

DEPARTMENT OF CITY CLERK

CITY HALL

APRIL 16, 1990

The Committee on Finance reconvenes from its April 12th meeting, at 5:00 o'clock P.M. in Committee Room "A", City Clerk's Department, City Hall.

PRESENT: Chairman Dillon, Councilman Rollins and Councilman Farmer

ABSENT: Councilwoman Fagnoli and Councilman Glavin

Subsequently Councilman Glavin joins the Committee.

Also present are City Solicitor Clifton, Council President Easton, City Internal Auditor Woerner, Timothy Duffy of the Mayor's Office (Rose M. Mendonca, City Clerk)

AN ORDINANCE AMENDING CHAPTER NO. 21 OF THE CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, ENTITLED "REVENUE AND FINANCE", AS AMENDED BY ADDING SECTION 21-52 ENTITLED "MINORITY AND WOMEN BUSINESS DEVELOPMENT."

Chairman Dillon summarizes what transpired at the meeting Thursday, April 12, 1990.

They did not have a quorum for that meeting but he read into the record all of the written material received since the last public hearing. It was indicated at the public hearing the Committee would keep the record open for a week because notice had not been received by some people until just before the meeting.

He also read into the record the statistical and financial data received from the Controller's Office. He identified in our computer system the vendors in the State that did business with the City. Everyone that was on the list. They identified the vendors on the State list also.

They ran a total of all of the purchase orders and all of the dollars that had been expended for those firms for the years 1987-1988, 1988-1989 and 1989 to the present time in 1990.

Less than 1% in each of those years had been expended for minorities and women firms as opposed to the total number of purchase orders issued by the City.

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That forms a basis for a reasonable presumption that the City could do better in regards to the contracting minority and women owned firms.

These factual findings need to be summarized.

MR. CLIFTON: I believe that was done in some respect the other night.

CHAIRMAN DILLON: Does that have to be part of the Ordinance?

MR. CLIFTON: There should be something such as a summary of the factual findings in the Ordinance. I think the summary was to further summarize while there was little or no evidence that the City of Providence as a corporate body itself had participated in any actual discrimination against women and minorities, there was some evidence from the testimony that was presented at the two public hearings that within the geographical boundaries of the City of Providence that there has been some testimony, there is belief that there has been some discrimination and that the City of Providence has a responsibility in the Constitution of this State to enact all Ordinances which are in the best interest of all those inhabitants of the City and that it is in the best interest of the City of Providence to, what it is based with the statistics that have been produced by the Purchasing Department and with the testimony of all those individuals that came forward that, it was in the best interest of the City of Providence to enact this Ordinance to establish some goals that can be hopefully redress the problem that has occurred over the years.

COUNCILMAN FARMER: In addition, there has been no evidence that the City of Providence itself has not discriminated and there has been no evidence that there is not discrimination against women and minorities acquiring business within the City of Providence from other sources, despite public hearings and opportunities for that evidence that has been presented.

COUNCIL PRESIDENT EASTON: Might I suggest another approach. It seems to me that maybe the best thing to do is

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simply for us to take the funding section and say it is the finding of the Finance Committee that 1. Discrimination has existed against minorities in business in doing business with the City of Providence, has evidence by the percentage of such contracts given to those firms over the following years, whether dejouris or defacto it is the opinion of this Committee that such discrimination has existed. 2. Given the evidence presented at the public hearing of the following in and after words written form, of the following individuals or a number of individuals is the findings of this Committee that those individuals have experienced discrimination against them in their attempts to do business in the City of Providence and with the City of Providence whether dejouris or defacto, we find that such evidence does exist.

MR. CLIFTON: I think the problem with that is it's against addressing the quality of the evidence that was presented and in order to be able to reach that level I think, I'm not a member of the Committee so I don't know what the members of the Committee feel like, my thoughts on the matter based upon the quality of the evidence that, I'm not sure if such a finding would be exposed in the record as far as the City for discrimination.

COUNCIL PRESIDENT EASTON: Except it seems to me that the purpose of the findings of fact is in fact for the Finance Committee to render it's opinion as to the totality of the testimony presented to it that it does in fact conclude that discrimination exists and therefore this Ordinance is being offered remedially because of our conclusions, it seems to me that that is the test that is necessary, that is what I have been hearing you say, if that's not what you're saying.

At this time Councilman Glavin joins the Committee.

COUNCILMAN FARMER: It is fair to say that the City itself has in the record the facting and purchasing activities in such a manner that the participation by firms owned by women and minorities has been less than 1% in the last three years. Is that a fact? Yes it is. If that's what that evidence says then without getting into the issue of

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affirmative findings of discrimination at least the activities have been conducted in such a way that a very, very nominal percentage of the business has been awarded to firms owned by women and minorities way out of wack with their percentage, participation, population in the community and it's way out of wack with the reputable recognized businesses that are owned by women and minorities and I think it is bound to be true that there are other business that were not on this specific list but they qualified and haven't even been considered in terms of the total number in the community so as compared to the percentage of those businesses in the community that are available to bid on stuff I would think that the percentage of contracts awarded to business owned by women and minorities is very small compared to the number of businesses that could have been awarded contracts.

CHAIRMAN DILLON: To bring you up to date, on Thursday we read into the record all of the written comments that we had received subsequent to the public hearing.

COUNCILMAN GLAVIN: Out of curiosity is there a follow up to previous testimony or is it new comments?

CHAIRMAN DILLON: It was generally a few letters in support of the Ordinance in general. We also received from the City Controller information regarding the purchasing for fiscal years 1987-1988, 1988-1989 and through December of 1989 and the present time of 1990. They identified all of the minority and women owned businesses and tallied up the amount of business they did with all of them. In each year it was less than one percentage in minority and women owned business. I think that provides a basis with some beliefs that we could do better in this area. Again, it's kind of like a patient, I think that is evidence that there is something wrong with the system here, that there is an illness here and it seems that this Richmond decision says that you not only have to prove that the person is sick, you have to prove that they have been poisoned and poisoned by the City of Providence.

COUNCILMAN GLAVIN: Well that was my question I raised to

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you. One of the few reservations that I have about this is that despite the fact that we have had two public hearings, we haven't had one person come forward and say that I bid on this one contract and I'm the lowest qualified bidder and I can get this, and I just think before we act on it whether the Council or the Board, we can do that, we've got the authority to vote on whatever we want, whether at a later date someone happens to challenge that and it gets overturned, that is something we don't know, something certainly for the future but you know there was so much in the early meetings discussed about this ---- decision and I think you are right, I think, those numbers are on the floor there is no question about it. I really wonder from a lay person's perspective, this is why I throw it to the two attorneys, as I read. As a matter of fact Ray Rickman, I still have at home, sent me an envelope about a year and a half ago of a whole bunch of stuff, some of it I guess a few black publications, where we go after ----- and it gave a breakdown of what Richmond meant to them and we all got a pack of it and I went back and re-read it over the weekend and again to the lay persons point of view, I have some serious reservations as to whether we have the documentation. We proved the case necessary to enact the federal legislation that the U.S. Supreme Court Seminar. Now, you raise a very good comment. When I spoke to you last week and maybe this Ordinance doesn't go, doesn't set aside the specific amounts, it's really we're talking about goals more than specific set asides, so if that's the case then I would feel a little more comfortable about that, but I'm looking at purely the consequentiality of it, and I think everyone agrees that those numbers should be higher. I think all the people that came to testify gave a very nice support to the concept of having minority businesses and women businesses. No one gave an attempted documentation, I think of what we were initially looking for. Now whether we need it or not for this Ordinance, and I think it is something we can talk about, people think we don't.

COUNCILMAN FARMER: That's the kind of stuff you need to

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the extent that is accurate. The only thing that is missing is evidence that there has been an intention and willful attempt by the Purchasing Department to discriminate against women and minorities.

COUNCILMAN GLAVIN: That's the question I would like for the attorneys.

MR. CLIFTON: You use that information and I think people believe that you have to prove things by what they call direct evidence as opposed to circumstantial evidence. You put together those reports from the Controller's Office and you recall that at the last meeting there was a gentleman, I think he was American-Indian and he had an engineering business, and he said, you know, people have told me that normally the way you do business is by playing ball, so he said he doesn't play golf and he's not in the other thing and people are saying that, that may not think of itself to establish by circumstantial evidence that there has been some, when the opportunity presents itself, some flexibility. No one has come forward during the course of the public hearing and said, no, that's not true. So the record is silent from the other side.

COUNCILMAN GLAVIN: Let me ask you a question. I get based upon what I read the initial reinterpretation that they gave us, all of the material, it is my impression, my understanding as the infamous ----- would say, teach me. I didn't think it was up to whatever municipality, the other matter I found a little bit disturbing, a lot of the people talking about how difficult it was to do business kept talking about the State of Rhode Island, very few, I think maybe one person talked about the City of Providence, and I think that is something that is pertinent to enacting the City Statute, and through the course of the hearing a few of us kept writing little notes like that. I think Charles Newton came and he heard vendors say that. I'm not looking to go to ridiculous extremes to try to say there's been no proof and sit there with a sad scowl, what I'm trying to say is, based upon my ratio, the case itself and the other documentation I was given

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it appears to me that I thought the person said, should they because a particular minority group happens to control 5% of the population and if they get less than 5% of the business it does not constitute discrimination, I thought the decision sort of went into detail about that.

MR. CLIFTON: Right, one of the things you have to understand about Crosson, Crosson was a pure set aside program, in other words, they would say that x percentage of business is reserved for minorities and that situation

COUNCILMAN GLAVIN: We're not actually saying that, we're talking about vague.

MR. CLIFTON: That's a constitution that's substantially different, when you're saying that some people cannot participate, when you're saying that all people cannot participate, yet we're trying to buy through the concept of affirmative action or whatever remedial concepts you usually try to do something to better a particular ----, so number one is very different.

COUNCILMAN FARMER: Also you have someone who is going to easily achieve standing the challenge. There is no action by the City in this Ordinance that says one guy lost the business because he wasn't black or female.

COUNCILMAN GLAVIN: What led up to, I don't know if any of you are aware of, what led up to the people who were challenging the State of Rhode Island, what is their standing.

MR. CLIFTON: Well that is a question that is being raised.

COUNCILMAN FARMER: That is an issue of standing.

MR. CLIFTON: Standing is one of the issues that's highly adversely affected.

I think the original Ordinance seemed to establish more set aside sort of things. The other thing is given the passage of nine months and being able to more fully digest the literature that is out there, this is why this Ordinance has been drafted and this Ordinance opposed to that which was originally put forth by the people of the City Council.

COUNCILMAN GLAVIN: There is something I mentioned over

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the phone to Chairman Dillon, if I can remember. It was just a technical thing. One of the things here refers to, it talks about the pertinent study, one says that will be and one that says is currently.

MR. CLIFTON: The City is currently undergoing a study, the City will undergo a predicate study.

COUNCILMAN GLAVIN: One says to be and the other one is currently, one refers to the minority business and one refers to women. Do we do them separately?

MR. CLIFTON: No.

COUNCILMAN GLAVIN: All right, let me show you what I mean. Upon completion of a sole predicate study this will be undertaken, this is MBE's. Now we're WBE's. A WBE shall utilize the goal, currently being undertaken.

MR. CLIFTON: Rose do you see that, page 4 and under H, under WBE's, realize underneath that which is underlined, where the underline ends, it says "currently being undertaken" should be "which will be undertaken."

CLERK: Predicate study which will be undertaken?

MR. CLIFTON: That's correct.

CLERK: After predicate study is in quotes.

MR. CLIFTON: Right.

CLERK: Then it will be?

MR. CLIFTON: Strike out the "currently being", and insert "which will."

Rose, on page 3, sub-paragraph F, after project, which is in the fourth line, it should be inserted "or contract" .

CLERK: The forms of any project "or contract" of it?

MR. CLIFTON: There is not one currently in the independent predicate study in the State Department.

COUNCILMAN GLAVIN: Is there a precedent about predicate study as far towns or states?

MR. CLIFTON: Yes. Seattle, Washington and Atlanta, Georgia.

COUNCILMAN GLAVIN: I assume they came from somewhere, right? I don't know where is came.

MR. CLIFTON: Page 5, sub-paragraph J, under

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sub-paragraph 4 within J, it should be "denial" as opposed to "denied."

COUNCILMAN GLAVIN: Are we establishing classification for it.

COUNCILMAN FARMER: This will be done for next year right? It will be done for the budget starting in June? You're not going to hire someone between now and then are you?

MR. CLIFTON: Like I said the other night, you were not here but if you read Time Magazine, one of the articles but the addition before that I think they made it quite clear that those who were considered to be the minorities now will be the majority.

COUNCILMAN GLAVIN: I want to take a real hot look at this Ordinance.

On motion of Councilman Farmer, seconded by Councilman Rollins, it is voted to Postpone the first Ordinance submitted, entitled: "An Ordinance Creating a Fairness in Purchasing Program," Indefinitely in Committee.

On motion of Councilman Farmer, seconded by Councilman Rollins it is voted to amend the Ordinance reviewed this day, as follows:

Page 3, subsection f., 4th line following the word "project" insert "or contract";

Page 4, subsection h., 12 line following the word "study" delete "currently being" and insert in lieu thereof "which will be"; and

Page 5, subsection j., 6th line, delete the word "denied" and insert in lieu thereof "denial".

Chairman Dillon directs the City Solicitor to submit a summary of the factual findings for the Ordinance.

On motion of Councilman Farmer, seconded by Councilman Rollins, it is voted to approve the Ordinance as amended and transmit same to the City Council with recommendation of Adoption and that the City Solicitor, with the assistance of the City Clerk, draft the findings and have the summary within the body of the Ordinance.

All members present are in favor of passage.

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REQUEST FOR LEAVE OF ABSENCE - BARBARA GRAZIANO, EMPLOYED IN THE RECORDER OF DEEDS, FROM APRIL 2, 1990 TO JUNE 1, 1990 FOR DISABILITY DUE TO AN AUTO ACCIDENT.

REQUEST FOR LEAVE OF ABSENCE - ANITA M. COLLAZO, EMPLOYED IN THE DEPARTMENT OF INSPECTION AND STANDARDS, FROM APRIL 9, 1990 TO JUNE 1, 1990 DUE TO AN INJURY FROM AN AUTO ACCIDENT.

REQUEST FOR LEAVE OF ABSENCE - ROSE MARROCCO, EMPLOYED IN THE CONTROLLER'S OFFICE, FROM JANUARY 2, 1990 TO DECEMBER 31, 1990 DUE TO ILLNESS.

CHAIRMAN DILLON: The three of them have the sufficient documentation can we have a motion to approve.

CLERK: They all have letters from their department heads.

On motion of Councilman Rollins, seconded by Councilman Glavin, it is voted to approve the three foregoing applications for Leaves of Absence for the dates and reasons outlined.

RESOLUTION AUTHORIZING THE CITY COLLECTOR TO CAUSE TAXES TO BE ABATED ON LOT 559, PLAT 52 IN THE TOTAL AMOUNT OF EIGHTY-TWO THOUSAND, ONE HUNDRED SEVENTY-SEVEN DOLLARS AND FORTY-THREE CENTS (\$82,177.43) AS REQUESTED BY THE JUBILEE INNER CITY DEVELOPMENT INCORPORATION.

RESOLUTION EXEMPTING THE REAL AND PERSONAL PROPERTY OF THE JUBILEE INNER CITY DEVELOPMENT INCORPORATION.

MR. CLIFTON: On Thursday, Reverend Wood, Representative Newsome and Attorney Walter Stone all came to brief the members of the Finance Committee about the two Resolutions. At that time we didn't have this document in front of them or available to them which we had some discussion about the actual habitant Jubilee Inner City Development Incorporation was in fact the name in which, first of all, Jubilee Inner City Development Incorporation has obtained a tax exempt status from the State of Rhode Island, so it is exempt from the Personal and Property Taxes. The question is whether or not the building itself is owned by Jubilee Inner City Development Incorporation and the information was that based upon their recollection that it was. On Friday, Representative Newsome brought to me, the closing documents, partnership agreement which was executed on October 8th and based upon the partnership agreement it is clear that there were three separate legal entities which formed a realty

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corporation which is know as JICD Realty Group. The Reality Group was comprised of 60% interest by Jubilee Inner City Development Incorporated of the tax exempt and 20% by Elegant Foods and 20% by businesses Dean Street Development.

COUNCILMAN FARMER: Does Attorney Stone have an explanation?

MR. CLIFTON: He didn't offer an explanation. I guess it may have been one of the things that they have here.

COUNCIL PRESIDENT EASTON: Dean Street Development at the time of the formation of the Eccoplance project, was in fact a neighborhood owned business who was buying things in the Elmwood Avenue area for rehabilitation, they own a number of pieces in that area. When they got into trouble which was shortly thereafter, but they originally started out as a neighborhood group.

Accordingly, on motion of Councilman Glavin, seconded by Councilman Rollins, it is voted to Continue the foregoing Resolution.

COUNCILMAN ROLLINS: They didn't say that this group is actually out?

MR. CLIFTON: Yes they did. The 20% that was owned by Dean Street was picked up, Dean Street is out of the picture.

COUNCILMAN FARMER: Proof is needed that Dean Street Development is out of the Corporation. Land records should be checked. Evidence is needed.

So that we're not totally negligent about this, we really ought to make sure.

COUNCILMAN GLAVIN: So there is a 60% abatement then?

MR. CLIFTON: It would probably be 80% based on JID, Jubilee Inner City Development Incorporation interest in the property.

COUNCILMAN FARMER: I thought they had 60%.

MR. CLIFTON: They originally had 60% and it was 60, 20, 20, Dean Street 20. What my understanding is that when Dean Street had its difficulties then Jubilee picked up.

COUNCILMAN FARMER: I thought you said Elegant Foods?

MR. CLIFTON: We'll find that, we'll have them back here.

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COUNCILMAN GLAVIN: Dean Street is completely divorced and we have a documentation?

COUNCILMAN FARMER: We need evidence of that because some Councilmembers can't consider this.

COUNCIL PRESIDENT EASTON: We really need to talk to Walter Stone and put the burden on him, to come in with some documentation with exactly who owns what.

COUNCILMAN GLAVIN: To give a tax abatement with Dean Street possibly humming around with all the negative publicity surrounding them, would be a disaster for all of us and I'm not going to take part in it.

COUNCILMAN FARMER: Did they tell you what's going on there in this building?

MR. CLIFTON: Yes, the intent now is, I think, Elegant Foods is going to be the principal

COUNCIL PRESIDENT EASTON: There are three floors. The first floor, the ground floor is Elegant Foods. It's a for-profit operation doing catering and banquets. The second floor the top floor is a business incubator operated by JIDC, the basement floor is the so-called Nector Club, which is supposed to be a club for social purposes in both sense of social, both for socializing, it's like an exercise club, but also trying to attract people that will work together on social issues.

COUNCILMAN FARMER: I think we have to better identify who, what is in the ownership, this thing is just plain on the outer edges.

COUNCIL PRESIDENT EASTON: The Nector Club is also to be only owned by JIDC.

COUNCILMAN FARMER: Let's assume that you go to the Nector Club to work out, what does it cost you?

MR. CLIFTON: As long as it's a not-for-profit and tax exempt they can generate, they can have a profit as long as it is re-invested.

COUNCILMAN FARMER: But the question for us is whether as a matter of the City's policy in dealing with income taxation, property taxation, does this type of operation fulfill the

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type of purpose that we are interested in fostering by enacting a legislation like this, even though I assume going forward that they are exempt on what? Is that true that there is nothing we can do about it going forward.

MR. CLIFTON: That's correct.

COUNCILMAN FARMER: Or is it just an enabling legislation allowing us to grant them exemption?

MR. CLIFTON: No.

COUNCILMAN FARMER: So all we're being ask to do now, but we have a Resolution exempting the real and personal, I see. So we don't really need to exempt anything here.

COUNCIL PRESIDENT EASTON: Number 6, we have already done that. I think that falls under the category of what do we call it?

CLERK: I think what they said Councilman Farmer is that they didn't have this building previously, it was owned by the Elks.

COUNCIL PRESIDENT EASTON: It was owned by the Elks Club which was a much more worthwhile cause, they were helping each others business prosper for social purposes.

COUNCILMAN FARMER: There's a real good question (In reviewing the Act). It's only their exempt, their property is exempt. It doesn't say to the extent that, it says so long as the property is used for the purpose of which it was incorporated. They didn't draft this too well, because I can read that to say that that's not the use, part of the property is for another use.

COUNCIL PRESIDENT EASTON: No, we're saying therefore, that that portion that it is not used for.

COUNCILMAN FARMER: I'm not saying that. I'm saying what this says is, their property is exempt so long as said property is used for that purpose, not to the extent that it is used for that purpose.

COUNCIL PRESIDENT EASTON: Okay, but that is the attempt of what they are trying to say. In other words the portion that is used, that's well researched

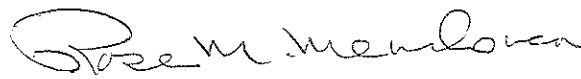
CHAIRMAN DILLON: A motion has been made and seconded to

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Continue items number 5 and 6, all those in favor. "Aye".

Opposed. Motion carries.

ADJOURNMENT: On motion of Councilman Glavin, seconded by Councilman Rollins, the Committee adjourns at 6:25 o'clock P.M.


CLERK

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