

(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).

PUBLIC WORKS COMMITTEE

Regular meeting of the Public Works Committee was held on Thursday, January 11, 2024 in the Council Chambers, City Hall, Cranston, Rhode Island.

I. CALL MEETING TO ORDER

The meeting was called to order at 6:05 P.M. by the Chair.

II. ROLL CALL

Present: Councilman John P. Donegan
Councilman Richard G. Campopiano
Councilman Robert J. Ferri
Councilman Daniel R. Wall
Councilwoman Nicole Renzulli
Council Vice-President Lammis J. Vargas, Chair
Council President Jessica M. Marino

Absent: Councilwoman Aniece Germain, Vice-Chair

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 (appeared via Zoom)
Rosalba Zanni, Assistant City Clerk/Clerk of Committees
Linda Cordeiro, Stenographer

III. APPROVAL OF MINUTES

- **Approval of minutes of the December 7, 2023 Regular meeting**

On motion by Councilman Ferri, seconded by Councilwoman Renzulli, it was voted to dispense with the reading of the minutes of the December 7, 2023 meeting and they stand approved as recorded. Motion passed unanimously.

IV. COMMITTEE BUSINESS MATTERS CARRIED OVER

None.

V. PUBLIC COMMENT

Bert Carabitses, 9 Pepper Mill Lane, appeared to speak and stated that he is concerned with all the development going on behind his home and his neighbors' homes. He would like better transparency so that they know what is going to go on there. It seems like the residents cannot get straight answers from the Planning Department and he would like to have more greenery planted to prevent the noise that is going to be happening because of all the construction and even beyond the construction when all these facilities are in operational mode. The residents would like better transparency because there seems to be a lot of mystery of what is going to be going into that land.

Trisha Gilmore, 4 Pepper Mill Lane, appeared to speak via Zoom and stated that as the prior speaker stated, the residents need to have transparency. She has several questions as to the development and what is going on. They do not want to go by just trust that they will do the right thing. They have a situation where it is frustrating as residents that had they not mentioned this and raised awareness, they do not know what would have happened. We have a situation where Green Development has purchased a large parcel of land from Stamp Farms and they know this developer has a history of being contentious, such as the situation with Turbines, which happened very quickly on Johnston land and then in Coventry as well with the same developer also with the purchase of Stamp Farms owned land, so, obviously there is a connection. It is concerning, as residents, that this company purchased this land and started doing work and it did not seem to raise an eyebrow for anyone that is on the watch in the best interest of the residents. Everywhere they ask is a different answer. She has been told 'there are no plans', she has been told 'well they know what they are going to do, they just have not submitted plans'. The residents were told to come to this meeting and they were going to hear the revealing of plans. They have been told the work has been shut down by DEM, then mysteriously, it started. They cannot get a straight answer and as taxpayers, that should not be the case. They should have someone looking out for their best interest, they should have someone that is concerned about the quality and character being maintained for a very high volume neighborhood. There is constant noise coming from there, which starts at 5 am and has continued to get worse. Also, there was drilling going on into the earth, which was not normal drilling. The sounds coming from there are not normal building sounds. The residents need someone that is on the watch on behalf of the taxpayers. They have had a history with the Planning Department, Mr. Pezzullo specifically, misleading the public. There are numerous questions the residents need answered and they need a forum to do that. They need to know about the previous Court Case from 1986 and 1996 and how they impact that development. Some of the language in the Court Case is very concerning that it seems like he has carte blanche to do whatever he would like without interruption.

Michael Gilmore, 4 Pepper Mill Lane, appeared to speak via Zoom and stated that some of the construction noises that they are hearing are not simply construction where they are leveling the land and getting anything prepared. When they say drilling, there are sounds like excavation with a jackhammer and this starts very early in the morning and into the evening under cover of night.

VI. NEW MATTERS BEFORE THE COMMITTEE

Councilman Donegan:

- *Sewer Issues in Stadium Neighborhood. Update from the City on their knowledge of any situation, and what is being done to rectify any sewer issue in the area.*

Councilman Donegan stated that last week he received notification both on social media as well as private communications regarding more than a hand full of neighbors in a specific part of the Stadium neighborhood around Legion Way who were all experiencing sewer issues and their sewer lines being backed up. He would like to know the specifics of this issue. He knows Veolia did go out the next morning and he would like to know what the results were and if any more residents contacted the City and what was the conclusion of any inquiry that was made.

Director Mateus stated that the City received two complaints about sewer issues on Legion Way, only one he has specifics of. There was a rock inside the sewer lateral that when Veolia was out there, they flushed it into the main line and then it was pushed into a manhole and picked up and took it out. What the residents on Legion Way were trying to take advantage of was our flushing program. He gave basic information on the City's flushing program. Advice the City gives is if a resident has a sewer backup, step one is to call Veolia and they will do everything they can do solve the problem on their end, including checking our main line and do a courtesy flush from the cleanout to the main line. If they do not find anything, then assumption is it is from the cleanout to the house, which is a property owner responsibility and Veolia would walk away from that site.

Councilwoman Renzulli:

- *Western Industrial Complex" - Update from the City on their knowledge of any situation at this property, both historically and currently. Explanation of what the landowner can be doing by right, what (if any) permits have been pulled, what (if any) plans have been submitted, what (if any) discussions have been had with DEM recently in regard to this property. Noise complaints and enforcement of our noise ordinance. Any and all departments involved are asked to provide relevant information so we have a comprehensive understanding of this situation currently and going forward.*

Councilwoman Renzulli stated that she received several complaints from neighbors of Alpine Estates neighborhood over the course of many days at all different times of day. Complaints of sound, which sounded like site work happening in the prior Stamp Farm land, also known as the Cranston Industrial Complex. She does not know if it is a lack of transparency or just some confusion as to exactly what could be happening on that land. Some people thought that DEM had shut down whatever was happening there at some point, which people said they heard and sent her videos of what sounded like jackhammers or some kind of drilling into the ground. They also wanted to know about the permits that they pulled to be doing that work and what times of day they could be doing it. She reached out to Director Pezzullo, who told her that no plans had been submitted for that site, but that he had been out there with Department of Public Works to check it out and that everything seemed ok and that DEM was aware of what was happening there, but he could not tell her what they were permitted to do because they had not submitted any plans to do anything yet, but they could clear their own land and if the sounds were too loud, the Police could be called to enforce the sound Ordinances.

She would like to hear from Acting Public Works Director of what he knows because the neighbors have a lot of questions. She spoke to the property owner's attorney today and he assured her that there is no windmills going there, they were just clearing their land and they want to put up warehouses.

Director Mateus stated that from his understanding, and Director Pezzullo would know more about the private development than he would. He is more concerned about the development that the City is going to take over, such as the roads, the drainage and the curbing. He has a Supreme Court decision dated 1996, which approved the developer to develop on the site within the freshwater wetlands was granted. From what he heard, that still stands today and cannot be neglected. Since then, they went through the City's Development Plan review Committee back in 2003 and a preliminary decision in 2006 when they got a final decision which allowed them to develop the roadway infrastructure and nothing on any private property. He has also heard rumors about a warehouse or wind turbines.

He has not seen any plans. No plans have come to Public Works. He does not believe any plans have gone to Planning either on what they are proposing to develop on that site. As for the noise, Planning and Public Works went out to the site and there is a large jackhammer out there, which is an attachment to an excavator. He assumes that that is what the loud noise is. They have the approval to build the roads out there, install the curbing, put in the retention basin and connect utilities in the City of Cranston. As for the private development side, he has no idea what is going up there.

Councilwoman Renzulli asked if they have a bond for those roads that they are building. Director Mateus stated that they did have to take out a bond. The bonds are in the 2006 dollars. He is working with the applicant's attorney to update their bond to a larger amount. Councilwoman Renzulli asked Director Mateus if he has been in communications with DEM about this or was it Director Pezzullo that was in communication with DEM. Director Mateus stated that he has not talked to DEM. He knows Director Pezzullo has. He does not know where that conversation left off. He knows that they have multiple DEM permits that are posted on site. He is not sure what is included in those permits or what they are allowed to do. He believes those permits are still valid today.

Director Moretti stated that Director Pezzullo was not able to attend this evening, but he has a briefing from him and read a statement from him relative to the development. He asked that if any of the residents have concerns, they are to feel free to call the Mayor's Office or himself or go into the Office and they will try to answer their questions.

Councilman Ferri asked if it is common practice that if the City gives permission to do something in 2008 or 2006, that years later it is still valid. Does approval not expire? Director Mateus stated that an Engineering stamp expires, but he is not sure about a Supreme Court Judgment. Solicitor stated that normally permits to build expire within a year, at the most two years, but he has not had the opportunity to review this decision that has been referenced and discussed by the Courts. That is a very unusual course of action for a Court to take in issuing a Preliminary Injunction or Temporary Restraining Order. In this case, his understanding is, it was a Preliminary Injunction. Completely forbidding a state Agency from enforcement action makes no sense to him. He would have to go back and look at that file, read the complaint, all the pleadings and then he would have to read the Court's decision. He does not think it is a Supreme Court Case, it probably was a Superior Court Case because Supreme Court does not issue Preliminary Injunction. Why it was never challenged and what is the scope of it, at this point in time, he does not know, but we are talking about a decision almost thirty years ago. He has never heard of such a thing in the Court system.

Councilman Ferri asked if the City looked into it and make sure that they did have permission. Director Mateus stated that them resuming this work was not permitted by the City. We were made aware of this by residents questioning what was going on back there. We never gave them the green light to start building roads again. This is something that we found out similarly to everyone else.

Solicitor stated that he learned of this this afternoon. He received communication from Councilwoman Renzulli and she had some questions and she sent him a copy of an email that was received from Attorney Mancini. This is the first the Solicitor's Office is learning of this and this goes back almost thirty years. This has to be researched and it is something that needs to be done in conjunction with Planning Director Pezzullo and the Legal Department to see exactly what took place, what they are allowed to do and whether the Court Order still has any vitality to it. At this point in time, everything is unknown.

Attorney Angell stated that Solicitor Verdecchia is correct regarding the fact that this is brand new to all of us and needs to be looked at. It is certainly not a Supreme Court ruling since it would appear that it is an Injunction. What legal effect that really has is really dependent on the complaint in the matter and how it was handled. As to how we control it in the meantime, he thinks you control it with Code Enforcement, but at this point, to take a hard and fast stance, as to the question of do building permits expire, yes, they do. Permits do expire, but if there is in fact a Judgement in this matter and the Judgement has been recorded with the land, there is some consideration in what effect that may have. He does not know until we see it, it is new to him too.

Solicitor stated that this Order shows DEM as the defendant, not the City. So, there is nothing that he sees within this Order that enjoins or restrains the City in any way from enforcing our requirements and our Ordinances and that should help. There is an attachment to the Order and it is a Consent Agreement, which he has not read through it. As he stated, this only applies to DEM. He has never seen a State agency restrained and enjoined, it is almost like a trespass order.

Attorney Angell asked what the C.A. number is. Solicitor stated C.A. 96-0497, Providence Superior Court and signed by Judge Israel on 2/16/1996.

Councilman Paplauskas asked if the developer has put in any curbing or asphalt. Director Mateus stated that there is curbing and asphalt along the road, new culde sac along Daniels Way as well as around up to the retention basin and around running parallel with Daniels Way. Councilman Paplauskas referred to the Planning Commission report from 2006 that approved the roads, he asked that Director Mateus send a copy to the entire City Council or to the City Clerk or Assistant City Clerk to forward to the Council. He assumes that that report has maps also of the road that they were planning to build. Director Mateus stated that that is not a problem.

Councilman Campopiano asked if the City can legally put a Cease and Desist Order on what is going on now. Solicitor stated that that would depend on so many factors. It depends on what they are seeking to do, whether they have the appropriate permits. He does not know when these permits were taken out. This matter is extremely old so that is an unknown variable. Short answer is, yes, you can place a Cease and Desist, but you need to have very solid legal grounds to do so and clearly there is not enough information to make that determination at this point. They are going to have to look at this from two aspects. This has to be a collaboration between the Legal Department and Planning with Director Pezzullo just to see what is going on and what the processes were back in the day. If some type of action is going to be taken, the Legal Department needs to be kept abreast of this right way because if it becomes necessary, if there is a disagreement as to what they are allowed legally to do, it has to be brought to their attention so they can act on it immediately because they would have to go to Court on an emergency basis.

Council President Marino stated that in terms of just practically speaking for day to day solutions for the residents, there were complaints this evening that the activity is occurring before 7 am and when they say under the cover of night, that could potentially mean after 10 pm. Her question is, if it is five in the morning and they are hearing this work going on and observing this work going on, what practically speaking should these residents be doing? Is there a number they should call? Director Moretti stated that they call the Police Department. Police is aware of this development and the Command Staff is aware of it and they will get someone out there.

Councilwoman Renzulli stated that it seems as though the Legal Department did not know that this was going on and if she had not contacted Solicitor Verdecchia today to see if he was the Solicitor for this evening, then he would not have this Court Case to even reference to if anyone brought it up, however, the Planning Department has had this and had information from the developer's attorney as far back as November 16th because that was the date of the email that was forwarded to her. The Planning Department knew about this and they were working with the Department of Public Works to go check on things, but Department of Public Works is not sure if the permits they have for the roads are still relevant. There is a Court Case that we keep referencing that Solicitor Verdecchia reminded us separate from the City's jurisdiction, but he would not even have known this was going on if she did not contact him today. She questioned why it is that no one from Planning is present this evening when she clearly had the agenda item list that any and all departments are needed to provide the information, if he is the main person who knew what was going on and did not tell the Legal Department on his own. It has been almost two months that something has been brewing there and people knew what was brewing and she is assuming Director Moretti did not even know if the Legal Department did not know. She questioned what the rule is as far as the Administration of what Planning has to tell who what because work obviously got done that we are not sure should have been done and she hopes that it was permitted, but if it was not, it is already done. Director Moretti stated that the Planning Department does not report to the Administration, does not report to the Mayor. It is the Planning Commission to which it is accountable. They are kind of an autonomous group. He does not want to speak on their behalf, so they are responsible for this part of the development. If it gets into the building construction state, then it is the permitting process with the Inspections Department and then the City takes over, Inspections Department, which is under the authority of the Mayor. He did not know about this lawsuit until this evening and the history of it. Solicitor Verdecchia and he will certainly follow up on their end now that they are aware of it. Councilwoman Renzulli asked who the Planning Director has to report this type of information to, the Planning Commission, to his Attorney, who? Director Moretti deferred to legal.

Council President Marino stated that no one has reached out to her from the neighborhood, but what she would have done was she would have sent an email to Gina Capuano, copied Director Moretti and indicated that residents are complaining of such and such an issue and do they have the proper permits. Because even if Planning gives their approvals for a development, they still have to obtain the permits that are necessary and by sending an email she would have included also to advise if Inspections has issued any permits relative to that development and are they current and then the Administration would take the ball from there and get the ball rolling in terms of looking at what is going on, sending an Inspector out to see if there are proper permits or not. If there are not proper permits, Inspections then has the authority to issue the citation with the letter and get the ball rolling from there to shut down the project. That is basically the process that we should all be following.

Councilwoman Renzulli stated that Director Capuano was on the emails. At some point, she informed her. It was not Director Pezzullo that informed her and Department of Public Works was out there.

Chair stated that clearly, there are a lot of questions that need to be answered and to her, it makes sense to continue this subject to the next Public Works meeting unless Solicitor Verdecchia has the information by the next regular Council meeting, but that is up to the Council President.

Director Moretti stated that he will contact Solicitor Marsella, who handles these types of things for the Planning Commission, and research this and will get on that tomorrow.

Chair asked that any information obtained be sent to the Clerk for her to share with the Council.

Chair stated that this item be continued to next month's meeting.

Council Vice-President Vargas:

- *Update on Smith St. playground and Edgewood Playground re: maintenance, funding timeline of completion, bid process.*

Director Moretti stated that as to the Edgewood Playground, the bidding process went out and there were four bids received back and they all qualified and met the specs. One was higher and kind of dismissing that bid. They are trying to decide what the best option is and the Mayor and he sat down and said who is better to know than the children of Edgewood Highlands so the children of Edgewood Highlands have voted and they have selected option B by a 2/3 vote in the School.

Chair stated that she loves that the kids are involved with that on the School side and the parents.

Director Moretti stated that weather permitting, the ball rolling in eh Spring.

Chair asked that the Administration keep the City Council in the loop on all the playgrounds in general.

Director Moretti stated that in regards to the Smith St. playground, the bid has been awarded to Company, Inc. and per Mr. Tomasiello, they just have to amend the CDBG plan, which they are expecting approval on over the next several weeks. If approved and everything anticipated to go forward, it should be approved by the end of February, so we should be ready to move on it weather permitting.

Councilwoman Renzulli stated that the Parks and Recreation Advisory Board met last night for the first time and she will be Chairing that committee and they also received a similar update. As to the Edgewood playground, the bid was awarded on January 9th, demo removal of the existing structures and floor service were supposed to be done on School vacation weather permitting, but people were out and they could not do it and that should be starting. As to the Smith St., same thing. Awarded on December 6th and the company is going to install all their equipment upon arrival. She has a listing of what they plan to do at all the playgrounds and will have that available for the next Council meeting.

Councilwoman Germain:

- *Explanation on the plowing process. What went wrong? Why many roads have not been plowed on Sunday evening when the snow stopped? New contractors? No staffing? What is the issue?*

Chair stated that Councilwoman Germain has asked that this item be continued to next month's meeting.

VII. ADJOURNMENT

The meeting adjourned at 7:15 P.M.

Respectfully submitted,

Rosalba Zanni
Assistant City Clerk/Clerk of Committees