

(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, June 13, 2024 in the Council Chambers, City Hall, Cranston, Rhode Island.

I. CALL MEETING TO ORDER

The meeting was called to order at 6:30 p.m. by the Chair.

II. ROLL CALL

Present: Councilwoman Nicole Renzulli
Councilman John P. Donegan
Councilman Richard D. Campopiano
Councilman Daniel Wall, Vice-Chair
Council Vice-President Lammi J. Vargas, Chair
Council President Jessica M. Marino, Ex-Officio

Absent: Councilman Robert J. Ferri
Councilwoman Kristen E. Haroian

Also Present: Councilman Christopher G. Paplauskas (appeared at 6:55 p.m.)
John Verdecchia, Assistant City Solicitor
Anthony Moretti, Chief of Staff
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

III. MINUTES OF THE LAST MEETING:

- **Approval of minutes of the May 16, 2024 regular meeting**

On motion by Council President Marino, seconded by Councilwoman Renzulli, it was voted to dispense with the reading of the minutes of the May 16, 2024 regular meeting and they stand approved as recorded. Motion passed unanimously.

- **Approval of minutes of the June 3, 2024 special meeting**

On motion by Councilwoman Renzulli, seconded by Council President Marino, it was voted to dispense with the reading of the minutes of the June 3, 2024 special meeting and they stand approved as recorded. Motion passed unanimously.

IV. 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. from 9/14/2023, 10/12/2023, 11/16/2023, 12/7/2023, 2/15/2024, 3/14/2024 & 4/11/2024).

Chair stated that she does not see a co-sponsor on this proposed Ordinance. This Ordinance was sponsored by former Councilwoman Germain. She believes the Committee can just pass this off the calendar. She asked Solicitor's opinion. Solicitor stated that no vote is necessary. Unless someone objects and wants to be heard, the Committee can pass on it.

Chair stated that since no one has asked to be heard, this Ordinance will be passed on and removed from the agenda.

4-24-01 *Ordinance in Amendment of Chapter 17 of the Code of the City of Cranston, 2005, Entitled "Zoning" (Change of Zone – 0 Sage Drive); Petition filed by Property Owner John Casale III. (Cont. from 5/16/2024).*

Chair asked if this item requires public comment at this time. Solicitor stated that this matter was heard previously by this Committee and at that time, several abutters were given the opportunity to speak. Lawyers from both sides were given the opportunity to address the Committee. Both lawyers, in addition to making legal argument, also submitted memorandum and everyone who wanted to speak did. At that time, public hearing was closed. This is simply a carryover from that meeting and everyone was given the opportunity to speak. There is no legal requirement that public hearing be re-opened or that anyone else be given further opportunity to be heard. The only task remaining before the Committee at this point is simply to take a vote.

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

Under Discussion:

Council President Marino stated that she weighed this heavily and thanked Solicitor's Office and Council Attorney. The Committee took consultation, there was agreement amongst them and that is factored into her vote this evening. In terms of the issue of the schools and the potential for the size and the crowding, that was something that was of concern to her, but facts do matter. The capacity for Orchard Farms, according to the School Department, is 560 students, capacity for Hope Highlands is 425 students and both of those current student populations are well under those numbers. Orchard Farms is 446 and Hope Highlands is 366 and that can fluctuate, but she does not see the concern for public health, safety, welfare consideration because relative to those student populations being grossly enlarged by the addition of just a few more homes in that area and that is factored into her consideration this evening.

Councilwoman Renzulli stated that Orchard Farms is still a concern to her and she did not receive those numbers. She wished that the entire Council had been sent the information Council President Marino referred to. She does seem to think that that is a concern. Council President Marino stated that she directly reached out to the School Department and asked for that information and they knew that she would be sharing it with the public and with the Council. Councilwoman Renzulli stated

that she just wished that all the members had received that from them rather than an open session like this, as they are not present where she could have asked them questions about it. Council President Marino stated that she can forward the emails after the meeting, but asked that members do not reply all due to quorum issue.

Chair echoed what Councilman Donegan mentioned a month or so ago that there is a huge need for housing nationally, in our State and here locally and there is a concern with perhaps the schools with folks moving in could have children and have them part of the public school system. There is a housing need in our City and she is a big advocate for housing and there is a low stock of housing right now in general and she will be supporting the Ordinance as it stands this evening.

Roll call was taken on motion to recommend approval of this Ordinance and motion passed on a vote of 4-2. The following being recorded as voting “aye”: Councilmen Wall, Donegan, Council Vice-President Vargas and Council President Marino -4. The following being recorded as voting “nay”: Councilwoman Renzulli and Councilman Campopiano -2.

I. PUBLIC HEARINGS AND PUBLIC COMMENT

Dante Marinaro, 132 Fordson Ave., Unit 3, appeared to speak and addressed the water table in Western Cranston and regarding the proposed Zone Change. Chair stated to Mr. Marinaro that public hearing and public comment is only on items that are on the current docket before the Committee. Solicitor stated that it sounds like Mr. Marinaro is commenting on the Ordinance that was just passed and as he stated before, public hearing closed on that at the last meeting. Mr. Marinaro stated that that is on the docket and he thought that it was part of that. He would like to speak about the Ordinance just passed. Solicitor stated that public hearing closed on that. This is simply carried over business. Everyone had the opportunity to speak. This was only for purposes of voting and for allowing the Committee to go into Executive Session on the issue. There is no more public comment on this particular issue. Chair stated that this item is going to be before the full City Council on June 24th at 7 pm. That would be a time for anyone to speak on that item.

Nick Lima, City Registrar/Director of Elections, appeared to speak regarding proposed Ordinance 5-24-02. He thanked Council President Marino and Councilman Paplauskas for introducing this at the request of his Office. He gave history of this. He stated that members of the Board of Canvassers used to be paid \$4,000 a year as a stipend regardless of whether or not there was any Elections at all. That is how most Cities and Towns paid their Board of Canvassing members. Approximately fifteen years ago the Council decided that that was a little bit too much especially in non-Election years when there was less work for the Board to do so they removed those stipends in passing an Ordinance that would only provide for the Board to be paid for \$1,000 in an Election. At the time, no one advised the Council that that was actually a violation of State Law. When he became Registrar in 2017, they flagged that and identified that and with a bi-partisan Ordinance, an Ordinance was put in within a year or so of he being in that position, they adjusted that and modified it. That Ordinance provided for Board members to be paid \$1,000 per Election up to three Elections in a calendar year. It was something that corrected an issue that had existed that he noticed from the first day he was on the job and that was when he asked what the job description is for the Registrar. None existed. There was nothing in writing, there was nothing on file in the Personnel Office, there was nothing in any Ordinance or Charter provision. With that Ordinance, six years ago, we put in a minimum job description for the Registrar. After six years since this Ordinance was enacted the Office has evolved, and roles have

changed and they have adopted a lot of best practices. He found that one of the best ways to ensure that best practices remain the standard practice in perpetuity is to codify them and make sure that they are included and written down for the future so that any future Registrar, any future Board of Canvassers can turn to that as a basic bottom line framework of something to build off of. This is what this Ordinance is intended to do. He described what this Ordinance seeks to accomplish. He recognized Board of Canvassers Chair Kirk McDonough, who also would like to speak as far as the perspective of the Board itself.

Kirk McDonough, Chair of Board of Canvassers, appeared to speak and stated that the Board supports this Ordinance. He is part of a Statewide group of Board of Canvassers and they all have this ambiguous language so for us to be the first to really step up and try to clarify things is a great thing for the City of Cranston.

II. NEW MATTERS BEFORE THE COMMITTEE

5-24-02 *Ordinance In Amendment of Title 2 of the Code of the City of Cranston, 2005, Sections 2.08.260 and 2.08.261, Entitled “Board of Canvassers” and “Registrar” (Operations Related to the Board of Canvassers and Registrar). Sponsored by Council President Marino and Councilman Paplauskas.*

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

Under Discussion:

Council President Marino thanked Director Lima for all his hard work and thanked former Councilman McDonough and current Chairman of our local Board of Canvassers for his work dedicated to this too and his support of it.

Councilman Paplauskas thanked Director Lima for doing all the work on this. He stated that he does not have a vote this evening, but he is looking forward to being able to vote for it at the Council meeting.

Councilwoman Renzulli echoed the sentiments of her colleagues and thanked Director Lima for all his hard work on this and she asked to be added as co-sponsor.

Councilmen Paplauskas, Donegan, Wall, Campopiano and Council Vice-President Vargas all asked to be added as co-sponsors.

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

05-24-03 *Ordinance In Amendment of Chapter 5.40 of the City of Cranston, 2005, Entitled ‘Hawkers and Peddlers – Generally’ Section 5.40.140. Sponsored by Council President Marino, Councilmen Wall and Ferri.*

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

Under Discussion:

Council President Marino stated that this Ordinance is seeking to address the concern that constituents have raised relative to solicitation at their doorstep in their homes. We have an outdated Ordinance relative to solicitation door to door. This Ordinance is a first go and she has spent a lot of hours working on this. She knows there is need for discussion further in terms of line #125(J) in regards to hearings and it mentions that there would be an ad hoc Committee of the City Council that would hear any denial of issuance of a permit. She would think that perhaps that should be the Safety Services and Licenses Committee that could hear those denials so she would like to amend that on line #127, but would hold that amendment because she suspects there will be additional amendments. Also, she is looking for input from the Administration relative to the fiscal impact and need for a fiscal note aspect to all of our Ordinances and the role that the Police will play relative to the issuing of the solicitation licenses as well.

Councilman Wall stated that a few months ago he received a number of complaints from constituents, mostly seniors, who were concerned and rightfully so. At that time, he called Attorney Angell and asked him about the Ordinance on the books and he was pleased to see that the Ordinance stated no solicitation of that nature in the City of Cranston, but upon further discussion, he found out that that did not conform to the Constitution, but looking at this Ordinance, he sees good things in it. It provides hours, identification required and he thinks it goes a long way to provide a measure of safety. It is not perfect, but he is very pleased to be a small part of it.

Councilman Campopiano asked if any other cities and towns have similar Ordinances. Council President Marino stated, yes.

Chair indicated to line #135 "Such appeal shall be taken by filing with the Council". She questioned if this should state "City Clerk". Council President Marino stated that that is a good point and should be amended to the "City Clerk".

Chair stated that she appreciates the work that Council President Marino has done on this. This provides a layer of protection and accountability as well on folks that are knocking on the door particularly with a lot of scam that is taking place that we are seeing whether online or in person.

Solicitor stated that this issue has been spoken about before and it is clearly an issue that people not only in Cranston but probably everywhere in the State are concerned about, himself included. First time he dealt with this issue was when he was Solicitor in the Town of Johnston over twenty years ago and he recalls having to go to Federal Court on behalf of the Town and meeting with the Federal Court Judge. Suit was brought by the ACLU at that time because Johnston tried to enact an Ordinance similar to this and there was an effort on the part of the Town to impose restrictions the same way this Ordinance seeks to do and at that time, they were basically told in no uncertain terms by the Federal Court Judge that what they were doing was running afoul of the First Amendment. That is not to say and he does not mean to suggest that every attempt to enact some type of Ordinance to address this issue is going to be found Unconstitutional, but what he is suggesting to the Council is that the Federal Court especially, and if there is a challenge, in all likelihood it is going to end up in Federal Court. The Judges in Federal Court historically have been extremely sensitive and sympathetic to parties challenging this type of legislation. He compliments Council President Marino and everyone else who worked on this and clearly a lot of time and thought went into this and he has not had the chance to vet it line by line completely, but he does want the opportunity to do that. This is a very sensitive area and it has to be dealt with in a very careful manner or we will find ourselves getting letters from the ACLU or

whomever and then ending up in Court and possibly having to pay out some damages. Looking at the Ordinance quickly he did see a few areas that caused him a little bit of concern only because he has dealt with them before and he thinks he knows how the Court will react to them so we need to work through this against the backdrop of current Constitutional Law. He would like to see how this is being dealt with in the Federal Court system and see if we can get some guidance as to what parameters we can impose and as long as the parameters are reasonable, they will be upheld, but when it comes to First Amendment, jurisprudence, what we find reasonable the Courts do not always think of as reasonable. The fee could be problematic because there is not much of an expense to the City. Some of the disqualifying factors in the Ordinance might be problematic. He is not saying that they are, but that certainly needs to be looked at because as he stated, when it comes to this area of First Amendment, the Courts zealously, especially the Federal Court, zealously defend a person's right to engage in this kind of conduct. He suggested that this Ordinance be continued for now and not take a vote this evening. He would like to really vet this and would like to discuss it with Attorney Angell, his fellow Solicitors and with some people he knows in other cities and towns of how they are dealing with this issue. Last thing we want is to enact an Ordinance and then it is challenged and right away we are on the defensive. He recalls just before COVID there was a Florida company who was looking to engage in this type of door to door solicitation and he recalls that Solicitor Millea had received a call from their attorney questioning the Ordinance we have on the books of no solicitation and he believes the challenge, the question was about the fees and he recalls that at the time we backed off on it because of the concerns he alluded to earlier. This is a very sensitive area and we need to walk on egg shells with this as laudable as the concern is. Over the years, we have tried to enact Ordinances to deal with panhandling and every time we have attempted to enact a panhandling statute to regulate and control what takes place with people walking up to cars at intersections and things like that, every time we have done that, they have been struck down on First Amendment grounds. This is a difficult area and a very comprehensive piece of legislation that he really thinks we need to vet line by line.

Council President Marino stated that she has no objections to the Solicitor's recommendation because it is a very important Ordinance and she understands the need to be cautious. She also understands what we currently have on the books is going to get us into far more jeopardy than this would because it outright bans it so this is a step forward. In terms of the fee, there are administrative costs associated with it. There is a requirement of a standard ID badge that everyone would have to have so we would have that expense to incur, the time for the Police Department to do the verification process and the Clerk to do the processing, so there would be costs.

Councilman Wall echoed Council President Marino's statements and stated that if we are going to do it, do it right. It is an important Ordinance, but he would like to see it done right.

Councilwoman Renzulli stated that as far as the administrative cost, that would be probably part of a fiscal note. She is not sure who exactly does that. She is not sure Director Zidelis knows too much about the administrative costs of getting badges so there is going to be more than one group that is going to have to get together to do that. She asked that Administration take care of that because it may be a multi-layer process through the Clerk, the Police Department and Director Zidelis.

Council President Marino asked that this Ordinance be continued to next month's meeting and in the meantime the Solicitor can take a look at it and we can have substantive changes to make at that next Committee meeting.

Motion and second recommending approval were withdrawn.

On motion by Councilman Wall, seconded by Councilman Donegan, it was voted to continue this Ordinance to the July meeting. Motion passed unanimously.

III. ADJOURNMENT

The meeting adjourned at 7:32 p.m.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees