

ORDINANCE COMMITTEE

Regular meeting of the Ordinance Committee was held on Thursday, May 13, 2010 in the Council Chambers, City Hall, Cranston, Rhode Island.

The meeting was called to order at 7:50 P.M. by the Vice-Chair.

Present: Councilman Robert J. Pelletier, Vice-Chair
Councilman Mario Aceto
Councilman Emilio L. Navarro
Councilwoman Bergin-Andrews
Council President John Lanni, Jr.

Absent: Councilman Anthony J. Lupino

Also Present: Councilman Richard D. Santamaria, Jr.
Councilman Paul Archetto
Robin Muksian-Schutt, Director of Administration
Gerald Cordy, Deputy Director of Administration
Evan Kirshenbaum, Assistant City Solicitor
Peter LaPolla, City Planner
Maria Medeiros Wall, City Clerk
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Heather Finger, Stenographer

MINUTES OF THE LAST MEETING:

On motion by Councilman Aceto, seconded by Council President Lanni, it was voted to dispense with the reading of the minutes of the last meeting and they stand approved as recorded. Motion passed unanimously.

CORRESPONDENCE:

PUBLIC HEARINGS/NEW BUSINESS:

Chair asked to take Ordinance 4-10-1 out of order. No one objected.

4-10-1 Ordinance authorizing the Mayor and Finance Director to execute and deliver an easement agreement permitting the construction of a retaining wall on a portion of Berry St.

John DiBona, Esq., appeared to represent Testa and Carlino, LLC, applicant. He stated that his client is approaching final phase of Site Plan Review and have preliminary approval from the Planning Commission regarding planning itself. A stipulation is to build a retaining wall. Both Site Plan Review and Planning Commission both stipulated that there be an easement agreement for the developer and future condominium association to maintain the wall.

No one appeared to oppose.

On motion by Council President Lanni, seconded by Councilman Aceto, it was voted to recommend approval of this Ordinance.

Under Discussion:

Solicitor Kirshenbaum indicated to the Charter as to land transfer and the person to pay for the easement. He questioned whether this would be considered a transfer of property with the City and whether or not that has to deal with an appraisal of City property and fall under the actual construct or where an appraisal would have to be obtained. Attorney DiBona stated that his client, in order to develop a road, is basically providing a service to both, not only his client, but to the other residents and the people who would use that road, so he is not sure that incurring a cost to do that, where his client should also have to pay for that easement. Solicitor Kirshenbaum stated that he agrees with Attorney DiBona, but he recalls five to six years ago where the Council gave a piece of property to some citizens who had Cerebral Palsy and then the Charter was changed to have every grant of land to have someone pay at least 90% of the assessed value for it, so the City can't even do a good deed like give people land who have a disability under the Charter.

Attorney DiBona stated that he does not feel this is a grant of land. It is a right to use the land. If he was asking for the City to convey the property to his client, that might be an argument, but an easement is a right to use property. Its an ownership interest. It still remains the property of the City of Cranston.

Councilman Pelletier asked how tall this wall will be. Attorney DiBona stated approximately 8-10 feet. Councilman Pelletier stated that his concern about a wall that tall is, for instance the wall on Oaklawn Ave. that collapsed. Attorney DiBona stated that as part of the approval and agreement, that must be passed on to the condominium association.

Councilman Navarro questioned if an option would be the applicant buy the land as an abandonment. Attorney DiBona stated that this is not a conveyance of property. It is granting the use of the property.

Councilman Aceto asked if there are any other properties in the City in this kind of situation. Mr. LaPolla stated that since he has been with the City, he is not aware of any, but he is sure there have been.

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

2-10-4 Ordinance approving the 2010 Comprehensive Plan for the City of Cranston.

Mr. LaPolla appeared to speak and stated that the Planning staff strongly opposes the amendment made by this Committee last month. The motion was to re-zone the 95 acres, to A-20, at a cost of \$3.1 million per year. One major problem is that the motion made at the last meeting, basically is to take the land east of Pippin Orchard Rd. and rezone it to A-20 and he pointed out is that one of the things the Planning staff constantly highlighted in doing the Land Use Plan was assign a Land Use Code to each parcel of land. So what the motion did was to amend something that is not on the Land Use Plan, so in effect, the motion is defective on the face of it. If this needs to go forward, there needs to be a new motion to amend the Comprehensive Plan to talk about land, particular lots and to talk about land use densities and not zoning.

Council President Lanni questioned how many homes in Western Cranston are hooked up to Florida Power and Light. Council President Lanni stated that he is sure it is more than one.

Councilman Navarro stated that he is taken back of the way Mr. LaPolla feels about the amendment made by this Committee at the last meeting. He asked how many lots are involved. Mr. LaPolla stated approximately 155. Councilman Navarro stated that it is not fair to use this number, because there is wetlands there and not all these lots are buildable. If all these lots are developed, this will increase need for services in Western Cranston and will cost the taxpayers more money every year.

Ms. Schutt stated that the procedure of how Mr. LaPolla responds to the Council's request is something that is pretty well outlined in the Charter and she believe that the Council also has to look at that, that is a separate issue and is an issue that is technically answered to the Planning Commission so that will have to go back to them for a change. So there is another body involved in this and in fairness to Mr. LaPolla, she is a little concerned that he is being attacked. He is just trying to do his job. Maybe not all 155 lots will be developed, but maybe they will, but we have an obligation and the Council is correct in saying that for the future of the potential of locking this City into an overwhelming amount of money every year is something we have to take very seriously. The other issue that needs to be considered is that we have a property tax cap on the levy in the City, which means that if 155 houses get built at a \$5,000 per home tax revenue, for instance if a \$300,000 house might yield \$5,000 in tax revenue, we are going to increase our levy. That is great, that would lower the burden on other homeowners in the City. This is wonderful, but the reality is, we will not be able to raise the added funds to offset the cost of the infrastructure, which means services is going to be taken away from other parts of the City. There would also be traffic and roadway concerns. You may have more streets that need to be plowed in a plat as opposed to three-house lots or four-house lots. She indicated that she is not saying that land should never be developed, but if there is a time when that person is ready to develop, they can always come back to the City. The City approves Comp Plan amendments and Zoning amendments all the time, so why lock the City into something that has been a future land use.

Public Speakers:

Rachel McNally, 113 Hill Top Dr., appeared to speak and asked that the Council be proactive in their leadership role and vote against any amendment to the Comprehensive Plan.

Dale Saccoccio, 1389 Hope Rd., appeared to speak and stated by changing the zone for this particular parcel, you will be opening the door. You would be pushing the farmers in Western Cranston out. No one has addressed the farmers in Western Cranston. You are damaging the rural route and farm route, which the Council adopted.

Kate King, 1389 Hope Rd., President of West Bay Land Trust, appeared to speak in favor of this Ordinance and is opposed to the amendment made by the Committee at the last meeting.

Debbie Sohigian, 100 Chickory Lane, appeared to speak and stated that the issue that needs to be addressed is if more homes are built in Western Cranston, more services will be needed, such as rescue and schools. Other issue is quality of life.

Janice Ruggieri, 45 Overhill Rd., appeared to speak and stated that there are a lot of homes for sale and these homes are not selling. She questioned who will buy these homes in this economy. Do we want to put that burden on our City and on our taxpayers.

Steve Stycos, 37 Ferncrest Ave., appeared to speak and urged the Council not to approve the amendment made at the last meeting. This is not a good time for it. If there are more kids, there would be more costs to the City, cost and impact. He urged the Council to consider this.

Albert Scaralia, owner of property the Council is considering to re-zone, appeared to speak and stated that if this is passed, he does not plan on building now. It would be for the future. When and if he plans to build, it still has to be approved. He would like to leave this land to his children

Mary Gentile, 17 Longview Dr., appeared to speak and asked the Committee not to alter the plan at this time.

Pam Shift, appeared to speak and asked the Committee not to alter the plan.

Council President Lanni asked when the last time was that the Comprehensive Plan was changed. Mr. LaPolla stated, 1992. Council President Lanni asked every how many years should the Comprehensive Plan be updated. Mr. LaPolla stated, every five years. Council President Lanni stated that the City has not had an updated Comprehensive Plan since 1992 and all those years have been missed.

Councilman Navarro stated that he appreciates the speakers speaking this evening, but the Committee's decision is to represent the entire City. What he has not heard this evening is balance.

Councilman Santamaria asked Mr. LaPolla if he was aware of Mr. Scaralia's issue and this amendment. Mr. LaPolla stated, yes. Councilman Santamaria questioned if it wouldn't have been better to have the information Mr. LaPolla presented to the Committee this evening, last month instead. Mr. LaPolla stated that he asked to speak during the motion period at last month's meeting, but he was not allowed even though he had that information at that time. He was told that if he had comments, to put them in writing to the Committee.

Councilman Aceto asked if the Comprehensive Plan requires a need for a second fire station in Western Cranston. Mr. LaPolla stated that the Comprehensive Plan identifies a need, but does not point the location for the second station.

On motion by Council President Lanni, seconded by Councilman Navarro, it was voted to refer the Comprehensive Plan, as amended, to the full City Council.

Under Discussion:

Councilman Aceto stated that at the full City Council, the Council would be able to deny or make any other changes. He questioned if the amendments have to be re-advertised. Council President Lanni stated, yes.

Councilman Navarro clarified that the full City Council will consider the Comprehensive Plan, as amended, at which time, more amendments can be made.

Councilwoman Bergin-Andrews asked if reconsiderations can be made at that time. Councilman Pelletier stated, yes.

Roll call was taken on motion to refer the Comprehensive Plan, as amended, to the full City Council and motion passed unanimously.

The meeting adjourned at 9:10 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees