

## SPECIAL MEETING – CITY COUNCIL

-OCTOBER 20, 2005-

A Special meeting of the Cranston City Council was held on THURSDAY, October 20, 2005 in the Park View Middle School Auditorium, 25 Park View Blvd., Cranston, Rhode Island.

The meeting was called to order at 7:10 P.M. by Council President Garabedian. Roll Call showed the following members present: Councilmen Fung, Livingston, Council Member Fogarty, Councilmen Lanni, Barone, Council Vice-President McFarland and Council President Garabedian –7.

Absent: Councilman Pisaturo and Council Member Bucci -2.

Also Present: Michael Glucksman, City Solicitor; Evan Kirshenbaum, Assistant City Solicitor and Vito Sciolto, Assistant City Solicitor.

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The City Clerk read the following:

**CITY OF CRANSTON  
RHODE ISLAND**

**NOTICE OF SPECIAL MEETING  
OF THE CITY COUNCIL**

In Accordance with Section 3.07 of the Home Rule Charter and, Section 2.04.06 of the City Code, I hereby call a special meeting of the City Council to be held on

Thursday, October 20, 2005 at 7:00 p.m.  
Park View Middle School, 25 Park View Blvd.,  
Cranston, RI. 02910

The following items of business shall be transacted:

- Informational Meeting regarding Boating Law Enforcement and Boating Safety in the Pawtuxet Cove and Cranston Harbor.

And I hereby request the City Clerk to notify all Council members of the Call of the special meeting.

Executed at Cranston, Rhode Island, this 17<sup>th</sup> day of October, 2005.

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/s/ Aram G. Garabedian, Council President

Individuals requesting interpreter services for the hearing-impaired must notify the Office of the City Clerk at 461-1000 Ext. 3197 seventy-two (72) hours in advance of the hearing date.”

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## CERTIFICATION

I hereby certify that a true copy of the attached Call of a special meeting of the City Council to be held on Thursday, October 20, 2005 at 7:00 P.M. at Park View Middle School, 25 Park View Blvd., Cranston, R.I. was delivered via electronic mail on the 17<sup>th</sup> day of October, 2005 and regular mail, postage prepaid to the addresses listed below.

Council President Aram G. Garabedian  
173 Belvedere Dr.  
Cranston, RI 02920  
[Blissproperties@BDOL.com](mailto:Blissproperties@BDOL.com)

Council Member Maria A. Bucci  
50 Lee St.  
Cranston, RI 02920  
[MarBC4@aol.com](mailto:MarBC4@aol.com)

Council Member Cynthia M. Fogarty  
60 Ausdale Rd.  
Cranston, RI 02910  
[Fogarty1@msn.com](mailto:Fogarty1@msn.com)

Councilman Allan W. Fung  
252F Mayfield Ave.  
Cranston, RI 02920  
[alfung@cox.net](mailto:alfung@cox.net)

Councilman Terence Livingston  
28 Tucker Ave.  
Cranston, RI 02905  
[Telesq@yahoo.com](mailto:Telesq@yahoo.com)

Councilman Jeffrey P. Barone  
16 Samuel Court  
Cranston, RI  
[Jeffreyb22@cox.net](mailto:Jeffreyb22@cox.net)

Councilwoman Paula McFarland  
100 Pomham St.  
Cranston, RI 02910  
[pmcfarland@prodigy.net](mailto:pmcfarland@prodigy.net)

Councilman Michael S. Pisaturo  
17 Warren Ct.  
Cranston, RI 02920  
[mpisaturo@cranstonri.org](mailto:mpisaturo@cranstonri.org)

Councilman John E. Lanni, Jr.  
111 Woodview Dr.  
Cranston, RI 02920  
[jlanni@peterpanbus.com](mailto:jlanni@peterpanbus.com)

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/s/ Rosalba Zanni, Assistant City Clerk

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Council President Garabedian stated that Assistant Solicitor Kirshenbaum has advised that since there is a case pending, we not discuss the incident that took place on July 19, 2005 between the Harbor Master and a constituent.

Council President Garabedian stated that he invited the following members to this meeting: Jeffrey Kelly, Harbor Master; Jeffrey Willis from CRMC and Kevin Cute, RI Marine Coastal Resource Management and Michael Scanlon, RI Boating Safety Coordinator. He stated that the Harbor Master is appointed by the Council and serves at the pleasure of the Council for a two year term.

Mr. Willis stated that State Law gives authority to the Harbor Master and the City Charter puts this in place. The Coastal Resource Management Council, in 1988, created its guidelines for dual jurisdiction of cities and towns in managing their waters. The CRM'S role is to help the communities develop the Ordinance in conjunction with State Statute. The CRM is looking at having communities create management plans and Cranston is looking to creating one.

Council President Garabedian recognized the new City Planning Director, Jared Rhodes, in the audience and welcomed him to this meeting.

Councilman Livingston stated that his understanding is that the City was in the process of creating a Harbor Management Plan, but it has not been completed due to the fact that it is costly and they do not have sufficient staff. He stated that he will be introducing an Ordinance creating a Harbor Management Plan Commission and this Management Plan is to be completed in the year 2006 and the Council will appropriate funds to complete this project.

Mr. Rhodes gave an update on the status of the Management Plan. He stated that the Planning Department has tried to develop this plan several times over the past ten years. The challenge has not been the funding, but the limited staff and this is why this plan has not been completed.

Councilman Fung asked who has the jurisdiction of enforcement powers of the Harbor Master. Mr. Willis stated that ultimately, it would be the City Council through their Ordinance.

Councilman Lanni asked what percentage of the Management Plan project is completed and what percentage needs to be done. Mr. Rhodes stated that he would say the project was approximately 50-75% completed four years ago. The information from four years ago would need to be reviewed. Assuming there would be a staff person to solely work on this project, it would probably be approximately a 5-6 month process.

Mr. Scanlon stated that it is up to the municipality as to what authority to give their Harbor Master. Under State Law, if he is given authority by Ordinance, he has authority to board any boat or vessel under RIGL 46-22.17. Councilman Livingston asked if the Ordinance does not allow the Harbor Master to board and search a vessel, can he do that? Mr. Scanlon stated that he is not a lawyer, but if the City Ordinance allows, then State Statute authorizes him to search and board a vessel.

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Public Speakers:

**Richard Bray**, Ward 1, District 1 Committeeman, appeared to speak and stated that he has received numerous complaints of Mr. Kelly hiding behind boats, boarding boats and stopping people. He stated that in 1993, the Council removed Mr. Kelly from the position of Harbor Master and now he is serving again as Harbor Master. He asked that the Council investigate why Mr. Kelly was removed in 1993. Mr. Bray asked if Cranston is Mr. Kelly's boundary. Mr. Willis stated that as designated by Ordinance, Cranston is his boundary, although there is State Law allowing him to cross boundaries, if warranted. Mr. Bray stated that Mr. Kelly, in his capacity as Harbor Master, has taken a Cranston Herald reporter, Elizabeth Seal, out on the City boat and he questioned if this could be a liability to the City.

Councilman Livingston stated that the complaints he is receiving are not only jurisdictional questions, but also the manner in which Mr. Kelly is going about his duties. He asked that Mr. Kelly work together with the community and marina owners and repair the damage that has been done.

**John M. Bello**, 69 Bluff Ave., appeared to speak and questioned whether in a search and seizure, a boat has to be underway and not at the dock to be searched? Mr. Scanlon stated, it does not. He stated there are several State Laws allowing a Harbor Master to board vessels. As of June 2006, a special sticker will be needed. Mr. Bello stated that he was told by Mr. Kelly that the City's boat does not need to be registered and he questioned if this is correct. Mr. Scanlon stated that municipalities are exempt from registering boats, under State Law.

Councilman Fung stated that what is in question is not just the duties of the Harbor Master, it is how the Harbor Master goes about enforcing those duties. His main concern is how Mr. Kelly is going about enforcing his duties due to calls he received from people complaining about Mr. Kelly.

Council President Garabedian asked Mr. Kelly to address some of the points that have been raised.

**Mr. Kelly** stated that everything that has been stated tonight is on the side of insulting and misinformation. He clarified that he was not asked to resign in 1993. The Council at that time changed and a new appointment was made. He also stated that if another community requests mutual aid, he responds if he is available. Harbor Masters have every power that a policeman has, short of arrest powers. He feels all this discussion is all because of a few malcontent members and he also stated that he is not harassing the general public. He will not resign, unless the Council asks him to and he plans to serve out his term.

Councilman Fung stated that it is a little disconcerting to hear him refer to a few malcontents. It's about how you treat people. He stated that he will be moving to ask for Mr. Kelly's removal.

Council Vice-President McFarland stated that she is very disappointed at what she has heard tonight. Our constituents should not be treated as such and she apologized to the public. She was not even aware that there was a City boat and private citizens were being taken on this boat and is concerned about any liability the City may have.

Council President Garabedian stated that Assistant Solicitor Kirshenbaum cited Section 3.18 of the Charter regarding removal of person in public office and cautioned that there is a process to be followed in removing a person from public office.

Councilman Fung asked Mr. Kelly to resign or he is prepared to ask that he be removed in accordance with Charter sec. 3.18.

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Councilman Lanni stated that he has not heard any evidence that would warrant Mr. Kelly's removal. He heard from two public speakers and two Council members who have received a few phone calls. He suggested that the Council have a hearing and go through the due process before removing someone from public office.

Council President Garabedian stated that Mr. Kelly is a personal friend, and he was appointed because he was impressed by his background. He was probably angered tonight by some of the statements. He prefers a man who overdoes rather than not do his job. Mr. Kelly has a great conscience and is a humanitarian.

Mr. Rhodes clarified that by adopting the Harbor Management Plan, it is not going to impact the issue that the Council is dealing with tonight.

Councilman Fung asked that there be a special meeting on the issue of his removal. Council President Garabedian stated that a special meeting will be scheduled to address this issue. Council Member Fogarty stated that for this special meeting, the Council should obtain the following: letters and list of names of people who have called Councilmen Livingston or Fung.

Mr. Kirshenbaum stated that in scheduling a special meeting pursuant to Sec. 3.18, the Council needs to vote on as to whether or not a hearing will be held on this issue. The date is irrelevant at this time. At this meeting, there will be sworn witnesses and people will be presenting testimony, they have to be present. You cannot rely on hearsay need to be heard live and under oath.

Councilman Fung stated that he would wait to address this at the regular meeting on Monday night.

The meeting adjourned at 8:40 P.M.

Maria Medeiros Wall  
City Clerk

Rosalba Zanni  
Assistant City Clerk/Clerk of Committees

(See Stenographic Notes of Meredith Mahoney, Stenotypist).