

*(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, May 16, 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: Councilman Robert J. Ferri  
Councilwoman Nicole Renzulli  
Councilwoman Kristen E. Haroian  
Councilman John P. Donegan  
Councilman Richard D. Campopiano  
Councilman Daniel Wall, Vice-Chair  
Council Vice-President Lammis J. Vargas, Chair  
Council President Jessica M. Marino, Ex-Officio

Also Present: Councilman Christopher G. Paplauskas  
John Verdecchia, Assistant City Solicitor  
Anthony Moretti, Chief of Staff  
Rosalba Zanni, Assistant City Clerk/Clerk of Committees  
Meredith Potter, Stenographer

### **III. MINUTES OF THE LAST MEETING:**

- **Approval of minutes of the April 11, 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 April 11, 2024 regular meeting and they stand approved as recorded. Motion passed unanimously.

### **IV. COMMITTEE BUSINESS MATTERS CARRIED OVER**

None.

## **V. PUBLIC HEARINGS AND PUBLIC COMMENT**

**Elizabeth Noonan, Esq.**, Adler, Pollock & Sheehan, appeared to represent applicant and stated that the request is to change the Zoning from A-80 to A-20 on Sage Dr. This would be consistent with the Comprehensive Plan that is in place today. She addressed the pending litigation in 2021 and stated that the Council denied the Zoning Change and she filed a petition in Superior Court seeking relief from that decision and the thrust of that argument was that the City's Comprehensive Plan called for it to be Zoned A-20 and that is what it should be. That lawsuit was filed through some discussions with the Solicitors and they entered into a Consent Order, which has led them to be here. Paragraph 1 of that Consent Order does say that the prior denial to rezone this property located at Plat 35 Lot 2 from A-80 to A-20 is in consistent with the Comprehensive Plan, which expressly calls for the property to be rezoned to A-20 upon the request of the landowner. So, as part of that Order, they refiled this petition that is before the Committee today. They appeared before the Planning Commission two weeks ago where they gave essentially a neutral endorsement with a carve out for some Zoning issues they thought were considered. She addressed the letter from the objectors, who are now represented by Counsel. The Comprehensive Plan is still in place. There is a requirement that when your Comprehensive Plan is adopted and calls for different Zoning, within eighteen months the City Council needs to change their Zoning to comply with that Land Use Map. It has never been done for this property. You are not alone. This is happening in a lot of municipalities despite that eighteen months requirement. Your Comprehensive Plan still remains in effect from 2010. At that time, in 2010, the law was slightly different than it was in regards to the State Law and what you needed to do, but at that time, the State Law required that the Comprehensive Plan states that the Comprehensive Plan is a statement that is designed to provide a basis for rational decision-making regarding the long-term physical development of the municipality. It also talks about the land use element designating certain areas as residential, commercial, industrial and one of the things it talks about is that the Comprehensive Plan should also provide an inventory of existing and forecasted needs for facilities and services used by the public, including but not limited to educational facilities, which became an issue at the Planning Commission hearing. In this case, there have been some new laws implemented within the least few months. The objectors' attorney states that the Comprehensive Plan does not exist anymore, that is not true. There are limitations on how the Comprehensive Plan can be used. As an example, if it is not updated, as required by law, which is where you are now, the City can't use the Comprehensive Plan as a basis for denial. It does not mean it does not exist, it continues to exist, so from their position, the A-20 designation is what has been called out for this property since 2010. Since 2010, they brought litigation for it as an attempt to sort of see if they can resolve that litigation and move forward and resubmitting that application to the City Council. If the council were to grant this and the objectors were to decide to appeal, there is really only two issues that would be raised on that appeal. By Statute, in the existing Statute, which is (1) is it consistent with the Comprehensive Plan and we have a Court Order that says that now and (2) whether or not is a taking of the property. So, those are the only two issues on appeal. She urged the Council to consider that while making their decision. There is a question of whether or not it is not in the interest of the public that was raised by the objectors. Again, when the Comprehensive Plan was passed in 2010, it was a long-term document and she thinks much of that still holds true versus if you spot select one particular issue. Generally, what they are asking for is a piece of land where four single-family homes are allowed and they are asking to go to eight. That Zone Change would actually allow them to do more, but the property is so somewhat constrained by the site configuration and other things. There was a procedural point raised in the objectors' letter that the petitioner should have gotten Planning approval for the Plan in the order of sequence of things. Her understanding is that because Planning has seen the Plan a number of times and just went to the advisory opinion first and then if it is passed, they will go back to the Planning Board. She asked Mr. Pimentel to discuss the consistency he has testified to on this issue before.

**Edward Pimentel**, Land Use Consultant, appeared to speak and stated that his report is basically the same as last time except for the fact that there has been a litany of new regulatory amendments by the RI General Law. Most of them went into effect on January first of this year. The one that would be more applicable went into effect March 1<sup>st</sup> of this year. With that, that does kind of also super-impose upon how he feels that it is consistent that now going forward all land use decisions must be based on the Future Land Use Map. They are asking to develop this property in accordance with the Future Land Use Map and as of March 1<sup>st</sup>. when this Comprehensive Plan was initially adopted, within eighteen months it was mandatory, it was the regulatory requirement of this Council to realize consistency and compliance with the RI General Law, so, the prior Council within eighteen months should have already rezoned this property to the A-20 designation. It happens that many municipalities fail to do that. One obvious reason for that is there is such a litany of Zone Change that came out of a Comprehensive Plan that the resources that would take to meet all those demands would be very difficult. Your Future Land Use Map speaks to density and that would encompass a few different Zoning designations, but the Council even further to emphasize the specific appropriate Zoning for this, then made a list on a parcel by parcel basis and said that the A-20 is the correct Zoning designation for this property. What he did was, to show that they are not trying to maximize usage of property, there are approximately 400 lots in the Alpine Estates and they are all half-acres Zoning. The current classification of this property, pursuant to RIGL, if you were to actually physically apply that, would be one unit at the low range to 3.63 units at high range per acre of buildable land, so you are looking at a range of 9.67 up to 20-30 units if the land was deemed suitable for development, but the reality is a greater number than what is the four units that is under the current Zoning. The A-20 designation would highly increase that number. What they are asking to do is put eight house lots there at a density of 1¼ acre per house lot, much less dense than the four something lot that exists in Alpine Estates, although, your Comprehensive Plan gives the petitioner the same density rights as was in Alpine Estates so they are not trying to maximize usage of this property. This Comprehensive Plan was properly amended in 2010 and there were some changes in 2012 and all that data collection, all that analysis was done and it culminated in a conclusion that this property should be A-20 in accordance with the current land use classification of single-family residential 3.63 to 1 unit per acre. That is the classification. It is absolutely his opinion that the Zone Change should have been done then, it should be done now and that will realize consistency with your Comprehensive Plan.

**Attorney Noonan** asked Mr. Pimentel if he is familiar with the City Planner's opinion. Mr. Pimentel stated that the opinion out of the Planning Department was consistent with his own opinion on the record that the A-20 is the appropriate Zoning designation for the classification detailed in the Future Land Map. The Zone Change is specifically recommended by the Comprehensive Plan. In Fact, we have now had four recommendations coming from the Planning Commission at least during his involvement in this property. Two was a vote of consistency and since then, two abstentions or of no vote.

**Peter Skwiz, Esq.**, of Ursillo, Teitz & Ritch, appeared to speak and stated that he is representing a group of Alpine Estates residents who are opposed to this Zone Change. There has been some argument before the Committee by legal counsel this evening to suggest that the Council is under a legal requirement to pass this Zoning Ordinance. What he would like to convince the Council of is that you are under no such legal obligation. He will leave it up to the residents to state why it is not a good idea to pass this Zone Change. This did come before the Council in 2021 and the Council, at the time, did make a decision on it then and the majority of this Committee and the Council, at the time, decided that

this Ordinance was in the interest of the public so the question that comes up is what has changed and really not much has changed. The impacts on the neighbors would be the same and really the only difference that there is between now and when this came before the Council previously in 2021 is that in the interim, the petitioner has sued the City and they sued the City trying to get a Court to force the City to pass this Ordinance even though the majority of the Council decided in 2021 that this was not the right Ordinance to pass. They have not been successful on that lawsuit nor could they be because there have been multiple cases where the Court has said “we cannot order a legislative body to enact an Ordinance”. There is State Statute that says that the Zoning Ordinances should be consistent with the Comprehensive Plan and there is provision in the Statute that says municipalities should do that within an eighteen month period, but that was not part of the new legislative package. That went way back and there was a case on that from 2011 called West v. McDonald when the Supreme Court said even though that is what the Statute says, we are going to say that that is not a mandatory Statute. That is because in passing legislation, which this is, the legislative body needs to have discretion to act in the interest of their constituents. So, the Statutes that cite, that lawsuit that was brought, none of that requires you to pass this Ordinance. He emphasized that the Council is not under legal obligation to enact this Ordinance.

**Janice Cataldo**, 65 Sage Dr., appeared to oppose to this Zone Change and stated that the Department of Ed determined that to effectively serve students in the Orchard Farms School, they would have to have a school capacity of 360 children. When the residents appeared to testify three years ago, that number was 460 and today it is still at 460. The estimate by the Department of Ed twenty years ago to replace either Orchard Farms or Hope Highlands was \$24 million. That number is five times that today. Think of all the little pools you could build with that kind of money. As to the tax base, they can prove that every home sold in this area, Caraway, Sage and Thyme was by families who have two children. So, to educate those children, it is going to cost on average \$38,000 a year and the School is almost 60% of this City’s budget. She also addressed the infrastructure, traffic, water and sewer. Any rezoning to add more homes and removing trees will not only impact the water table but traffic as well. Alpine buffers the Reservoir and there has been evidence to say that a two-acre Zoning is best for water quality and to protect the water. They also have data showing that there are 73,000 vehicles going by Alpine on a daily basis. Fourteen years ago the Comprehensive Plan language continually outlined concerns about Western Cranston development and rapid growth, but that growth has continued. Planning said preservation of existing undeveloped land capacity and traffic are Western Cranston’s largest concerns due to high growth trend. That was fourteen years ago. Mr. Pezzullo, Planning Director, stated that we need to rewrite the Comprehensive Plan rather than update the old Comprehensive Plan because so much is outdated and does not consider the rapid Western Cranston growth. The facts are: the bordering School is so over-crowded and if these four or eight homes are built, the kids would have to be bused to another School; the traffic is so bad, the City is considering putting up a traffic light; neighbors have had issues with flooding, but most importantly is the negative impact on our City’s budget. With all the opposition and no legal requirement to approve what Mr. Casale has requested, she questioned how in good conscience can anyone who is elected to represent the citizens of Cranston choose a developer over the citizens and the taxpayer?

**Vin McCrystal**, 65 Sage Dr., appeared to oppose to this Zone Change and stated that in the last five years, this developer has threatened the residents and taxpayers by saying he would put in a pig farm or a mosque on the property if the residents did not stand down and support the Zone Change. That was stated to a group of neighbors. He also, as a punishment to the residents, made the property an

eyesore by cutting down trees, leaving stumps, ugly chain link fence and a plywood billboard sitting out in the weather just rotting. He also threatened the Ordinance Committee back in November of 2021 with a livestock farm or a religious building. If you vote for this tonight, that is who you will be supporting, not the residents. When Mr. Casale purchased this property in 1995, the residents had already fought against a Zone Change from the prior owner for the exact same Zone Change. He bought it knowing full well that the residents were against it. If you vote against this this evening, you are not harming him in any way. He bought it as a A-80 and he can develop it as a A-80. Who you will harm if you vote for it is the taxpayers and residents who have fought for thirty years against this change.

**Mildred Moreira**, 25 Caraway Dr., appeared to oppose to this Zone Change and stated that she is not opposed to the building and development under the current Zoning restrictions of A-80. Alpine has experienced significant development in its infrastructure capacity in the thirty six years she has lived there. Originally, the development consisted of 190 homes with streets branching off the one exit and one entrance road, Alpine Estates Dr. With development over those thirty six years, the total number of homes now stands at approximately 450 still using one entrance and one exit, Alpine Estates Dr. With each home having at least two cars leaving and returning from work or school each morning and afternoon, with constant delivery vehicles and other service providers throughout the day on Alpine Estates Dr., this has become a major traffic concern. School buses and parents from the area neighborhoods, dropping off and picking up children at Orchard Farms Elementary School in the morning and afternoon, use Alpine Estates Dr. as an alternate route, a cut-through to the School entrance. This poses a major safety concern for children who are walking since there are no sidewalks and no crossing guards at this very busy intersection. Orchard Farms is over capacity as well as many classrooms. By allowing this Zone Change, the doors open for other landowners who fall under the Zoning regulations of A-80. New Schools will be necessary, new land will need to be purchased or additions will need to be added onto existing School buildings.

**Gary DiRaimo**, 7 Lace Circle, appeared to oppose to this Zone Change and stated that it came to his attention that there are some statistics from the Zoning Commission. It showed that there were 283 Zone Changes, 36 of those changes were from A-80 to A-20, the majority of the 36 Zone Changes were on busy roads with multiple egress to the property, some of which are Plainfield Pike, Scituate Ave., Phenix Ave., Pippin Orchard Rd. and Burlingame Rd. Alpine Estates, as it was mentioned, is only one way in and one way out. There are over 400 homes that travel that road every day trying to get out onto busy Scituate Ave. There is already a major traffic issue. If this Council passes this request for A-80 to A-20, it is going to start a precedence for future development. Not only is Sage going to develop, then there is going to be an issue with Caraway Dr., then after that, there is approximately 100 acres that abut Caraway and Sage. All this additional traffic is going to flow onto Alpine Estates Dr. making it an additional traffic issue. If this Zone Change is passed it will set a precedence and not only is it going to be a burden on the School system, the sewer system, the waste treatment system, all City services are going to be taxed and will cause a possible tax increase for the budget needs. As he stated three years ago, Mr. Casale has every right to develop his land. A “no” vote today from this Council does not change or deny him from developing his land. He has every right to develop his land, however, he purchased it at A-80, he is entitled to develop it at A-80 without a Zone Change. He urged the Council to deny this Zone Change request.

**Susan Bucci**, 67 Sage Dr., appeared to oppose to this Zone Change and presented a copy of portion of School Committee minutes from October 23, 2023.

On motion by Councilman Ferri, seconded by Councilman Wall, it was voted to accept this document for the record. Motion passed and Councilwoman Haroian recused.

**Ms. Bucci** stated that at the October 23, 2023 School Committee meeting, Superintendent Nota-Masse stated that Orchard Farms and Oaklawn Elementary are at maximum capacity and Hope Highlands, currently a Middle School, will need to be returned to an Elementary School due to the development in Western Cranston. The Superintendent also stated that a new Middle School has to happen at some point, if not in the next five years, because we need the space in Western Cranston. The current estimated cost for that, she estimated at \$130 million.

**Annette Osberg** appeared to oppose to this Zone Change and stated that Mr. Casale asked Jason Pezzullo to change this lot in the Comprehensive Plan from A-80 to A-20 and, as quoted in the Comprehensive Plan, several property owners have requested changes to their land use classification in Zoning and he will tell you the City Council approved it, but the Comprehensive Plan states AP35 Lots 32. Does the City Council know what that means because the residents who live next door to it, did not know that he had added in two of the parcels that the City Council had already rejected. She asked the City Council how they would feel if their neighbor came in front of this Board for Zone Change, this Board says 'no' it is not approved and you find out five years later that it is in the Comprehensive Plan and as an abutter, you were never notified. This makes her mad. Is this how the process is supposed to work? A lone City employee gets to change the Zoning without community input. Are the residents supposed to believe that nobody in the Planning Department knew that this had previously come up and was denied by the City Council? The residents know the Comprehensive Plan can be amended so how come this has come up multiple times and it has never once been removed from the Comprehensive Plan? Peppermill came up, Caraway is coming up and Sage is here now, but why wasn't the Comprehensive Plan amended? It will not be mentioned tonight, but Pine Ridge is Alpine and it is A-80. They sneaked that in and it was developed approximately twenty years ago. Each lot sold for \$250,000 A-80, so why doesn't Mr. Casale develop the four lots, get his \$1.2 million, pay \$500,000 in infrastructure and make a lot of money and be happy and leave the residents happy too. This is not about eight house lots. Next to Sage is Caraway, which is nine acres and is in the Comprehensive Plan and the developer has been at these meetings. Next to Caraway is an adjacent parcel of 48 acres Zoned A-80 and Peppermill has come up before. So, everyone gets to switch because we are going to be nice to Mr. Casale. It is not 31 houses, it is 125 houses that is going to get added because someone had the great idea to add this to the Comprehensive Plan.

**Jim Narcisi**, 22 Caraway Dr., appeared to oppose to this Zone Change and stated that the reason we are back here is because Mr. Casale obtained the Consent Order that says that they can reapply, which means you are not compelled by the Judge's ruling to approve this. You are simply compelled to hear the case and conduct normal review. Though the request is consistent with the Comprehensive Plan approved in 2012, it does not mean the City Council has to approve the Zone Change.

**Cheryl Carbone**, 4 Thyme Dr., appeared to oppose to this Zone Change and stated that her property directly abuts the property in question. She stated that she thinks Mr. Casale should be better invested in the City of Cranston. He is a resident of Hope and owns a business in Johnston. What is the benefit for him to develop this property other than to make money? The residents all want to pay their taxes and not be additionally taxed for the fallout if in fact this request is approved and place stress on all the City infrastructures. If this is put forward, there will be havoc. She asked that this be denied.

**Patricia Gilmore**, 4 Peppermill Lane, appeared to oppose this Zone Change and stated that the Comprehensive Plan was updated in 2010. That is what is online right now. She participated in the one workshop that was held to help revise the Plan. People do reference that there was a 2012 Comprehensive Plan, however, her question would be was that an actual update? She does not see the document revised to reflect 2012 and when you look at the Land Use Map that was attached to the 2010 version, it has those Sage parcels listed as A-80. She struggles to find any paper trail where that was actually put in place and that it is valid and needed to be followed. She also stated that in Exhibit “A” attached to the Comprehensive Plan, there are 35 parcels that are listed as possibly being designated or proposed change from A-80 to A-20. That is 35 parcels having the opportunity to build four times the number of houses from a Plan that is fourteen years old. Hopefully, in this revised Comprehensive Plan, we will be able to work with the Planning Commission to come up with something that actually makes sense relative to where we stand. We also have this person who has threatened people and we have a Planning Director that seems very very determined to help push this through. She asked that the City Council listen to the residents and deny this change. It will be a ripple effect. Look out for your constituents and do the right thing.

**Greg Silva**, 16 Peppermill Lane appeared to speak and stated that he echoes all the statements made by prior speakers. He pointed out that there is one egress and one ingress to and from the neighborhood of one lane and a median in the middle. This is a safety concern if there is ever an emergency vehicle that needed to get into the development. The water table is very high, it is a hilly neighborhood and water flows downhill. The more you pave to take trees away, it causes potential peril for the neighbors in the area.

**Kevin Richard** appeared via Zoom to oppose to this Zone Change and stated that he concurs with many of his neighbors. As to the traffic, as a parent who has children that go to School, increasingly, they have been getting text messages in the morning about bus delays. So, it is not just about the residents getting to work, it is about our children attending School and getting to School on time. He stressed the impact of the flooding that is already happening in the City and his concern is what happens if this is developed? He believes that this is not isolated. If you allow one contractor, the flood gates would open literally and figuratively. Other people are very much paying attention to this hearing. He asked the Council to vote ‘no’ on this. Even though the proposal is for eight houses, he thinks that we can all say with some certainty that this is probably going to go far beyond eight houses.

**Kristy Narcisi**, 22 Caraway Dr., appeared via Zoom to oppose to this Zone Change and echoed what her neighbors have said and expressed her concerns and asked for the City Council’s support in not changing the Zoning and keeping Sage Dr. Zoned as A-80. Mr. Casale and his attorneys like to reference this Comprehensive Plan, but we have to remind ourselves that this was written for a 2010 Cranston and a 2010 Alpine. It is antiquated and outdated and not consistent with the growth of Alpine that exists today. What is the purpose of this Rezoning? How does it benefit Cranston at large? That is what she asks over and over again and she comes up with the same answer, it doesn’t. It stresses our existing systems and infrastructure and it only benefits one man or landowner who wants to Rezone for that matter. This also would put stress on the Schools. She asked that the City Council be concerned about how overcrowded Schools impact children and their education. She asked that the City Council heed her concerns and the concerns of her neighbors and do not vote to allow Rezoning and consider how this directly and negatively impacts her neighbors, herself and particularly her children.

**Frank Gibbons**, 50 Sage Dr., appeared to oppose to this Zone Change and stated that this has been a long battle for the neighbors going over many years and he thanked them for coming this evening to speak. He asked that the City Council instead of continuing year after year wasting the Council and taxpayers' time, maybe have a Council Member put forth a motion to permanently keep the Zoning at A-80 so we do not have to keep wasting the Council's time and the neighbors' time. The constituents of Cranston and residents of Alpine Estates absolutely do not want this Rezoning to be passed. He asked that the City Council please keep that in mind.

**John Marland**, 41 Caraway Dr., appeared via Zoom to oppose to this Zone Change and stated that he wholeheartedly agrees with what his neighbors have stated this evening. He and his neighbors pump out water at their homes on Caraway, it is absolutely insane sometimes, so just in terms of the negative impact this Zone Change could have on the greater good of the neighborhood, he asked that this be voted down.

**Teresa Reali**, 28 Caraway Dr., appeared via Zoom to oppose to this Zone Change.

## **VI. NEW MATTERS BEFORE THE COMMITTEE**

**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

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

Under Discussion:

**Councilwoman Haroian** recused.

**Councilman Donegan** thanked the residents for attending and appreciates their involvement despite disagreements on this. The benefit that he sees is that by increasing the amount of house supply that we have, it will trickle down to benefit others. By adding those additional homes, it will free up stock elsewhere so people can move up allowing more maybe closer to the median priced home here in Cranston and that is something that is already with our current housing stock. It is already not attainable for most people in the City of Cranston. 50% of renters who are cost burden, 30% of owners who are cost burden and is building more additional lots above what they can currently have under Zoning going to solve the housing crisis in Cranston, no. Will it make a small positive impact towards it, yes, he thinks so minorly and for that reason he will be in support of this.

**Chair** stated that she received a letter today from the Mayor and asked that it be added into the record.

On motion by Councilman Ferri, seconded by Councilman Wall, it was voted to accept the Mayor's letter and make it part of the record. Motion passed.

**Director Moretti** appeared to speak and read the Mayor's letter for the record.



**Chair** asked Solicitor, with the litigation and everything else that is going on in this case, what is the legal opinion in terms of the Council this evening in terms of this actual Ordinance coming before the City Council, going before the Planning Commission, coming before the City Council and initially coming for vote. Solicitor stated that his impression of this is that he thinks it is very important before this Committee deliberates and obviously before the full Council considers the application, the Committee and the Council have the proper legal framework before it deliberates and it analyzes whether or not to grant this petition. The reason he states that is this does not seem to be the run of the mill Zone Change which we have had over the years. There are procedural issues here. There are substantive factors here. There is the advent of new legislation which was recently enacted at the State House. All of these factors are essentially a collision course and he thinks it is very important that the Committee and the Council have the proper legal background and a thorough understanding of all the Statutes, laws, case law, everything that is at play here because you want to get this right. We have been to Court once and we really do not want to go back again for obvious reasons. There is a Superior Court Action out there essentially waiting on the sidelines to see what we are going to do with this latest application. The stakes are pretty high and you do want to get it right. He would strongly recommend that the Committee not vote on this this evening and rather take it under advisement. He would then strongly suggest and incidentally this is in concert with Attorney Angell and he believes Solicitor Millea, that we then schedule at the convenience of the Committee, a special Ordinance Committee meeting to be held in Executive Session. They all have their legal positions, legal thoughts as to what is at stake, what is in play, how we should proceed, but it is not appropriate to air this out in a public forum. He would strongly recommend that the Committee do that, but it is in the Committee's discretion.

**Council President Marino** stated that it was mentioned that the Council ban permanently because it has come before the Council before. Legally, we cannot do that. No legislative body can do that. She asked for Solicitor if that is correct. Solicitor stated, yes, that would violate quite a few legal principles, which when you consider this against the backdrop of the Superior Court Action, that would not be an option in any event. Just for that reason alone. This is a new application, it has to be decided on its merit.

**Council President Marino** stated that she thinks that given the change in circumstances in terms of all the legal questions that are now being presented relative to this Ordinance, it makes sense for the Council to have the advice of the City Solicitor. She appreciates the letter from the Mayor so that the Council knows where the Mayor stands on that. One issue she takes with the letter is when it states "your legal counsel". It is "our legal counsel". The Charter provides the City Solicitor is hired by the Mayor and the Council just approves that Department Head after Inauguration like every other Department Head gets proposed. So, the City Solicitor for the City has the duty to advise this Council as to the legal matters and solely with respect to pending litigation matters that are against the City and the Council. It is the job of the City Solicitor to advise the Council, which we have had occur with this matter and others where we go into Executive Session, which is nothing out of the ordinary. That is what is legally required and we are obligated by law when we have Executive Session to take the advise as given to us by legal counsel so that we are informed, but it is ultimately up to the lawyers of the City and lawyers hired by the City to make those legal determinations and not this Council. She thinks it is prudent for the Council as a body to have advice from the Solicitor relative to this legal issue and with all the different nuances, she would prefer to have an actual memo which has occurred in the past, a legal memorandum, provided to this Council as confidentially, relative to the various issues to make sure that they are all covered for us.

**Chair** stated that she thinks that in doing what is best for the City, we should have an Executive Session on this and get a little more of the legal advice.

**Councilwoman Renzulli** asked Solicitor, would we have to go into Executive Session purely because of the litigation that this is a part of or if that litigation did not exist, would we be able to just discuss this in Open Session as we have in other cases and understand why we have to go into Executive Session? Solicitor stated that there is at least two reasons. (1) this is part and parcel. It is not the Superior Court case per se, but it is directly related to it and that Court case is in the sidelines and what happens there depends on what happens here; (2) had there not been something already pending in Superior Court, he would still highly recommend that this be done in Executive Session because Open Meetings also says it does not have to be litigation. It could be potential litigation and there was clearly going to be. Councilwoman Renzulli stated that as of recently and just in general, we know that attorneys interpret the law differently and it has been established and we seek legal advice we are supposed to follow it whether we are in Executive Session or Open Session. If there is not one consensus, what happens next? Are we bound by the advice that is received by the City Solicitor in Executive Session or not? Solicitor stated that the Cranston City Charter, like most of the Charters in the State, states that the Solicitor is the lawyer for all boards, agencies and departments of the City and that includes the Council. Obviously, the Council has Attorney Angell, who is doing a fantastic job, but all he can state is what the Charter states. Ultimately, that is how the Court would see it because the Court already ruled on this. If the Council gets different opinions, you are going to have to decide as a Committee which you want to follow, but the City Solicitor sits on top. That is the clear language of the Charter.

**Councilwoman Renzulli** stated that in regards to an implementation schedule that is part of the Comprehensive Plan, there was an implementation schedule that included needing to change this over the eighteen months that everyone keeps talking about or is that a State mandated implementation schedule. Solicitor stated that that answer, depending on what it is, could have an effect on the City's legal position here and he does not know if it is appropriate to do this in Open Session. This should be discussed in Executive Session. Councilwoman Renzulli stated that at the advice of the Solicitor, she requested certain people be present at the Executive Session meeting.

**Chair** asked if we are able to call in Director Pezzullo to be part of the Executive Session. Solicitor stated, yes, if the Committee feels it is necessary and goes without saying that the Director would know that anything discussed in Executive Session has to remain confidential.

**Chair** asked for a continuance of the Ordinance to the next Ordinance Committee meeting and she would like to have an Executive Session prior to that meeting.

**Solicitor** stated that if you are going to have Executive Session on the same night as other meetings, he does not think fifteen minutes would be enough time for Executive Session. It is a pretty involved complex issue.

**Council President Marino** asked Solicitor how much time he would need to address all the issues and concerns and draft the memo for the Council. Solicitor stated that assuming if we were going to the next Ordinance Committee meeting, that is plenty of time and will definitely be ready.

**Chair** suggested holding the Executive Session on June 13<sup>th</sup> prior to the Public Works and Ordinance Committee meetings. Solicitor stated that you may want to hold that Executive Session on its own night because he does not want to rush.

**Councilwoman Renzulli** asked if we are under any kind of time constraints in making a decision on this based on when it was submitted to us. Solicitor stated that the Consent Decree mentions 90 days. He is certain that a Judge would be understanding provided that we are proceeding as fast as we can and he thinks he would be very understanding that we want to get it right, but apart from that, there are no time limitations.

**Councilman Ferri** proposed that the Executive Session be held on June 6<sup>th</sup>, a week before the Ordinance meeting, which is three weeks and there is a week in between the Executive Session and the Ordinance meeting instead of rushing to do it an hour before.

**Chair** stated that a date and time will be determined for the Executive Session.

Motion and second to approve were withdrawn.

On motion by Councilwoman Renzulli, seconded by Council President Marino, it was voted to continue this Ordinance to the next meeting. Motion passed.

## **VII. ADJOURNMENT**

The meeting adjourned at 8:45 p.m.

Respectfully submitted,

Rosalba Zanni  
Assistant City Clerk/Clerk of Committees