

(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, March 14, 2024 in the Council Chambers, City Hall, Cranston, Rhode Island.

I. CALL MEETING TO ORDER

The meeting was called to order at 7:10 p.m. by the Chair.

II. ROLL CALL

Present: Councilwoman Nichole Renzulli
Councilman Robert J. Ferri
Councilman John P. Donegan
Councilman Richard D. Campopiano
Councilman Daniel Wall
Councilwoman Aniece Germain, Vice-Chair
Council Vice-President Lammis J. Vargas, Chair
Council President Jessica M. Marino

Also Present: Councilman Christopher G. Paplauskas
Anthony Moretti, Chief of Staff
Justin Mateus, Acting Public Works Director
John Verdecchia, Assistant City Solicitor
Stephen Angell, City Council Legal Counsel
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

III. MINUTES OF THE LAST MEETING:

- **Approval of minutes of the February 15, 2024 regular meeting**

On motion by Councilman Ferri, seconded by Councilman Wall, it was voted to dispense with the reading of the minutes of the February 15, 2024 regular meeting and they stand approved as recorded. Motion passed unanimously.

I. COMMITTEE BUSINESS MATTERS CARRIED OVER

8-23-03 *Ordinance in Amendment of Title 12, Chapter 08, Section 050 of the City of Cranston Code of Ordinances, 2005, Entitled "Repair of Defective Sidewalks - Generally".*
Sponsored by Councilwoman Germain. (*Cont. 9/14/2023, 10/12/2023, 11/16/2023, 12/7/2023 & 2/15/2024*).

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

Under Discussion:

Councilwoman Germain stated that this Ordinance will lift the burden from the resident who need help the most to have their sidewalk repaired. Due to language barrier, this Ordinance would have the City repair the sidewalk and resident gives the City their 50% for the City to do the work.

Councilman Donegan stated that he thinks that this is an effort that we should take. He questioned how this changes what we already have on the books. Councilwoman Germain stated that the way the program works now is you hire a contractor and they do the work. You pay the whole thing and after that the City will come and inspect the work done. So, if the contractor is not recognized by the City, you cannot participate.

Councilwoman Renzulli stated that when the City puts out an RFP for street paving next time, they could require any contractor that wants to do the streets to also do the repair and replacement of sidewalks so that contractor will provide a price per square foot once the City has awarded the new paving and sidewalk contract, they can begin accepting applications for the cost share program so this alleviates the resident from having to go find a contractor willing to do that.

Councilman Wall stated that he is still very concerned with the language that is crossed out on page two, line 55, which states “subject to the availability of capital and general operating funds”. This concerns him because, as he stated in the past, and also was told, it is a 50% reimbursement with no cap at all. That he can’t sign on.

Councilman Ferri indicated to line 64 language “existing sidewalk” and questioned if a new plat is built in Western Cranston and then sidewalk go in, and 15 years later, if they need to be repaired, would they be eligible for that repair? Councilwoman Germain stated, yes, it would. Councilman Ferri stated that he wants to make sure that the Administration is prepared to handle this because it looks like there is going to be a lot of tree work to be done and they are huge trees and a lot of trees that are going to come down. Councilwoman Germain stated that the Council passed an Ordinance about the trees so we have someone who is responsible for taking care of the trees so this does not need to be addressed here.

Director Mateus stated that tree situation, he thinks, would be included in the fiscal note, if there is one that goes along with this Ordinance. In terms of this Ordinance, line 70, Section E, “the set unit price per sq. ft.”, this language does not make any sense. 50% is a different calculation than by area. He agrees with Councilwoman Renzulli’s suggestion to address sidewalk uplifts as a part of the paving contract.

Councilman Ferri stated that it is going to cost a lot more money for the people because the City has to pay prevailing wage. He asked Director Mateus if that is correct. Director Mateus stated, yes.

Council President Marino asked if we are keeping a list of requests for the 50/50 sidewalk program currently. Director Mateus stated that every request that the department receives is handled immediately, so there is no backlog. Council President Marino asked how much is available in funding for that program FY 24. Director Mateus stated that we are on track to max out that budget this year, it was \$30,000. We are two-thirds of the way there. Council President Marino stated that a concern she has in this Ordinance is with lines 82-85 where we are eliminating the requirements of the contractor being licensed and showing proof of liability insurance and worker's comp. insurance. That is for the protection of the resident. Overall, she shares the frustration of her colleagues and some of the concerns of her colleagues. She would like to see more improvements, but she does not think making these changes is going to facilitate improvements for the residents. She also shares the comment made by Councilman Wall about the fiscal impact to have it being open-ended. She does not think that that is responsible for us to do relative to this type of expense.

Councilwoman Germain addressed the fiscal note. She stated that this Ordinance was introduced in September and now we are in March and still have no fiscal note.

Councilman Campopiano stated that this is an important Ordinance and wants to see this done, but needs more work.

Council Vice-President Vargas stated that this is an important issue in our City. She does not want to see this die in Committee. She would hate for this to go for a vote this evening not knowing whether it is going to pass or not. If we could at least have some potential amendments or conversations collaboratively with the Administration and whoever else the Council would like to assist and bring it back, she would definitely support continuing this to next month or two months, if not ready in the next few weeks. The way it is right now, she can't support it, it needs a little more tweaking, so we have more understanding on what the dos and don'ts are and what we can do to make sure that we can hold our Public Works people accountable as a City and the Council can provide answers to questions that they are often asked with sidewalks.

Council President Marino asked when all the survey results from BETA engineering will be available and if they are assessing the whole City. Director Mateus stated that it is the whole City that they are assessing and they are working on it now. Sidewalk portion needed to allow for good weather so they are just starting their efforts now. It will probably take them a month or two to get all that information and we should have it sometime in May. Council President Marino stated that she thinks it would be a good idea for Public Works to bring them in to present their findings maybe to the Council as to the sidewalks. Council Vice-President Vargas stated that she seconds that 100%. That might actually go hand in hand with Councilwoman Germain's Ordinance.

Director Moretti asked for some guidance in whether it is for the entire City and is this limited to every sidewalk that is not even for renewal or all trees. Council Vice-President Vargas asked what the Consultant is guiding the City with. She asked rather than wait until the Consultant is done, we bring them in at the next Public Works meeting just to give the Council an update as to what they are doing and where they are. Director Moretti stated that they do not come for free. They are in the process and there are consulting fees we would have to pay.

On motion by Councilman Donegan, seconded by Councilman Wall, it was voted to continue this Ordinance for two months. Motion passed unanimously.

8-23-04 **Ordinance in Amendment of Title 10, Chapter 12, Section 250 of the City of Cranston Code of Ordinances, 2005, Entitled "Crosswalks Enumerated".** Sponsored by Councilwoman Germain. (*Cont. 9/14/2023, 10/12/2023, 11/16/2023, 12/7/2023 & 2/15/2024*).

Councilman Ferri motioned to recommend approval of this Ordinance. Councilwoman Renzulli seconded the motion for discussion.

Under Discussion:

Councilwoman Germain stated that she has had discussions with Director Mateus and this Ordinance came from a lot of complaints from residents in the area of Pond St. and Grace St. and they feel that a crosswalk would be something that would deter speeding even though it might not be a solution that there will be no speeding, but it can at least help people to have a way to cross in this intersection. At the time she met with Director Mateus, he stated that he may have a solution and propose something and that is the reason she continued it to this evening. She asked Director Mateus to speak. Director Mateus stated that a crosswalk is not the solution here, it is a speeding issue and it is inviting pedestrians into the roadway and this is not a good way to solve that issue. Bottom line is this is a social issue and not so much an engineering issue. People are speeding and placing a crosswalk or a stop sign is not going to stop that behavior. People are going to disregard those traffic calming measures and are going to continue to do what they want to do.

Councilman Donegan stated that he commends Councilwoman Germain for her efforts to address an issue brought to her by her constituents, but he can't support putting a crosswalk at this location. It is a residential area and he agrees with Director Mateus that he does not think encouraging pedestrians into this intersection given the speeding issue is the right way to go.

Councilman Wall stated that being relatively new to the Council, he asked what the procedure is for putting a crosswalk up. He also asked if study needs to be done. Solicitor stated that in the opinion of the Solicitor's Office and he believes Attorney Angell is in agreement with this, is the traffic study would apply to traffic control devices, things such as that. This really is not any type of traffic control, it is more a pedestrian oriented, so the short answer is no, a traffic study would not be required.

Council Vice-President Vargas asked Director Mateus if any time we have painted lines on crosswalk, doesn't that now entail that we have to cut in to make an actual ramp to do the crosswalk? So, it is not just doing the painting. Director Mateus stated that through the American Disabilities Act, you have to have an ADA compliant wheelchair ramp accessing the crosswalks. Also, when you have a crosswalk, you want to be coming from somewhere and going somewhere. There is no sidewalk on the other side of the road at this intersection, so installing something for pedestrians to walk on, once they cross the crosswalk would be a part of the project as well. There is quite a bit of incidentals that come along with installing a crosswalk there. As he had explained to Councilwoman Germain, you would have to take down a tree, you would have to remove a neighbor's fence because their fence is in the public right of way, you would have to take down their neighbor's tree. So, there is quite a bit of incidental work that would go into installing a crosswalk at this location.

Council President Marino stated that she is sympathetic to the speeding in the area, but she agrees with Councilman Donegan that a crosswalk in that type of residential area without being a main road, she does not think it is the appropriate place there and it is not as simple as putting paint down. Also, she thinks that being in a residential setting gives people a false sense of safety. She understands the concerns, but she cannot be in favor of this Ordinance this evening.

Councilwoman Germain asked if it would be possible to have a sign installed saying ‘slow children’. Director Mateus stated that that can be accomplished. Councilwoman Germain asked if an Ordinance is needed for that. Solicitor stated that he does not think an Ordinance is necessary because there is no penalty attached to this. Apparently, it is more of a warning. Councilwoman Germain asked when the sign can be installed. Director Mateus stated approximately two weeks.

Councilwoman Germain withdrew this Ordinance.

II. PUBLIC HEARINGS AND PUBLIC COMMENT

Robert Murray, Esq., 21 Garden City Dr., appeared to represent the applicant for proposed Ordinances 2-24-02 and 2-24-03 and stated that applicant is requesting a continuance to April due to conflict in advertising between the Clerk’s Office and Planning Department.

Rene Brambault, 25 Bolton St., appeared to speak via Zoom in favor of proposed Ordinance 2-24-01. She stated that she attended a meeting last month and was a few minutes late and Councilman Ferri was the first one to say she could not have a voice since public comments were closed and he completely shut her down with some support from Councilwoman Germain and Councilman Wall. She is very curious to watch what happens tonight and how everyone votes seeing that everyone runs on promises to listen to constituents.

Rene Petrone, 2 Cassandra Court, appeared to speak via Zoom in favor of proposed Ordinance 2-24-01. She stated that she too has in the past attended meetings and likes the idea of being able to speak at meetings when there are issues that constituents have.

III. NEW MATTERS BEFORE THE COMMITTEE

2-24-01 *ORDINANCE in Amendment of Title 2 (Administration and Personnel), Chapter 2, of the City of Cranston Code of Ordinances, 2005, Entitled “Committees, Commissions, and Councils”. Sponsored by Councilwoman Renzulli.*

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

Under Discussion:

Councilwoman Renzulli stated that while we, as a Council, offer a public comment period as well as for docketed and undocketed items, not every Committee does that. Our Committees do not offer a comment period for undocketed items and other Committees and Boards do not offer public comment at all. While Open Meetings Law allows for public comment, we do not have to actually have public comment periods in any of our meetings. She thinks that a lot of our constituents come forward and demand transparency from the Administration and from the City Council for what we are doing so she thinks that this is just expanding upon what we are doing as a Council as part of our Rules and expands it across all the Boards and Committees.

Councilwoman Germain stated that she received an email from the resident who spoke earlier and feels like she was targeted in that email and wants to make it clear that in this Council Chamber, we have public comments and we have it for docketed and undocketed matters and we have a time for it. If it is closed, it is closed.

Attorney Angell pointed out that the first paragraph of the Ordinance, lines 29-39, your Council Rules addressed what Councilwoman Germain was speaking about regarding public comment for docketed and undocketed items, which are provided for in those Rules and those Rules were passed by Resolution, which means that they are good for this session. In addition to that, it would take a super majority to change those Rules, which is also written into the Rules itself. This particular section seeks to regulate all Boards and Commissions of the City. He pointed out that under RIGL 45-24-56, Zoning Board of Review, it is within their sole province to set their rules and procedure. We have no right, as a Council, to tell them what to do with respect to how to run their meetings. As to the second part of the Ordinance that begins on lines 41-47, he can assure that he is very familiar with this. This is pretty much right out of the State Statute, 42-46-6D, which is internally inconsistent with itself as admitted by the Attorney General's Office. The Attorney General is charged with adjudicating Open Meetings and Open Meetings complaints on issues such as the back and forth between someone who shows up to an open mic as a member of the public and to speaking particularly on an undocketed item. The spirit of Open Meetings Act is to do the business in public and it is to give the public adequate notice with respect to what is being discussed at that meeting. If someone comes to the podium and speaks on an undocketed item that has nothing to do with anything that is on the agenda cannot have back and forth discussion with the Council Members. The Council can receive the information and you can listen and that is generally the position that he takes, but there is not going to be any discussion on it and the reason for that is this particular Attorney General takes a very narrow view of the reading of part D of the RIGL. Line 43 talks about not previously posted. The posting is really a notice. Notice is to give the public at large fair notice of what is to be discussed at the meeting. It is really up to the Council to allow the public comment at its meetings. It is not a requirement of the Open Meetings Act either for undocketed or docketed items. He does not know of any Councils in the State that do not allow for public comment. He is very weary, from a legal perspective, of the second part of this Ordinance. The opinion juris prudence that comes out of the Attorney General's Office right now would not support this interpretation. Councils have been held responsible for people that come up to the podium on undocketed items and there is a back and forth between the Council person and the person at the podium or among the council on the issue and it gets off track and you will get fined if you do it on purpose and it is a known violation. He also asked that the Council consider concept of what the Attorney General has looked at is a meeting within a meeting. This could be a group of people or a person who comes to the podium on an undocketed item and now all of a sudden you are literally having a meeting on an issue that was not noticed. You need to consider that. The Zoning Board of Review would have to be exempt from this. You cannot regulate them. State Law is very clear on that.

Councilman Paplauskas stated that he supports this Ordinance. We already do this in the Council Rules and already voted and put it in the Council Rules so why not pass this Ordinance. It would be stronger language than what is in our Council Rules because it is an Ordinance. He strongly supports this. We do not have undocketed items on Committee agendas. That would be important. Line 44 states that matters shall be for informational purposes only, so he does not see any Open Meetings violation. Passing this Ordinance shows that this Council is being transparent.

Councilman Donegan stated that he agrees with the intent of this Ordinance. He thinks the second paragraph is problematic, as stated by our Attorney. He proposed an amendment to strike lines 41-47.

On motion by Councilman Donegan, seconded by Councilwoman Germain, it was voted to amend this Ordinance to strike lines 41-47.

Under Discussion:

Councilwoman Renzulli questioned whether we are covered under State law if we strike this language. Solicitor stated, yes, you are covered under State Law. Councilwoman Renzulli asked how is this different? Solicitor stated that that is because you have a specific State Statute that applies to Zoning Boards. You do not have the same things in this Ordinance, so the more specific Statute takes precedence over the more general Statute. This does not account for that.

Council President Marino stated that we need to be very clear to the public that the City of Cranston over the years has done a very good job at transparency. She remembers going back not just to her predecessor, Councilman Paplauskas when he was Council President, we had docketed and undocketed once a month with public comment. Committees have public comment on agenda items as well and even past predecessors, Council President Farina, Council President Lanni, Council President Garabedian and she was in Chambers with all of those former Council Presidents that she mentioned, as a constituent, and her voice was heard. There is a need in society, in general, for rules and procedure and the State has afforded that guidance and the ACLU report that recently came out, which she has a copy of, and indicated that Cranston City Council faired very well. There are other cities and towns that limits the public overall session to speak to a certain time limit and we do not do that here. We let each person speak for four minutes at the full Council meetings and they get a second bite under undocketed as well. That is in fairness as a member of the public, not as a Council person. As for the Committees, it is up to the Chair of the Committee. So, we as a body, have always practiced in a way that is transparent and we memorialize that in our Council Rules and procedure. This Ordinance is not changing anything that we do every day, we still do it well and this Ordinance would put us in jeopardy of giving a false impression to the public as to what their expectations are of different Commissions and City Council going forward.

Council Vice-President Vargas stated that she agrees with Council President Marino. We do have Rules that we obviously all voted on and we have presiding officers that Chair the meetings that can and do use their own judgment to pretty much allow members of the public to speak even beyond the four minutes at times. She thinks we all have given everyone the opportunity to come before us and speak whether it is on Zoom, whether it is in person or even by email to have their comments provided. Out of abundance of caution, in terms of what our Legal Counsel has provided us this evening and given the fact that we have Rules, she will be voting against this Ordinance this evening.

Motion and second to amend this Ordinance were withdrawn.

Councilwoman Germain questioned our liability if this is passed this evening. Solicitor deferred to Attorney Angell. Attorney Angell stated that if it is a knowing violation, then you will get fined. The body is exposed to the fine and each individual members are exposed to the fine. If the Council codifies, which this Ordinance does not, what can be construed as a knowing violation, you will all get hit with a fine especially with this Attorney General.

Councilwoman Germain asked if this Ordinance would include the School Committee in that also. Attorney Angell stated that the School Committee is certainly a part of the town's governance structure, yes, but they are autonomous. You do not have oversight of School Department affairs and how they conduct their affairs. Councilwoman Germain stated that based on what both attorneys have stated and based on her understanding of that particular second paragraph, she will not be able to support this the way it is.

Councilman Campopiano commended Councilwoman Renzulli for bringing this forward and he is all for transparency and he does not want to see this die. He motioned to continue this so it can be tweaked and done right. Councilwoman Germain seconded the motion.

Under Discussion:

Council President Marino stated that she would like to make it clear that given what the Solicitors have said and given the fact that we already do this and we have memorialized it, she does not see the need to continue it. She thinks that the Ordinance is superfluous and we are already practicing in transparency and we already get a very good score from the ACLU in compliance. She is not in favor of the continuance and not in favor of the Ordinance.

Councilwoman Renzulli stated that whatever happens with this, she just wants to make known that this was to bring in the other Committees under us. If we are not allowed to have jurisdiction over Zoning, that is fine. She pointed out that there is a similar Ordinance in Cumberland that does not exempt Zoning. As far as the second part of this Ordinance, she would have been perfectly fine with Councilman Donegan's amendment if we were saying there is a part of the State Law that not including the changes how this is interpreted, that is fine, she understands that. She does not think it is wrong to have public comment, docketed or undocketed, at Committee level meetings. In general, this is creating more transparency.

Roll call was taken on continuance of this Ordinance and motion failed on a tie vote. The following being recorded as voting "aye": Councilwoman Renzulli, Councilmen Donegan, Campopiano, Councilwoman German -4. The following being recorded as voting "nay": Councilmen Ferri, Wall, Council Vice-President Vargas and Council President Marino -4.

Roll call was taken on motion to recommend approval of this Ordinance and motion failed on a vote of 2-6. The following being recorded as voting "aye": Councilwoman Renzulli and Councilman Campopiano -2. The following being recorded as voting "nay": Councilmen Ferri, Donegan, Wall, Councilwoman Germain, Council Vice-President Vargas and Council Presidente Marino -6.

2-24-02 ***ORDINANCE in Amendment of the 2010 Comprehensive Plan for the City of Cranston, 2012, As Amended (20 Goddard Drive, Assessor's Plat 13, Lot 39); as requested by Owner/Applicant – 200 Goddard LLC.***

Chair stated that this Ordinance will be continued to the April meeting due to a scrivener's error in advertising.

2-24-03 ***ORDINANCE in Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled "Zoning" (20 Goddard Drive, Assessor's Plat 13, Lot 39); as requested by Owner/Applicant 20 Goddard LLC.***

Chair stated that this Ordinance will be continued to the April meeting due to a scrivener's error in advertising.

2-24-04 ***ORDINANCE in Amendment of Title 17 (Zoning), Section 17.120.020 of the City of Cranston, 2005, Entitled ‘Procedure for Adoption or Amendment’. Sponsored by Council President Marino.***

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

Under Discussion:

Council President Marino stated that the City Clerk brought this issue forth and the amendment is just making this in line with what the Ordinance should properly say. She had spoken to and was in communications and consultations with the Solicitors, who recommended that this be approved this evening.

Roll call was taken on motion to recommend approval of this Ordinance and motion passed unanimously.

2-24-05 ***ORDINANCE in Amendment of Chapter 3.08 of the City of Cranston, 2005, Entitled ‘Board of Contract and Purchase’. Sponsored by Council President Marino.***

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

Under Discussion:

Council President Marino stated that this is a housekeeping measure with the advice of the City Clerk in consultations with the Solicitors and these changes would be consistent with what the Ordinance should actually read.

Roll call was taken on motion to recommend approval of this Ordinance and motion passed unanimously.

IV. ADJOURNMENT

The meeting adjourned at 9:25 p.m.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees