

DEPARTMENT OF CITY CLERK
CITY HALL
AUGUST 26, 1997

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

PRESENT: Vice-Chairwoman Williams, Councilwoman DiRuzzo and
Councilman Allen.

ABSENT: Councilman Clarkin.

Also present are John D'Amico, Deputy City Solicitor; Thomas Deller,
Deputy Director of Planning and Development; Barbara A. Poirier, Second Deputy
City Clerk and Lesley M. Skeffington, Assistant Clerk.

VICE-CHAIRWOMAN WILLIAMS: This is a meeting to consider some
pending items and we have Tom Deller here who will present them to us. I guess
they have been before the City Plan Commission and some of them are ready to go
to public hearing.

MR. DELLER: That's correct. We were having discussions, John D'Amico
and I, prior to the meeting and there are one or two outstanding issues relative to
item number one and I ask that this be continued for the next Ordinance Committee
meeting.

**AN ORDINANCE AMENDING THE CITY OF PROVIDENCE
ZONING ORDINANCE CHAPTER 1994-24 NO. 365, APPROVED
JUNE 27, 1994, AS AMENDED. (ADULT ENTERTAINMENT)
(PASSED FIRST TIME AND REFERRED BACK TO COMMITTEE
3/6/97)**

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

VICE-CHAIRWOMAN WILLIAMS: All those in favor?

COMMITTEE: Aye.

**AN ORDINANCE IN AMENDMENT OF CHAPTER 564 OF THE ORDINANCES
OF THE CITY OF PROVIDENCE ENTITLED: "THE CITY OF PROVIDENCE
ZONING ORDINANCE" APPROVED JUNE 27, 1994, AS AMENDED, BY
AMENDING PROVIDENCE ZONING DISTRICT MAP NUMBER 29 OF THE
OFFICIAL ZONING MAP BY CHANGING THE ZONING DISTRICT
DESIGNATION OF LOT 409, FROM P.S., PUBLIC SPACES AREAS TO M-1,
INDUSTRIAL DISTRICT AND PROVIDENCE ZONING DISTRICT MAP
NUMBER 30-, LOTS 22, 63, 64, 66, 67, 73, 89, 143 AND 629 FROM C-2 GENERAL
COMMERCIAL DISTRICT TO M-1 INDUSTRIAL DISTRICT. (COUNCIL
PRESIDENT FARGNOLI - BY REQUEST - 4/17/97)**

MR. DELLER: Madam Chair, is about a propose rezoning for property in
Balbina Young's ward known as Harold's Furnitures property. There is a letter that
has been submitted by Councilwoman Young. There is also as a result of the
testimony by the Planning Department at the public hearing, a correction to the
ordinance that the clerk has, was being proposed in this ordinance and originally it

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was a number of lots to be rezoned to M-1. What the correction does and I don't know if anyone has the map that is attached to the original ordinance. What the correction does is takes Lot 490 and leave the first 160 feet of that as a C-2 zone and makes the back part of the lot of M-1. And the second thing that the correction does is it says that this area can be used for all M-1 uses except adult entertainment. I haven't seen Councilwoman Young's letter. She did say that one of her concerns is that she wanted some restrictions placed on the property. The property owners, the Councilwoman and Joe Abbate from our department met and reached some restrictions that will be recorded as deed restrictions against the property not a zoning restriction. And the Councilwoman to my understanding is content to that.

VICE-CHAIRWOMAN WILLIAMS: The letter says "Please accept this letter of support on behalf of Harold and Phyllis Homonoff of Harold's Furniture Store....is a vital part of the business community in Ward 11. They've been owners for many years and have proven to be of good character. They have been supportive and involved in the area for many years, and I am willing to work with them to continue the revitalization of the area. As long as restrictions and requirements pertaining to the re-zoning are adhered to, I am in full support of their petition." So, they have been incorporated into this?

MR. DELLER: There is a separate agreement that was presented to the Councilwoman and I don't have that with me tonight, in fact I haven't seen. That limits a number of uses that would be recorded as deed restrictions against the property. Mr. Homonoff has signed that agreement and it just has to go on the land evidence records and I guess that John can testify to the fact that those limitations were there against the property and deed restrictions.

MR. D'AMICO: If it's done correctly, that's correct.

VICE-CHAIRWOMAN WILLIAMS: Do we need a public hearing?

MR. DELLER: A public hearing has been held. The only thing that has to happen and maybe if there is some concern since I don't have the agreement and I thought it was going to be attached the Councilwoman's letter, there's one or two ways we could proceed. This has been waiting around for awhile. One would be just to continue until it was submitted and the other, if the Council would concern, is to maybe send it out to committee for first passage and if it can't be demonstrated prior to second passage, send it back.

VICE-CHAIRWOMAN WILLIAMS: I think that we should wait. What we are going to be doing is planning some public hearings and I think that very shortly

after those public hearings, asap, we'll have another committee meeting and at that time, if we can have the corrections or the revisions of it that would be helpful.

MR. DELLER: Hopefully, Councilwoman, we can have a meeting before the next public hearing because the public hearing will be at least four weeks off. This public hearing was held in May.

COUNCILWOMAN DIRUZZO: I would not move on this without that agreement attached to that letter.

VICE-CHAIRWOMAN WILLIAMS: I think we really don't like to have anything moved out of committee until it's in its proper form. I think our City Solicitor has cautioned us against that.

MR. DELLER: I would ask that ordinance was presented as a substitute ordinance before the committee be considered or at least moved upon. Because I think it does limit the rezoning.

VICE-CHAIRWOMAN WILLIAMS: Madam Chairwoman, I would prefer not to move on this at all until we have everything before us. I don't see why we have to piece meal. This lot 490 was a big consideration at that public hearing which I chaired and Councilwoman Young was very concerned about it and even though you've given us the explanation about the first one which was 60 feet remaining C-2 and the back end of the lot being M-1 with an exception for adult entertainment. I would prefer that that package be complete before we move on it at all and I think she would as well.

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

VICE-CHAIRWOMAN WILLIAMS: All those in favor?

COMMITTEE: Aye.

VICE-CHAIRWOMAN WILLIAMS: We will have another Ordinance Committee meeting within two weeks. At the end of this meeting, if we want to schedule one for next week, I'd be glad to do that.

**AN ORDINANCE AMENDING THE CITY OF PROVIDENCE ZONING
ORDINANCE CHAPTER 1994-24, NO. 365, APPROVED JUNE 27, 1994, AS
AMENDED. (ALSO KNOWN AS 735 SMITH STREET)**

MR. DELLER: Madam Chair, I request that this be tabled indefinitely. He has withdrawn his petition in discussion with the Planning Department. He is no longer seeking this zoning change.

On motion of Councilwoman DiRuzzo, seconded by Councilman Allen, it is voted to postpone indefinitely the foregoing ordinance.

VICE-CHAIRWOMAN WILLIAMS: All those in favor?

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COMMITTEE: Aye.

PETITION OF AZARIG KOOLOIAN, 143 SMITHFIELD ROAD, NORTH PROVIDENCE, RHODE ISLAND, REQUESTING PERMISSION FOR A ZONING CHANGE FROM R-2 TO C-4 FOR THE PROPERTY THAT FACES HUBER AND FRUIT HILL AVENUES, LOT NO. 670, 718 AND 744. (APRIL 3, 1997)

MR. DELLER: Madam Chair, this is also another petition that can be tabled indefinitely. This was incorporated into the overall rezoning that was done on Smith Street.

On motion of Councilman Allen, seconded by Councilwoman DiRuzzo, it is voted to postpone indefinitely the foregoing petition.

VICE-CHAIRWOMAN WILLIAMS: All those in favor?

COMMITTEE: Aye.

PETITION OF AZARIG KOOLOIAN, 143 SMITHFIELD ROAD, NORTH PROVIDENCE, RHODE ISLAND, REQUESTING PERMISSION FOR A ZONING CHANGE FROM R-3 ZONING TO C-2 ZONING FOR THE PROPERTY LOCATED AT THE INTERSECTION OF DOUGLAS AVENUE AND CHALKSTONE AVENUE, ASSESSOR'S PLAT 68, LOTS 502, 503, 504, 505, 506, 507, 508, 509, 740, 749 AND 750. (FEBRUARY 20, 1997)

AN ORDINANCE IN AMENDMENT OF CHAPTER 564 OF THE ORDINANCES OF THE CITY OF PROVIDENCE ENTITLED "THE CITY OF PROVIDENCE ZONING ORDINANCE" APPROVED JUNE 27, 1994, AS AMENDED, BY AMENDING PROVIDENCE ZONING DISTRICT MAPS NUMBER 107 AND 108 OF THE OFFICIAL ZONING MAP BY CHANGING THE ZONING DISTRICT DESIGNATION OF CERTAIN LOTS FROM R-2, TWO FAMILY DISTRICT AND R-3, THREE FAMILY DISTRICT TO C-1, LIMITED COMMERCIAL DISTRICT. (COUNCILMAN IGLIOZZI - 8/14/97)

MR. DELLER: These need to have a public hearing scheduled. If it is the Committee's wish, I will work with the Solicitor's Office and the Clerk's Office to pick a date that meets necessary advertising requirements under State law. We're required to advertise this once a week for three successive weeks and we need about a week prior for the first ad to prepare and get in the paper.

VICE-CHAIRWOMAN WILLIAMS: Now, you're talking about number five and six.

MR. DELLER: Excuse me and seven.

PETITION OF ANDREW AND DIANE MITRELIS, 268 THAYER STREET, PROVIDENCE, RHODE ISLAND, REQUESTING PERMISSION FOR A ZONING CHANGE ON CITY ASSESSOR'S PLAT 13, LOT 6, LOCATED AT 242 MEETING STREET, FROM AN R-3 RESIDENTIAL ZONE TO A C-2 COMMERCIAL ZONE. (APRIL 17, 1997)

VICE-CHAIRWOMAN WILLIAMS: So, they have to be advertised three times.

MR. DELLER: Yes.

MR. D'AMICO: If we looking at five or six weeks away, are any of the committee person indisposed at that time that they know of now.

COMMITTEE: No.

VICE-CHAIRWOMAN WILLIAMS: Does the Planning Department have any other...

MR. DELLER: No, Madam Chair, that was everything on the...

COUNCILWOMAN DIRUZZO: Do you want to schedule that now?

MR. DELLER: The public hearing, yes. I don't know if you have a preferred night for public hearings. But, given the time frame, probably the earliest we could hold the public hearing would be September 23rd.

VICE-CHAIRWOMAN WILLIAMS: That sounds good. Tuesday at 6:00 o'clock is good. I want to get it done because the Jewish holidays start and we're limited as to what days. Are there any other pending items.

COUNCILMAN ALLEN: Madam Chair, under pending items, we have an ordinance that I proposed many, many weeks ago that I think it's pending in this committee having to do with residency.

PENDING MATTERS - RESIDENCY ORDINANCE

COUNCILMAN ALLEN: Madam Chair, through you and to the Members of the Committee, if you recall this change was made and offered to the Council which came to our Committee. It has been here probably ... Barbara, do you have a date when this came to Committee?

MRS. POIRIER: It was in City Council April 17th and it was referred to Ordinances and Residency.

COUNCILMAN ALLEN: So, it's been around for a while and if the Law Department had issued an opinion that this change was in violation of the City Charter and I had talked to several attorneys -- authorize Kelly Sheridan to do or to look at the opinion of the City Solicitor's Office and try to determine or at least set our minds at ease in terms of whether it was accurate or not. He has indicated to me that he would have to get the concurrence or the approval of the City Council to offer that. I have been trying to get the Council to do that through Finance to authorize that and the Chairwoman of Finance maybe two weeks sent a letter saying that it will be put on the docket at some time when Jeff Kasale and Kelly Sheridan were going to appear before the Finance Committee. All that being said,

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I think this ordinance has been around a long time for the proposal change. I think it's time that this Council through the Ordinance Committee take some action on it, either vote it up or vote it down. But, it's just one of those things that has been just lingering, lingering and lingering and I think it's time that this Committee take some kind of action. That being said, Madam Chair and Members of the Committee, I would move that we pass this change out of Committee and send it full Council for a vote. The only change in the language that is this ordinance allows the Residency Commission to initiate an investigation, as oppose to the ... or in conjunction with or in ... Let me say again, what this ordinance does is it allows the Residency Commission to initiate an investigation. That language is different from what's there now because the Solicitor's Office has issued an opinion that the only person that can initiate an investigation now is the Personnel Director. I don't think it was never the intent of the Council people who crafted the ordinance and it was never the intent of instructing the City Solicitor's Office, who helped us craft the ordinance, that only the Personnel Director could initiate an investigation. I feel strongly that this is a good piece of legislation because it allows an independent kind of group to initiate an investigation irrespective of any of the political considerations that may effect who gets investigated and who doesn't. At this time, Madam Chairwoman, I move passage.

VICE-CHAIRWOMAN WILLIAMS: And the new portion is the underlined words.

COUNCILMAN ALLEN: The underlined words, yes.

VICE-CHAIRWOMAN WILLIAMS: The ordinance is already there for the formation of the Residence Committee which is enforced.

COUNCILMAN ALLEN: The only thing that has changed is the underlined words that allows the commission to initiate an investigation. It does not preclude the personnel director from initiating the investigation.

VICE-CHAIRWOMAN WILLIAMS: The motion is on the table.

COUNCILWOMAN DIRUZZO: I'll seconded it, but I want to do discussion. I'd like to hear from the City Solicitor.

MR. D'AMICO: I hadn't anticipated that this was coming up. So, I'm speaking from basically recollection. I mean it is listed under pending matters. Two things is, the question arises as to which committee or commission this was referred. If it was referred to the Ordinance Committee, certainly the Ordinance Committee has the capacity to act on it. If it was referred otherwise and I don't know if it was referred to the Commission also.

MRS. POIRIER: It was referred to Ordinances and Residency jointly on April 17th.

MR. D'AMICO: If it's referred to Ordinances and Residency jointly, the Council's own practice has been to have it acted upon by both of the entities to which it was referred. That raises another question which is addressed in the opinion to which the Councilman has made reference as to what status does the Commission on Residency enjoy, since it is not a committee or a sub-committee of the Council, but a commission only. However, given the Council's past practice there may be some required action by the Commission too. Because as I said, it has been the practice of the Council to have the two bodies to which an ordinance or resolution was referred, act in referring it back. And it has been the practice, as I recall and I do not attend the Council meeting regularly, so I certainly stand to be corrected on it, that these matters are referred to the Committees by the President of the Council, as opposed to motion of the body. If that's the case, then it is the President of the Council who has to rearrange that, if you want that sent some place else, it's upon the action of the President. To address the issue raised here substantively. I don't have the benefit of the opinion. Barbara, do you have a copy of the opinion?

MRS. POIRIER: The opinion?

MR. D'AMICO: That we wrote in response to this.

MRS. POIRIER: No, I don't. All I have is what was referred to Ordinances.

MR. D'AMICO: And you didn't get a copy of this?

MRS. POIRIER: No.

MR. D'AMICO: My recollection of my response to this proposal was that the City Charter expressly vests in the Personnel Director the authority to review residency. That investigation, if they are to be done, are to be done under the auspices of the City Personnel Director. That language is contained in the Charter. That's not an ordinance, that's not a resolution, that is not some figment of the Solicitor or my imagination. The City Council through resolution or ordinance can not change that Charter, except through the prescribed method which we had discussed earlier that there has to be proposal submitted to elector. An attempted change of Charter given duties is no more effective and with all respect, the Council wish those changes anymore than persons who don't live in the City can wish there were no residency requirement. Additionally, and again, I'm speaking from recollection, is that investigations of this type that are contemplated in this change are not the type of investigations that is usually, if ever, performed by the

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legislated body, that that is an administration function. If the Council has questions as to the manner in which the Residency Ordinance is being administered, it is entitled to ask the Personnel Director, as you would of any other director if they had questions directed to them, to come the Council or before a Committee of the Council and respond to those questions. And additionally, I have to take exception to the idea that it can be administered fairly only by the Commission. Because I think that Kathy Moretti does a very good job in her position and I don't think there is any evidence that suggests it is not being fairly administered. I don't know if I answered your question.

COUNCILWOMAN DIRUZZO: You did, but I don't think that's the question why this was proposed and I would hope not, anyway, that the Personnel Director is doing a good job or not doing a good job with regard with residency.

MR. D'AMICO: I'm responding to the comment that would be ...

COUNCILWOMAN DIRUZZO: I wouldn't vote for legislation anything based on that. My concern is and I'm trying to recall whether or not this Council has ever authorized an investigation of any consequence by its committee members.

MR. D'AMICO: It's a commission in the first instance.

VICE-CHAIRWOMAN WILLIAMS: Can I ask one question and then you can go back to that. Who sits on the Residency Commission?

COUNCILMAN ALLEN: Three Council people and two Mayoral appointments.

VICE-CHAIRWOMAN WILLIAMS: And the Personnel Director is not on that Commission.

COUNCILMAN ALLEN: She's a staff person to the Commission.

VICE-CHAIRWOMAN WILLIAMS: She's not a member, but she does attend those Residency Commission meetings.

COUNCILMAN ALLEN: Madam Chair, may I respond to... I didn't charge that Kathy Moretti was not doing a good job. But, the fact remains that we have hired over and I'm not sure of the numbers, probably 700 people that have been hired since January 1 of 1993 and I don't know of one instance where residency has become an issue for a dismissal summary, except at the urging of this Council when it came to that Probate Court Administrator. So, what that means, I don't know. But, it tells me that something is not being done to the extent that it can be done because I know and I think everybody on this table knows that there's many people who are employed with the City of Providence who do not live in the City

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of Providence. The fact that this ordinance was referred to two committees, only one being a standing committee of this Council, this was to be the committee that would have to take an action for the Council. Now, if we want to look at the second committee, the Committee on Residency, that committee already took an action and supported this document in its entirety and that was mentioned at the point of introduction and I'm chairman of that. The Residency Commission already has approved and has endorsed this ordinance and the change. And the third point, Madam Chairperson, I think this issue has been lingering for a long time and it's time that this Council either voted it up or voted it down. But, by leaving it in Committee does nothing to enhance the wishes of the people who said they wanted people of the City of Providence to live in the City of Providence and that's the elector. And shame on us because we keep putting this thing under the rug and here's an opportunity to send it to the Council and let the Council vote it up or down, that's our charge. The language in the ordinance which says very clearly that the Residency Commission shall investigate, that is what the ordinance says. If you look at that document, that's what it says. You know, the only issue is who's going to initiate it, that's the issue. I believe that for whatever reason we haven't had anybody come to be brought before the Council at the way it is presently prescribe, i.e. the Personnel Director sends the information to the... we haven't had but one and I know that there is a lot of people that don't live in the City of Providence that work in the City of Providence and we ought to take the charge that was granted to us by us raising our hands by the people that elected us and make this thing a reality.

COUNCILWOMAN DIRUZZO: Now we have two people, we have a commission and the Personnel Director who are going to be doing investigations and how are you going to work this out. Do you know how you are going to do it? And "then all violations reported directly to the Commission may be investigate and the Commission may report to the Mayor..." I think the issue came with regard to investigations and how would you proceed to investigate that the Personnel Director is not doing already. Is there something more?

COUNCILMAN ALLEN: Yes, there is a few things. The ordinance calls for a sign affidavit and also a release form that new employees sign that release ... it authorizes the State Tax Administrator to verify one's residence. Let me talk a little about the Boston experience because that is one of the reasons why it kind of put me on this track. The Boston experience was that everybody of the 60 people that they fired or forced to leave, all 60 of them had all the documentation in the

file. So, if it's like an administrator kind of function of making sure that we send out letters because they don't have the necessary paper work, people will come in with utility bills, they'll come up with rent receipts, that's not how you're going to catch them. You have to catch with the investigation. Although, the system is not in place of how to do that. We're talking about hiring a PI. We put some money in the budget last year, if you recall, to staff it or hire some outside kind of person to go out and do the investigation. The mechanics of how this is going to work is still very much up in the air. But, we need to began to take this to some closure.

.....yes, Kathy Moretti, the Committee, the Administration and our Law Department have a lot of work to do. But, we have to began to do something different, otherwise we're going to get the same results. Nobody is going to be challenge, nobody is going to be brought before the Council because your in violation of the Charter, i.e. residency. So, I hope I answered your question.

COUNCILWOMAN DIRUZZO: I just don't know how it's going to work, Ronnie because you have to have a staff to do stuff like this, number one. Who's going to do the clerical work?

COUNCILMAN ALLEN: Kathy Moretti is charged with that.

COUNCILWOMAN DIRUZZO: You said a private investigator is going to do the detective work. The Tax Administration Office is providing that information, is that legal? Is that confidential information?

COUNCILMAN ALLEN: It's legal. It was a waiver that was signed. It's a requirement for employment that when you come in and you accept a job in the City of Providence, you sign this waiver. This waiver says that I give the State Tax Administrator the right to verify my address to an official in the City of Providence. I don't know what the exact language is.

VICE-CHAIRWOMAN WILLIAMS: Certainly it doesn't sound like there is any attempt for the Residency Commission to by-pass the Personnel Director at all, but rather to provide to us some support to be able to do her job more adequately. And I don't think in any way... the Personnel Director has a lot of responsibilities. So, one can not certainly - - up short for not being able to handle this one on her own without the support of the Commission. I think the residents have spoken, they've voted to have this residency requirement and it seems to me that we have a commission in place and we need a commission that has some teeth and isn't an impenitent commission that can't really do anything. So, it seems to me that this would be welcomed by the Personnel Director and it would be an objective way to be able to get information that will help us in sorting this all out. It seems to me

that if we don't pass this out, then we'll continue to not be able to get the information we need to enforce this residency requirement. Is there any other discussion.

COUNCILWOMAN DIRUZZO: No, I think we should get it out to Council floor. I just have one more question to ask the City Solicitor. With regards to residency has there ever been a challenge to that in any city or town that a person has a right to live where they want to live even if they accept a job.

MR. D'AMICO: I don't know any city or town. But my suspicion is that residency requirements are valid. I mean my believe is that residency requirements are valid. I don't know of any in the City of Providence.

COUNCILWOMAN DIRUZZO: Do you know of any?

COUNCILMAN ALLEN: Yes, in your box today, The Boston Globe had an article in Saturday's paper that in Boston what they do with their residency is not only do they require people to live in the City of Boston as of a certain date, but anyone that was grandfathered in, in particular police officer, who now want to become promoted, they have to live in the City of Boston. That was challenged by the Boston Police Union and the Supreme Court of Massachusetts just ruled against them that it's a valid position for the City ... which supports I think some of the things that Charles, our City Solicitor said, as we talk about labor negotiations. Because the State Labor Relations Board upheld the unions position that you can not make officers or lieutenants to become city residents, but the Supreme Court ruled that you can. I put copies in all the boxes today.

VICE-CHAIRWOMAN WILLIAMS: So, we have the motion on the floor.

On motion of Councilman Allen, seconded by Councilwoman DiRuzzo, it is voted approve the foregoing Ordinance.

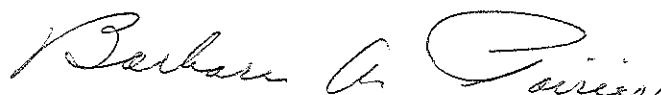
VICE-CHAIRWOMAN WILLIAMS: All those in favor?

COMMITTEE: Aye.

VICE-CHAIRWOMAN WILLIAMS: Are there any other pending matters?

MRS. POIRIER: Not today.

ADJOURNMENT: On motion of Councilman Allen, seconded by Councilwoman DiRuzzo, it is voted to adjourn at 5:50 p.m.


CLERK


Assistant Clerk