

DEPARTMENT OF CITY CLERK
CITY HALL
JANUARY 26, 1993

The Committee on Ordinances meets this day at 5:00 o'clock p.m.,
Committee Room "A", City Clerk's Department, City Hall.

PRESENT: Chairman Iglizzi, Councilman Clarkin and Councilwoman
DiRuzzo.

ABSENT: Vice-Chairwoman Williams and Councilman Fenton.

(Subsequently Vice-Chairwoman Williams joins the meeting)

Also present is John D'Amico, Deputy City Solicitor; Merlin DeConti,
Director, Department of Inspections and Standards; Councilman Dillon; Barbara A.
Poirier, Second Deputy City Clerk and Lesley M. Albanese, Assistant Clerk.

**RESOLUTION REQUESTING THE DISTRICT JUDGES TO
SENTENCE ALL THOSE CONVICTED OF PROSTITUTION AND
SOLICITATION TO COMMUNITY SERVICE SUCH AS THE
CLEANING OF VACANT LOTS**

COUNCILMAN DILLON: Let me tell you how this came about, I went to a
neighborhood and we've all been to them and you know how sometimes you get a
great idea come out of it. One of my constituents said "You know something, if
these guys like driving around this neighborhood so much, if they like being here
so much in their cars coming in from the suburbs, maybe we could accommodate
them. Maybe they can help us out a little bit and if they fine these people, why
don't they have them clean the lots since they like being here so much." And that is
the genesis of this particular resolution and after speaking with you, Mr. Chairman,
you suggested that it would be okay to just pass that kind of resolution, but all it
would be would be a request to the judge. And I recognize that that's all we can do,
but it is an idea and if they want to take it, they take and if they don't, they don't.
But, subsequent to speaking with you, I had contact Jonathan Houston. John is the
Executive Director of Justice Assistance and they do a number of different things.
And they do some monitoring and I asked him to come because potentially his
organization could do some of the monitoring, if that was possible. So, John.

MR. HOUSTON: David called and asked if I would speak to him for a
couple of minutes. I would like to say personally I think it is a great idea and it is
being done in New York in the Bronx. There is a section there that they refer to in
Brooklyn as the "Host Row". They are taking the "johns" and they are convicting
them and having them do community service. One of the things that let me
back up. A number of things that I from a correction criminal justice planner, I like
about the concept that it has all the concepts of good correction services. It has
punishment, the conviction and the community service. It has a community
restoration and a - - of community services - - . It does require coordination with

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your Public Works Department and it also requires some very careful legal research. If the idea is to have the people do the community service at vacant lots or abandoned houses where a lot of the activity takes place, in fact what you may be embarking on is a method of slave labor, doing work for a private enterprise and that these people who are leaving that property abandoned are benefiting at the expense of this. So, you have to be very, very careful. And I know David and I talked about what is the incident if the City has taken a lien on the property because the people have failed to pay taxes or have not met their codes. I don't know the answer to that and I would suggest very strongly if you proceed on that aspect of it that you do that legal research on that. However, it is 100% perfectly legal to have the people do community service in property owned by non-profit agencies or property owned by cities and towns. So, if there is a local recreational facility near there, a local park near there or anywhere in the city for that matter, there is nothing that prohibits an order of community. In order to make community service work, it has to be meaningful. It has to be supervised. You don't want to have a system set-up where the person who is convicted gets somebody to fill out a form to saying that they did the community service and in fact did not do it. The program becomes a scam and it ends up a poor reflection on the implementation on the City and it becomes one more example of the criminal justice system of something not working. So, I would strongly suggest that if you do do it, the key to community service is community service marking. Now, our background in this justice system has been in business since 1978. We have a contract now with Family Court where we have a juvenile restitution program and for those juveniles who can not pay restitution, the ability to pay, for example, we set-up community service sites where they can work off the damages. The key is the supervision on that and make sure the people are doing their work that they are ordered to do in a timely manner and if they are not that you immediately bring it back to the court. Because you don't want the people getting away with something. I think you are embarking on a very, very good concept. I mentioned to Dave that our office would be more than happy to work with the City in any way, shape or form that you think we could help. But, I do strongly suggest that if you're thinking of doing it on the abandoned property where the activity is taken place, then look carefully at the legal ramifications if it becomes a modern day slavery situation. But, there is no handicap - - city owned property. If there are any question on how community service operates, I would be more than happy to answer them. If you were looking on how much it would cost to implement a community service program, I would

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say you could get two bites of an apple. You've just set-up a juvenile restitution program in this City, a juvenile review board.

CHAIRMAN IGLIOZZI: Hearing Board.

MR. HOUSTON: A hearing board, excuse me...where there is going to be a lot of community service orders. Because you are going to find in this City that there is going to be an inability to pay on a numbers of juveniles. I would suggest that you could combine this project with that juvenile hearing board in setting up a community service supervision unit would probably cost in the figures that I did, approximately \$26,527 excluding the insurance costs and the materials and what I mean by materials, rakes and shovels and paint and so on. You can have some what of a full-time person working part-time on both those projects. You can solve two problems with - - swoop.

CHAIRMAN IGLIOZZI: I just want to say, David, that we all agreed that it was a great idea. But, I guess we wanted you here to find out how far you want to go along. First and foremost, you understand an ordinance can't be enacted that does this. If you want this to be achieved, you have to change the existing State law. Like, for instance, right now it just says \$50 fine and/or ...up to a \$100 dollar fine and/or 1 year in jail for a prostitution conviction. You'd have to change the State law to say that there is a minimum mandatory sentence for a conviction of prostitution. But, in the drunk driving, the minimum mandatory drunk driving school 10 hours community service. You have to change that law. So, you have to do one or two things, either create a State law, pass it by the Council with a resolution, file it with the State House and lobby it and hopefully get it passed. Or if you just send a resolution up there ... just all I was saying to you on the phone today, keep in mind that that's all it is. You know we can pass this out of here and send it up there. But, I don't think it is going to be enforced by anyone.

COUNCILMAN DILLON: Your saying the judges could not do this on their own.

CHAIRMAN IGLIOZZI: Yes, they can. But, I don't think the judge is going to do it because the Providence City Council sends them a little request in a resolution form. I'm saying that if you left it up to the judges to invoke the minimum mandatory sanctions of drunk driving convictions, if it wasn't for the statute, it wouldn't be done. They wouldn't enforce the 10 hours community service. What happens is the person can't get their license back without doing the community service, without paying the \$500 dollar fine, without going to drunk driving school. But, if you just leave it up to them, my personal opinion and my

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experience in the court system is there is going to be uneven justice. They are going to pick and choose. And I don't think that every single "John" that comes in there is going to be racking some property in Providence.

MR. DECONTI: I have an idea for the Chairman, why don't ask the community groups and organizations, if they would be willing to monitor an offender if they were assigned to them...I came into Elmhurst Neighborhood Association and said I have to 10 hours of service for you and then maybe you can send a resolution through that would say these groups and these individuals... these contact people are available to monitor this.

MR. HOUSTON: I would caution against that. My reason for that is - - you made a very good point - - I think that if there was a formalized program, they will make referrals to it. The judiciary would look at that as a very, very informal ad hoc type of program. I would be very, very leery about making referrals. Then you would definitely have a situation that your talking about the poor guy going through the community service and the guy from Barrington who's friends with somebody would not be referred.

CHAIRMAN IGLIOZZI: I am only trying to get at what you want us to do. You put this resolution - - . If you want to get this done, I think the proper form is the State Legislator and I am willing to do anything to help and I think the committee is. But, I just want you to know that if we pass this out of committee, I mean it is just a gesture. And that is why we wanted you here and I'm glad Mr. Houston came to at least be - - on that side and John has gone down the legal road with us a couple times. We can't create an ordinance to do this because we can't create an ordinance to control the district courts in the State of Rhode Island. The Municipal Court doesn't handle any prostitution, does it?

MR. D'AMICO: No, prostitution is a State offense handled by the District Court.

CHAIRMAN IGLIOZZI: Because it is a \$1,000 dollar fine and it is too much. It is only up to 30 days in jail and \$500....

MR. D'AMICO: I think it is \$500 or a \$1,000....

CHAIRMAN IGLIOZZI: The City can never sentence a prostitute.

COUNCILMAN DILLON: Couldn't a judge sentence.....

CHAIRMAN IGLIOZZI: A State judge could do anything that they want up to a \$1,000 fine and a one year in jail and all a host of things in between. They can put them on probation and say this is a condition of your probation.

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COUNCILMAN DILLON: They have the power to say you have to clean lots. But, they don't have is the mechanism to have somebody.....

CHAIRMAN IGLIOZZI: They don't have a program for it. They can turn to the court room and say like they do this people who work for him every day and say "Mr. Houston, see this guy, I'm sentencing him to you." And this guy goes up and he fills out the form with the victim and finds out how much restitution it is and he comes back to the court and says this guy is not complying. See courts don't like to issue orders that aren't going to be enforced. Whereas, this comes back with a little form and says we sent a letter to David Dillon saying he owes \$5,000 and he didn't pay a dime and the next thing you know your there and they say where's the money or we have a little suite up in Cranston for you.

COUNCILMAN DILLON: But, right now, tomorrow, if the program was in place the District Court judges could sentence people to it.

CHAIRMAN IGLIOZZI: That is what he is saying and I agree with him.

COUNCILMAN DILLON: You don't need to change the legislation to do that.

CHAIRMAN IGLIOZZI: I'm saying the legislation, if you change the legislation the - - mandatory program. But, I don't think you have to change legislation in the sense of saying a condition of probation is community service. It is always available in every single case that I have ever seen. It is just not invoked except in those mandatory cases like drunk driving, like domestic violence. You probably know them off the top of your head even better then I do.

MR. HOUSTON: For example, with the drunk driving, AAD, is in connection with the Department of Transportation as a formalized community service mechanism and that is part of the sentence that your on probation with community service.

CHAIRMAN IGLIOZZI: And you can't get your license back until to comply with it.

MR. HOUSTON: You have to have mechanism to have that condition that sentencing condition, to have the mechanism to enforce it. Enforcement is the key.

CHAIRMAN IGLIOZZI: It really is.

COUNCILMAN CLARKIN: Mr. Chairman, why don't we just pass this even though this only a resolution basically and then if David wants to get the law, then he has to sit down with other lawyers.

CHAIRMAN IGLIOZZI: I just didn't know what you expected us to do, that's all. I didn't know if you expected us to go up to the State House after we

passed it and expect something to be happening up there. I personally don't see it happening. I mean it is a good gesture maybe as far as your constituents are concerned, but I think in actuality it's going to change anything.

MR. HOUSTON: You can implement a program without having that law changed because the law is there. But, you need the mechanism to have this sentencing option, this condition of probation. You have to have something in place to make it a real condition.

COUNCILMAN DILLON: And your point with the law is that now the judge can give them up to \$1,000.

CHAIRMAN IGLIOZZI: And/or one year in jail.

COUNCILMAN DILLON: And/or one year in jail or probation.....

CHAIRMAN IGLIOZZI: Or probation with the condition of you probation that you

COUNCILMAN DILLON: What you can potentially do is change the law to say you must have community service.

CHAIRMAN IGLIOZZI: That is how the drunk driving has come about. Everybody knows that if you get convicted of drunk driving, there are like five things that are going to happen to you. You are going to pay \$550 dollars in assessment, your going to pay \$500 fine in DWI school, ten hours community service and there are a couple of other things. There is a list. Your license is going to be suspended for three months, not two days. Three months, it is minimum mandatory. But, those programs in conjunction with that statute, all those program exist. CCRI has a list for the drunk driving school. They have a formalized program for your ten hours community service. Thirty day suspended license, the registry takes care of that and the fines they monitor. If anyone of those things are not done, even though your thirty days has expired and your supposed to get your license back, if they check your check list and you haven't done your DWI school or haven't done your ten hours community service, you don't get your license back. Now, if you were to get this.....

COUNCILMAN DILLON: If we can pass this and can the Law Department draft the legislation to get it up there.

MR. D'AMICO: Sure. I know that Patricia McLaughlin is working on the legislative package and I'll be certain to tell her.

CHAIRMAN IGLIOZZI: That fine. But, then you are going to need another resolution specifically pointing to that statute when it becomes a bill.

COUNCILMAN DILLON: Do we want to that here or should I do that on my own?

CHAIRMAN IGLIOZZI: It's up to you. Whatever you want, I just wanted you to know what we could do and what we couldn't do. I didn't want you to think that we were just.....actually we were thinking about.....we didn't know what to do with this to be very honest with you. We didn't want to pass something that didn't have any real effect. At least I thought that was the censuses, everybody was concerned about that.

COUNCILMAN DILLON: So, I would say if you want, pass this. We'll do the law and the resolution and then we'll have to talk to John about getting a program together. We don't need legislation for the program, right?

CHAIRMAN IGLIOZZI: No, but you are going to have to provide the mechanism. And if you are talking about well that is what it comes down to. You realize that.....

MR. HOUSTON: Fourteen full-time

CHAIRMAN IGLIOZZI: Were you there when it started?

MR. HOUSTON: I started it.

CHAIRMAN IGLIOZZI: When you started it, how many people were there?

MR. HOUSTON: There were two.

CHAIRMAN IGLIOZZI: That's what happens. That's fine with me.

On motion of Councilwoman DiRuzzo, seconded by Councilman Clarkin, it is voted to approve the foregoing resolution.

CHAIRMAN IGLIOZZI: All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it, the resolution passes. Thank you for coming down.

COUNCILMAN DILLON: You have Municipal Court.

CHAIRMAN IGLIOZZI: Is there a motion to reconsider this item?

On motion of Councilwoman DiRuzzo, seconded by Councilman Clarkin, it is voted to reconsider the foregoing resolution.

CHAIRMAN IGLIOZZI: Those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it. It looks like there has to be an amendment. It says "the honorable justice of the Municipal Court" and they don't handle prostitution.

MR. D'AMICO: Excuse me, that is for the littering aspect of it.

COUNCILMAN DILLON: That's what it's for, that's right.

CHAIRMAN IGLIOZZI: Then we are still okay. Is there anything else?
John, have you reviewed this?

MR. D'AMICO: Yes.

On motion of Councilwoman DiRuzzo, seconded by Councilman Clarkin, it is voted to approve the foregoing resolution.

CHAIRMAN IGLIOZZI: Those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it.

**AN ORDINANCE IN AMENDMENT OF SECTION 27-2 OF THE
CODE OF ORDINANCES OF THE CITY OF PROVIDENCE, AS
AMENDED, INCREASING THE FILING FEE FOR PETITIONS TO
THE ZONING BOARD**

MR. D'AMICO: At the last meeting, there was some discussion about increasing the filing fees for zoning appeals. I'm fairly strong - - - in the filing fees. There are two things that should be considered. One is that you should act in a way that it is going to comply with the July 1, 1993 new law, the new zoning enabling legislation. So, essentially, we should have a public hearing on this just like you would with any zoning change. So, it is three times advertised and if the committee so feels, I'll arrange with Barbara for the dates. The second thing is that what the law is, is that you can charge reasonable fees for these things. So, long as you don't exceed the actual costs. So, what you may want to do is think in your own minds what the costs are and there can be testimony at the public hearing as to exactly how much this costs the City. The final thing is that I have some dispute on the fee schedule, I think it should be a little different. But, I can....

COUNCILWOMAN DIRUZZO: For instance?

MR. D'AMICO: For instance, I don't really know if there is a reasonable distinction between one and two families, as to what zoning appeal requires the City to do in the one and two families. So, I think perhaps what we can do is one and two lumps together, three or more is more plus "x" number of dollars per unit. Also, frankly, it would seem to me that the \$500 dollar charge for commercial, you know - - aware of how much that costs and that's a lot of money. I don't dispute that it could be justified.

COUNCILWOMAN DIRUZZO: We have the gentlemen here who could give us information on this. After all, he attends all the Zoning Board hearings.

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MR. DECONTI: I recognize what you are talking about, John, and I redrafted the ordinance.

MR. D'AMICO: This is the zoning fee ordinance?

MR. DECONTI: Yes. I redrafted it to reflect the use codes.

CHAIRMAN IGLIOZZI: I guess it could be sub "a".

MR. DECONTI: See how I did this, I put "petition" so it is clear that the use is being petitioned. In other words, some one is going from a one to a two family. The petition would be for a two family and a use code in parenthesis next to it, represents the use code in the ordinance. The use code 11 is a one family, 12 is a two family, 13 and 14 are multiple families, 15 through 17 are other residential uses, group homes, transition housing and things of that nature. Institutional uses, government, culture, all the use codes 21 through 86 and then the appeals and the renewals. And then I noted if there was a mix use, the high fee shall govern. So, I tried to make it directly address the uses that are listed in the ordinance. The other question came up to the costs. I have some different ordinances -- Pawtucket is a \$100 flat fee, Warwick has a fee schedule that varies from \$35, plus the cost of certified mail to each owner, to \$100 for each unit and then a conversion up to \$200 for land uses only not to exceed \$1,500. Those ordinances are pretty high. Cranston has a \$125 fee for a one family, \$275 for a two family, \$400 for a three family, plus \$20 additional dwelling unit, \$750 for 5 to 10,000 square feet of building space and \$1,000 for over 10,000 square feet. Barrington on the other hand is \$50.00. Woonsocket varies from \$250 for special exceptions, up to \$300 for 10 units for greater, plus \$100 for commercial and residential per unit over that. East Providence \$75 for a one family lot, \$150 for a 5,000 square foot or less lot. \$200 to \$300, it goes up to \$300 for a 10,000 square foot or less. So, I mean they are all over the place. We definitely be less then Cranston and a heck of a lot more then Barrington. But, the cost of our office, I was calculating the cost of our office and it is some where around the range of \$90,000 a year to run our office.

COUNCILWOMAN DIRUZZO: I don't feel we charge enough for zoning anyway. I like Cranston's fee schedule, but I realize we don't want to match theirs. Their two family is \$400, you said?

MR. DECONTI: \$400 for a three, then a four family would be \$430 and it goes up - - .

COUNCILWOMAN DIRUZZO: I personally think we have too many people coming in asking for zoning changes and I think we could defuse some of

that. Barrington only has one family houses over there, so don't worry about Barrington.

COUNCILMAN CLARKIN: What is the work that has to go into it....okay, I go in as my single family home and I want to change it to a two family....

MR. DECONTI: You have to provide us with a list of all the abutting owners within 200 feet of your property. You have to provide us with a plot plan showing your lot and all the other lots that are within 200 feet and on the plan you have to show all the homes, the use of that home and the address and the plat and lot number, any zone boundaries and any plat boundaries. You have to provide us with 10 copies of those two items and then you have to fill out an application and you have to give us a set of plans showing which work you want to do.

COUNCILMAN CLARKIN: What is the work your office has to do?

MR. DECONTI: Now, then our office has to take that information, we make up a docket and we send notification to every single one of those owners. We have to put an advertisement in the Providence Journal. The advertisements runs us for every single application, we have to list all the different items. The Council also requested that we also put it in very plan language. So, we have to meet the letter of the law, plus we have to make it understandable to a laymen. The ads run between \$500 and \$800 a month just to do that. We have to send the mail to all of the abutting owners that you listed and it could be up to 20 or 30 of those. We have to send it to all the Council people, State representatives. We send it to the Superintendent of Schools, if there is any thing that might effect the schools in the area. Any community groups that are registered with us and when we hold a hearing, we have a stenographer that takes the minutes of the hearing. If there is an appeal, we have to prepare a transcript. The transcript with just did for a house on the East Side was a 135 pages long. We put a lot of hours in.

COUNCILMAN CLARKIN: So, basically the people who is sending out the - - the stenographer, all this could be included in these fees. I've included a portion of Peter Carnevale's fee figuring out how much time he spends on that. The full stenographer's fee because that is a full time position in the City. We pay Blue Cross for all the different members of the board, but they don't get any salary. So, I figured in the benefits for that. Your not even thinking about the portion of the building that's used for their space.

VICE-CHAIRWOMAN WILLIAMS: I think that we really have to look at departments becoming more self-supporting and this is a way to make that happen,

these increased costs. I mean are we just missing it here. Because every community, if they are arbitrarily doing it.....

MR. D'AMICO: That kind of fee.....

MR. DECONTI: Four out of eight have that type of a fee schedule.

CHAIRMAN IGLIOZZI: That's my point. We are missing some rational relation. I can't believe that they are doing this arbitrarily. Because if they are, I think just because they are I think that just because they are doesn't mean we should.

MR. D'AMICO: I'm certain that perhaps Merlin and I could talk about it again and see exactly what goes into the numbers. I mean I have every reason to believe that Merlin is accurate. My believe is that it just struck them in the other towns that if your putting up 100 units you should pay more then if you put up a one family.

CHAIRMAN IGLIOZZI: Let's put it this way, if you look at the statute and you see what the legal argument is that supports these fees and you give that legal argument to Merlin, I would think Merlin could then look at the evidence and the documentation in his office and substantiate whether the argument can be made or can not be made.

MR. DECONTI: I certainly came up with a cost of running the department.

CHAIRMAN IGLIOZZI: Yes, you have done a lot of work on this and I think we can do this rather quickly. I think we should set a date for a public hearing at the Solicitor's

MR. D'AMICO: I'll take care of it right after the meeting.

CHAIRMAN IGLIOZZI: And then Merlin, if you come in and put that evidence on the record, I would assume this kind of public hearing is not going to be much else. It will be your testimony primarily, unless you think we need someone else, John?

MR. D'AMICO: Unless you want to invite the Zoning Board?

MR. DECONTI: Maybe the Chairman.

CHAIRMAN IGLIOZZI: Does anybody else think we need any thing more then that? Do you think we need to do any thing else, Merlin?

MR. DECONTI: I don't believe so. The other thing that John had presented to me was a change to the resolution, such as

CHAIRMAN IGLIOZZI: Let's move continuance on this until the public hearing.

On motion of Councilwoman DiRuzzo, seconded by Councilman Clarkin, it is voted to continue the foregoing ordinance.

**AN ORDINANCE AMENDING SECTION 14-88 ENTITLED:
"OPERATION WITHOUT LICENSE PROHIBITED."**

MR. DECONTI: Mr. Delaney and I have boiled up again.

CHAIRMAN IGLIOZZI: John, did you make these changes too?

MR. D'AMICO: I made the hand written changes.

CHAIRMAN IGLIOZZI: This is another working review, I think.

COUNCILWOMAN DIRUZZO: This is the newest one.

MR. DECONTI: --- some grammatical that I can easily incorporate in this revision of January 26th.

CHAIRMAN IGLIOZZI: I don't have your revision of January 26th. I have revision 12/14/92. So, this is the new one now.

MR. DECONTI: I made a quite a few changes in the back. I changed the requirements for a license...to take out the ... if you look at John's there was some sizes and things like that where conflicting with some of sizes for license requirements in the back. So, I just made section one more general. I can make the adjustments that John has required in his ordinance. Most of them are legal wording.

MR. D'AMICO: Primarily, these are stylistic changes. Actually, maybe it's short cut if I tell you what's not a stylistic change and then Merlin can go ahead. On page three, section 5.1, I think what was said is that if you get an apprentice boiler operator permit, it is good for six months. Then after six months, you either have to renew it or apply for an operators license.

MR. DECONTI: This has been reworded to say "an apprentice boiler operators permit is valid for a period of six months and after six months training, a permit holder may apply for an operators license or must renew the apprentice permit." So, it has been redone. I recognize that.

CHAIRMAN IGLIOZZI: Let me ask you, John, your saying that 5.1 was not a stylistic change. Look at Merlin's change, how do you feel about Merlin's change? Do you still want it changed to reflect your language, John? Do you have a problem with John's language?

MR. DECONTI: We're saying the same thing. He's got some - - .

MR. D'AMICO: We can go through it again, if need be.

CHAIRMAN IGLIOZZI: Did you two sit down and talk about this?

and even to make a little profit if you can to cover. We had 162 petitions at \$300 a petition that gives you some where in the range of \$178,000

VICE-CHAIRWOMAN WILLIAMS:at least to cover what you anticipate it will cost you to do it.

CHAIRMAN IGLIOZZI: John made two good points before. You know that we have to have a public hearing on this and at that time we really need Merlin to be prepared to substantiate the reason for the differences in cost in order to be complying with the law.

MR. D'AMICO: The statute says that you can charge reasonable fees as long as it does not exceed the cost to you.

CHAIRMAN IGLIOZZI: So, if you come on and put all that testimony on, I think we will be on solid ground, John?

MR. D'AMICO: If it's \$250 a petition then there is a rationale on how it is being charged. I don't see why it would be a problem from my reading of the zoning - - .

MR. DECONTI: What I would do is, I'm having staff now go through each petition over the last year and determine where this category would fall, how much the fee would be collected, so we can get a really good idea of what a one year would be and then we'll try for six months of this year. So, I can have that presented for you. I'll have the cost of the department figured out.

CHAIRMAN IGLIOZZI: And, also could you give us try to find out or relate some rational reason why a one family would be \$150 and a two family would be \$200. Maybe there is something to do with the work on the petition, I don't have a problem with that. But, I think that that has to be some how related. In other words, if there is no difference then make them both \$200. I don't care if you want to make them both higher.

MR. DECONTI: I was actually following what a lot of other ordinances.

CHAIRMAN IGLIOZZI: I know maybe you can talk to them and see why they did that. I think John is concerned with somebody coming back and saying there is no reason why this is \$150 and that's \$200. It is only going to be the person with the higher number that is going to be doing the complaining some where down the line. So, you want to make sure that you have some reason to say well the reason why a four unit place is \$400 is because the cost is a \$100 a unit.

MR. DECONTI: My rationale was to try and keep the cost to the one and two family down because those are more then likely city residents, owner-occupied. They have already paid taxes, a portion of their money should go toward

the running of the property. Whereas, the commercial and the other properties the taxes are higher.....

CHAIRMAN IGLIOZZI: That's what you can't do. I don't think you can discriminate cost based on whether your a Providence resident or not. John is saying that you have to focus.....

MR. DECONTI: I've done that with the department.

CHAIRMAN IGLIOZZI: That's good.

MR. DECONTI: When you take in the building permit fees, the building permit fees that I take in, I try to relate to the building inspection end of it. Where I said on the code enforcement end of things, that is more of a service to the citizens of the City. So, I didn't try to cover that cost also with building permit fees. I was trying to relate it the same way. Maybe your right, maybe you should just stick with a flat fee. But, the thing is....

CHAIRMAN IGLIOZZI: I'm not saying you have to stick to a flat fee, I'm sure there's got to be some reason if you talk to the other communities..... maybe you know, I don't know why a 10,000 square piece of property costs more to process its' petition. I don't know what the reason would be.

MR. D'AMICO: For example, if you had "x" number of fees, I don't know any number and you would want to put up a multiple of five. You really have to calculate minimum lot size, as opposed to the number of square feet per each unit and how many over what would be allowed. That is probably not the same kind of calculation you have to do for a one and two family.....

MR. DECONTI: I wouldn't reflect the difference in the cost - -. You know a 10 family unit can be in the range of \$600 versus \$150 for one. That difference of \$450 would not reflect it in the minor amount of work that you'd have to compare the two for the zoning certification.

CHAIRMAN IGLIOZZI: The calculations aren't substantially different.

MR. DECONTI: There some what more. The possibility of a multi-family unit being appealed to Superior Court is higher. We just got a deck appealed to Superior Court. So, you never know, you know what I'm saying. Most of the appeals are for longer developments that are - - commercial development and things of that nature. You can say that a good portion of the work involved in transcription and preparing a transcript based upon our evidence is always been this type of use.

CHAIRMAN IGLIOZZI: John, there has got to be some reason that we are missing here on how they are getting away or should I say that they are justifying

MR. DECONTI: We didn't get a chance to. We're coming here from different ends here.

MR. D'AMICO: 6.3, is essentially Merlin set-up a hearing for the director or his designee.

MR. DECONTI: I didn't know if we could go anywhere else for that.

MR. D'AMICO: Actually, that's fine. The idea is that you can't let it end there. You know you have to an appeal from Merlin - -. There would have no reason that you should have known that.

CHAIRMAN IGLIOZZI: Other than those things, let me just ask you, I think what really needs to be done is that you and Merlin really need to get these changes done. This is something that you wanted. I just think we need to waste any time.

MR. D'AMICO: The issue that Merlin brought up about this ordinance is well put. In 1943, - - in 1943 there is General Assembly activity that says you can have boiler permits. But, they set the fees a like two at \$5.00 and 1970 there is a State Building Code and the question I had and they can answer it right now, why would they have the State Building Code. The State Building Code issues regulations and in the phone book they have a boiler unit. When you call them to find out about a license to whom they refer you?

CHAIRMAN IGLIOZZI: The City of Providence?

MR. D'AMICO: In fairness, I didn't speak with Mr. Wickem who is in charge over there. But, I strongly suspect and I believe I spoke with you, there is no licensing.

CHAIRMAN IGLIOZZI: It is up to them.

MR. D'AMICO: The preemption argument doesn't apply in this case and preemption will be a topic that this talks about frequently. So, I just thought we can get it in, so that hopefully we'll see some consistency for this kinds of things that I might see in the past and the future. But, they haven't done anything. They got a State Building Code and you think that it would superseded it and realistically it should have.

CHAIRMAN IGLIOZZI: But, they didn't refer to boiler operators in the State Code?

MR. D'AMICO: Did they make any reference to boiler operators at all?

MR. DELANEY: Just on one paragraph, that's all.

CHAIRMAN IGLIOZZI: And what did it say?

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MR. DECONTI: They call them certificates and what it says is that certificates are required. But, it doesn't talk about

CHAIRMAN IGLIOZZI: How to get them.

MR. DECONTI: ...how you get them. It says according to the local municipality.

CHAIRMAN IGLIOZZI: It refers to the local municipality. I think it just reaffirms their original.....

MR. DELANEY: It said to operate a boiler, you had to have a certificate of fitness, that's all.

CHAIRMAN IGLIOZZI: Merlin is saying that at some point during the new code, in the 80's it said. They reaffirmed the authority they gave to City?

MR. DECONTI: Let me tell you what happened, the State Building Code Standards Committee, which I am the Chairman, has the right to adopt rules and regulations. And on a three years cycle, we adopt a nation standard and we look through the national standard for conflicts, and we didn't see this. It says in the national standard, you should have certificate for boilers. When that sub-committee that reviewed that particular book, it is about this long and this thick, it is a mechanical code based upon a national mechanical code. They did notice that little section that is two sentences, that said you should have certificates for boilers. So, now there is a section in there that every single municipality except Providence, is in violation of. Because no else issues licenses. So, we could say that we are actually complying with the law. But, I know the intent was not to require any City and Town to have licenses, but not to take away any authority, as long as it wasn't in conflict with the building code. So, I have to bring that up to the attention of the Building Code Standards Committee next month and we'll probably amend that to make it something that a municipality may do.

CHAIRMAN IGLIOZZI: I still have to believe, John, and correct me if I am wrong, that a regulation of the State.....

MR. D'AMICO: State Building Commission.

CHAIRMAN IGLIOZZI: ...can supersede what's been already given. It has to be an enactment again.

MR. D'AMICO: The way I understand that it is set-up is that when you look at the State Building Code, it essentially sets up the administration and some rough outlines of building.....very - - kinds of safety issues. They then give the commission the authority to issue regulations which have the effect of law. If they were to issue regulations about boiler safety, there may be a problem. However,

what you may also want to think is, 1943 they gave us the authority. They never took that away in the 70's. There is nothing that leads me to believe that we were divested of that authority in the 70's. We passed a Home Rule Charter. They knew that we had that authority when they passed the Home Rule Charter. So, we got that authority.

CHAIRMAN IGLIOZZI: There is nothing that cuts more to the heart of that than something of the building code.

MR. D'AMICO: Please?

CHAIRMAN IGLIOZZI: There is nothing that is more in line with the Home Rule Charter than something that has to do with the Building Code and probably rights of a City and Town.

MR. D'AMICO: The other thing is that it is a stance that perhaps the City may want to take anyway because you are airing on the side of safety. I mean because no other City and Town doesn't have this license stuff and because the State hasn't seem fit to do, I think you just can't let people operate boiler without licenses. I mean some minimum standards of efficiency in that particular field. I mean....

CHAIRMAN IGLIOZZI: I think we are on solid ground on this.

MR. D'AMICO: If we were to be challenged, we may lose. But, I would be very comfortable defending the challenge.

COUNCILMAN CLARKIN: We do have licenses required right now?

MR. D'AMICO: That's right.

COUNCILMAN CLARKIN: All we are doing is making it a little tighter, is that what it is?

MR. DECONTI: John just kind of reviewed how we maintain them. There was some question on how we maintained them. But, it seems pretty solid.

COUNCILMAN CLARKIN: We are not like all of a sudden banging people on the head....

MR. DECONTI: We are increasing the fees. But, what we are doing is we are allowing for computer operation of boilers and things of that nature. What did we take out Lionel? Was it air compressors? There was a requirement for license of air compressors which no longer need large engines to run them. So, we took that requirement out. The only thing that I would to mention because Councilman Fenton is not here, is that the Telephone Company that was interested in amending this ordinance, did request us to look at one item which I didn't feel comfortable with and that was that any system that is monitored by computer. They had

recommended that an operator not be required as long as the computer shuts the equipment down if it finds a problem. And Lionel and I neither has really felt comfortable with the fact that a building could be occupied without a licensed man on duty 24 hours a day, as long as a computer was running. Because if there was a malfunction in the computer and it didn't shut the equipment down, then you could really have a problem. We did allow it during the evening when there was less occupancy. But, we didn't feel a 24 hour monitoring with no operators is appropriate.

COUNCILMAN CLARKIN: Mr. Chairman, I remember Rusky, I don't know his last name, he was the boiler operator in the Fox Point School and if you want to see someone that could malfunction. Rusky got a few drinks in him. I mean Rusky was malfunctioned many times. I think the computer might be better than Rusky.

MR. DECONTI: I don't know how many people there are in the City that operate computers.... I really can't tell you what the odds are.

CHAIRMAN IGLIOZZI: John, do you think you and Merlin can together and finalize this. I don't think we have to start drafting in the committee. Unless the committee wants to. I think we can leave it up to these two gentlemen.

MR. DECONTI: I feel very comfortable with this ordinance.

CHAIRMAN IGLIOZZI: John, you feel comfortable with it and the two of you can change whatever stylistic changes....

MR. DECONTI: We can have this done in an hour. In an hour, we can have this done.

CHAIRMAN IGLIOZZI: We'll have a meeting next week, if that is okay and we will pass it out. Is that fast enough? John, what do you think? Next Tuesday okay with you? It won't make it on the next docket, anyway. Will it?

MRS. POIRIER: It would be the 18th.

CHAIRMAN IGLIOZZI: Do you want to do it next week or do you want to wait until we have the public hearing on the 16th? Is that going to bother you, Merlin?

MR. DECONTI: That's fine with me. I am just getting this rolling now because of the interest in making an amendment to what was there. I thought Councilman Fenton.....

CHAIRMAN IGLIOZZI: We got a public hearing.....

MRS. POIRIER: Yours is the 16th.

CHAIRMAN IGLIOZZI: You want to meet next week or the week after or do you want to leave it to the call of the chair? This way, John, you will get some more material ready to go. We only have three or four things pending right? And three of them are going to public hearing.

MR. D'AMICO: The last thing I remember on the committee was the Harbor and Port which isn't going to be resolved....

VICE-CHAIRWOMAN WILLIAMS: -- the Port Commission last month passed it out. They didn't send it over to you, the City Clerk's Office.

CHAIRMAN IGLIOZZI: That is going to have to be presented again, right?

VICE-CHAIRWOMAN WILLIAMS: It is pending here.

MR. D'AMICO: I don't know what kind of changes they made.

VICE-CHAIRWOMAN WILLIAMS: Not very many. I think that they had all been approved by the administration. They passed it out in January...so they should have sent a copy to you.

MRS. POIRIER: Mike may have it.

VICE-CHAIRWOMAN WILLIAMS: I'll check to make sure.

CHAIRMAN IGLIOZZI: Is there anything else?

On motion of Vice-Chairwoman Williams, seconded by Councilman Clarkin, it is voted to continue the foregoing ordinance.

CHAIRMAN IGLIOZZI: All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The ayes have it. I do want to bring up to this committee, last night, Mr. Chairman, we talked about some reform ordinances for this Retirement Board. There has been a lot of discussion whether it is going to the Finance Committee, the Retirement Committee, the Ordinance Committee or a joint committee. I personally have been working with the Law Department in drafting certain things. I don't care what committee they come out of. I don't know what the Ordinance Committee feels and....

VICE-CHAIRWOMAN WILLIAMS: Is that under Personnel in the City ordinances?

CHAIRMAN IGLIOZZI: It is Retirement. One of them is the purchasing of credit, you know how you purchase retirement credit.

COUNCILWOMAN DIRUZZO: Right now, who has the authority to do that?

CHAIRMAN IGLIOZZI: We do.

COUNCILWOMAN DIRUZZO: The Council. How about the Retirement Board.

CHAIRMAN IGLIOZZI: They have been using it the last number of years. But, the ordinance says that we are the only ones that have the authority. I just think that ultimately, we need a census on the Council. I mean I got some ordinances, but maybe we should do a reform package as a - - .

COUNCILWOMAN DIRUZZO: But, we chose not to get involved with that, correct?

CHAIRMAN IGLIOZZI: But, we can't do that. We don't have a chose. Because now what is happening is they are all backing up and they're looking for us to stamp an approval on these retirement purchase. I wouldn't vote for it last night because I said I am not just going to look at a list and start approving purchases.

COUNCILWOMAN DIRUZZO: Well, it is the authority of the full City Council or just the Finance Committee?

CHAIRMAN IGLIOZZI: It is the full City Council. My suggestion is this and this is what I said last night, we should make an ordinance that says here how you can buy credit. You can buy this kind of credit, this kind of credit, this kind of credit, you can't buy this, you can't buy that. It should be an ordinance. In the event that there is any issue that arise in the gray area between these that are outlined, then you come to committee for approval, I mean come to Council for approval. Because we don't want to vote on a case, by case basis of whether people purchase credit. You know those special bills that they passed. We don't want to get into that habit. We want a situation that is all laid out in black and white, either you qualify or you don't. Like, for instance, under the federal law, their entitled to purchase military time, the ordinance says that. We can change that. But, now, one of the biggest issues last night was can they purchase PROCAP. I don't know. Do you want to start extending yourself to PROCAP and these agencies which are really not City agencies. I don't know. That is a policy decision that has to be made as a Council as a whole on what we're going to say we're going to allow or not to allow....Any other decision?

ADJOURNMENT: On motion of Councilman Clarkin, seconded by Councilman DiRuzzo, is it voted to adjourn at 6:15 p.m.

Lesley M. Albanese
Assistant Clerk

Barbara A. Pavia
CLERK