizations and him owning a restaurant in Cranston.

Councilwoman Renzulli asked for Solicitor's opinion regarding this Ordinance. She stated that she loves the concept of this, but does not want to do anything that would get us in trouble. Solicitor stated that when he reviewed the Ordinance this afternoon, he checked to see if anything was being done at the State level and in speaking with Solicitor Millea, there was a Senate Bill 2021-S0788 entitled Third Party Delivery Systems introduced and it appears that the Senate has taken up the issue a week ago and nothing, as we know, is going to happen in a week. Whether this makes it out of Committee or makes it to the House side, is anybody's guess. If the State comes in and regulates third party delivery services, they will supersede anything we do on the local level. The comments made by former Councilman Favicchio and Attorney Murray were well taken. There are several legal issues that are raised by this. He does not think this discussion is appropriate here in open forum. He would really like to discuss some of these issues in Executive Session because some of the legal opinions and advice that he gives should be aired publicly. The Municipal Court provision is a real problem. The Municipal Court does not have that kind of authority to allow private parties to come in and litigate. The fine structure is in excess of what is allowed. The mechanism by which violations are heard it seems to be a little of a conflict because in one instance it mentions Safety Services and another it mentions Municipal Court. There are things that he really needs to discuss with the committee, but does not think he could do it publicly.

Councilman Donegan stated that he is not opposed to holding an Executive Session if that is what the Solicitor is suggesting, but he does not want to see the State take action because a lot of the times the State takes a long time to act. Solicitor suggested continuing this Ordinance to end of May or June meeting and in the meantime, call for an Executive Session regarding legal issue and then amendments can be made.

On motion by Councilwoman Germain, seconded by Council President Paplauskas, it was voted to continue this Ordinance to next month's meeting. Motion passed on a vote of 5-0 with 1 abstention. The following being recorded as voting "aye": Councilman Ferri, Councilwomen Germain, Renzulli, Councilman Reilly and Council President Paplauskas -5. Council Vice-President Brady abstained.

- **Adjournment**

The meeting adjourned at 7:50 p.m.

Respectfully submitted,

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