

DEPARTMENT OF CITY CLERK
CITY HALL
SEPTEMBER 11, 1996

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 Igliazzi, Councilwoman DiRuzzo, Councilman
Clarkin and Councilman Allen.

ABSENT: Vice-Chairwoman Williams.

Also present are John D'Amico, Deputy City Solicitor; Ramzi Loqa,
Director, Dept. of Inspections and Standards; Kathleen Moretti, Personnel Director;
Councilman Jackson; Barbara A. Poirier, Second Deputy City Clerk and Lesley M.
Skeffington, Assistant Clerk.

**AN ORDINANCE IN AMENDMENT OF AND IN ADDITION TO CHAPTER
1995-21 OF THE ORDINANCE OF THE CITY OF PROVIDENCE, APPROVED
AUGUST 17, 1995, AND ENTITLED "AN ORDINANCE SETTING FEES
SCHEDULES FOR NEW CONSTRUCTION, ALTERATION, DEMOLITION OR
OTHER BUILDING OPERATIONS PURSUANT TO TITLE 23, SECTIONS 27.3-
118.011.**

CHAIRMAN IGLIOZZI: Mr. Solicitor, please.

MR. D'AMICO: As the Chair knows and the members know that some time ago Councilwoman Young had introduced an ordinance which amend the existing fee structure for the construction of multiple dwelling, multiple units when they exist in a housing development and when they are constructed by a certified public housing agency, certified nonprofit housing agency. What happened is that at the time, the department raised some concern about the impact, the proposal as originally drafted, would have on anticipated fees schedules. particularly in light of the fact that those fees schedules had been proposed and passed not too long ago. Subsequent to that meeting, it's my understanding that Mr. Loqa met with representatives of organization who had spoken with Councilwoman Young and arrived at a mutually agreeable ordinance. That was then reduced to writing which had been submitted to me and I have made certain changes. The changes I have made for the most part simply move things around. There are no substantive changes as far as I understand with one or two exceptions. The definitional section or the section that determines what is eligible was simply changed from a paragraph to a multi-paragraph construction. Then I put things in that said "shall make payments" and I put "shall tend to the usual fees in the Department of Inspections and Standards". The substantive issue that arose in reviewing the proposed ordinance was previously they had spoken about multiple structures which had identical interior design. It talks about 1 or 2 families in each structure that have substantially identical interior and exterior design. The reason for that change is, identical means your going to have to have it exactly the same. So, if

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you turn the kitchen around in theory Ramzi has to charge them the fee and I don't think that's what we're talking about. The second thing is Ramzi's department, if the exterior of the structure is not substantially identical to the other ones, he really has to do another analysis if that building is okay. So, essentially, what you would be doing with this ordinance is granting the reduced fees that's talked about here to three or more structures, each of which have one or two dwelling units and the first one pays the regular fees, after the first one, if the exterior and interior of those units are substantially identical to the first one, they would get a reduced permitting schedule. And as an incentive you would be able to do the construction over a five year period provided you submit to Ramzi's department as master site plan and you would have to include certain things and among those things you have to include is the lot of lots there on and you have to essentially earmark this one is substantially identical to that one. You essentially earmark for them which ones their approving that would not require the usual inspection process. So, how does it work practically, somebody wants to put up 21 units in your ward, he or she comes up with three different designs, they would pay the regular fees on the first of each the designs and then they would pay the reduced fees on the next 6 of each design. Now, if they only put up one type dwelling or structure, they pay the regular fee on the first one and the next 20 would be at the reduced fee.

COUNCILWOMAN DIRUZZO: What brought this about?

MR. LOQA: This is basically the Neimiah Project which I think Balbina was involved with. I've met with Jerry -- who represented Balbina Young. Because originally, as you remember, they were proposing the first one to have a full building permit and then after that you would pay \$100 for all of the permits. Which I find atrocious, I mean come on, you can't do that. You pay for one and 20 permits with \$100. I have to pay State fees, I have to pay - - , I mean it's impossible. I worked it out, I sat down with Jerry and worked it out. Each building permit, if we ran it through its normal process, it would cost about \$1,000. I brought it down to \$400, so that's almost like 1/3, well a little more then 1/3 of that fee which I felt is very equitable and very fair price. So, that's how we organized it and provided that they, as John stated, they all have to be identical. If you change the design, obviously, there are certain perimeters that you have to look at to met the building code or the one and two family building code, so it would be even more work for us. So, we will charge a different fee.

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CHAIRMAN IGLIOZZI: Let me ask you this, Ramzi, doesn't the building permit fee..... or let me ask you, does it include or is it supposed to include the fact that you go out and inspect the property.

MR. LOQA: Yes, it does.

CHAIRMAN IGLIOZZI: So, you're telling me that.... what I have a problem with this is, it doesn't matter if it is identical or not, you still have guys going out. There's 35 units he has to inspect.

MR. LOQA: That's correct. You may have that same contractor to do that same job and - - and then there is a problem. That means the inspector will have to go back because you have to fix it.

CHAIRMAN IGLIOZZI: So, why did you agree to reduce this?

MR. LOQA: Why I agree with the spirit of cooperation. because they wanted to reduce it down to \$100 for every building permit.

COUNCILWOMAN DIRUZZO: This isn't like spot zoning, is it?

MR. LOQA: No, no.

COUNCILWOMAN DIRUZZO: I mean are you doing specifically for this project?

CHAIRMAN IGLIOZZI: This is going to be any nonprofit.

MR. LOQA: Balbina introduced it because of the Neimiah Project. But, it could be used at any project that Planning and Development would have to assign as their project, a development plan. It's a good cause. I'm not saying thatit's something good for - - -.

CHAIRMAN IGLIOZZI: Who going to certify it? The Planning Department.

MR. LOQA: Yes, Planning. It says it right there.

CHAIRMAN IGLIOZZI: I'm just making sure.

COUNCILWOMAN DIRUZZO: I'm certainly concerned about each unit being inspected.

CHAIRMAN IGLIOZZI: That's what I'm worried about.

MR. LOQA: See compared to what was proposed originally, I believe, it is a fair and equitable price. We cut it down almost .4 of what is normally what you would pay for. So, that's why I said I could live with that. I could not have lived with \$100 for 20 building permits and one full. That's not fair. They said it was the same building and I said I knew that. I said had I still have to send my electrical, mechanical, plumbing, structural. They all have to go out there, although they're separate buildings.

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CHAIRMAN IGLIOZZI: Your point is well taken. Councilman Clarkin?

COUNCILMAN CLARKIN: Mr. Chairman, basically, we have in Providence Plan Housing, we've bought houses for \$40,000, put \$80,000 into it and sold them for \$75,000. We've taken a big beaten there. This is basically to help the neighborhood and also help low income people buy a house. Basically, this hit is not one tenth as bad as the other hits we've been taking. Sometimes to help homeowners get into buying a home, especially low income people, it's almost impossible and this was one way to keep down the expense. So, I can personally understand it and yes, it's nice to get enough income as possible, but sometimes we have to bite our tongues and accept what has to be done.

MR. LOQA: I agree.

CHAIRMAN IGLIOZZI: Any other comments or questions? Any motions?

On motion of Councilman Allen, seconded by Councilman Clarkin, it is voted to approve the foregoing ordinance.

CHAIRMAN IGLIOZZI: Any questions? All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The ayes have it.

AN ORDINANCE RELATIVE TO RESIDENCY

MR. D'AMICO: Mr. Chairman, each of the members of the Committee has a new draft before them. The only difference between the last draft that was in Committee and this draft, is the deletion of the waiver by the spouse for the tax return. Because if the Committee may recall the last draft of this, we had requested the spouse of the potential employee to sign on the waiver for the release of the residency information contained in the tax returns. That posed a problem in terms of the question had been raised as to whether or not you can in fact withhold employee based on the non-action of the spouse. In order to avoid that I had spoken with Councilman Allen and the new draft has deleted that information. As to the release of that information while I did not do it, while it was in the special committee, Deputy Solicitor McLaughlin contacted the Division of Taxation for the State and they in fact agreed that with this waiver they would release the residence information contain there. They would be satisfied with that. I did make a change, in order to underscore the idea that your talking about residency information only, I have underscored "for the sole purpose of verifying my residency". So, it's a limited waiver that would be completed simply by the employee and not by the employee's spouse.

COUNCILWOMAN DIRUZZO: Where is that?

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MR. D'AMICO: It's the very last page.

CHAIRMAN IGLIOZZI: Let me ask you a question, John. If I rent an apartment in Providence and I own a own in Narragansett and I'm registered to vote in Providence. I list on my tax return Providence as my address. All those things, all my official addresses are in Providence. And I spend three months of the year in Providence and the first of the year in Narragansett. What is your interpretation under this Ordinance whether that person is a resident of Providence?

MR. D'AMICO: Well, I don't know, you would have to know more than that. Because actually what you talk about, you talk about domicile when you talk about this Ordinance. My gut reaction to your scenario is that they're not domicile in Providence.

CHAIRMAN IGLIOZZI: Isn't domicile defined constitution in constitution cases?

MR. D'AMICO: For voting purposes. It wouldn't have been defined in the abstract, it would have been defined in a voting case. But, in this particular Ordinance, it's defined in the same manner as it's defined in the Charter.

CHAIRMAN IGLIOZZI: Which is?

MR. D'AMICO: It's probably what you were about to say.....

CHAIRMAN IGLIOZZI: Presence plus intent to remain.

MR. D'AMICO: Intent to return or remain, right.

COUNCILWOMAN DIRUZZO: Does this answer the question that Councilman Igliazzi was concerned about in today's article in the newspaper?

MR. D'AMICO: I don't know if I saw the article.

COUNCILWOMAN DIRUZZO: The spouse having to

CHAIRMAN IGLIOZZI: They say they took that out.

COUNCILWOMAN DIRUZZO: That's been removed.

COUNCILMAN ALLEN: The Chair's position last meeting was that, he has an attorney, had concerns about whether you can legally ask somebody who is not benefiting directly to force them to sign as a spouse. So, in an abundance of caution, we deleted that completely.

COUNCILWOMAN DIRUZZO: I would have to agree with Councilman Igliazzi on that.

COUNCILMAN ALLEN: This is back to the original document that was put together by the Committee and pretty much had no substantial changes and confirm or agreed to by the State by the Director of Taxation.

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CHAIRMAN IGLIOZZI: And for the record, John, you mentioned before in passing that this is a limited release and the Division of Taxation has indicated to you that they would treat it as a limited release?

MR. D'AMICO: No. What I've indicated to the Committee is, I hadn't thought about it in terms of whether it was a limited release or not a limited release. But, the release asks for tax payer information for the sole purpose of verifying residency. The second thing is, I have not communicated with the Division of Taxation. I have, in fact, spoken with Deputy Solicitor McLaughlin, who had spoken with the Division Taxation, while she was acting as counsel to the sub-committee. She indicated to me that those conversation resulted in these waiver that you now have.

CHAIRMAN IGLIOZZI: The problem I have with it is when you say for solely for purpose of verifying my residency, one could argue that the capital gains tax that you claim on that return or some reference to real estate holdings in that return would be indicia of residency. And my position is that if you were going to have this which I argue we shouldn't have this, this is the one thing that I don't like about it. It should be a limited release and it should say it's a limited release, that's number one. In addition, it should say that this releases the information in block "x" or whatever the block is identified in the tax return that has that person's address, so that we don't keep confused with any and all information that could be interpreted or argued that could be used to argue residency. Because I'll be honest with you, I don't think that you should be forcing people to turn over their tax returns to prove their residency.

COUNCILMAN CLARKIN: Mr. Chairman, we are not asking people to turn over their tax returns. All we're asking is that they turn over the address of where their return is filed from and where their return is sent.

CHAIRMAN IGLIOZZI: Then why doesn't it say that.

COUNCILMAN CLARKIN: If they get a check back, where's that check going to be mailed. They aren't going to let a \$3,000 dollar check be mailed to a Providence address, if they aren't living there.

CHAIRMAN IGLIOZZI: I agree with you and if this said this, I'd probably feel more comfortable with it. But, I feel very uncomfortable. I've said this in the past and my position doesn't change, I feel very uncomfortable with any opportunity for somebody to argue that this opens up that tax return with any other information.

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MR. D'AMICO: If I may, Mr. Chairman, it's not entitled limited release. But, upon rereading it, the last sentence of the release form itself says "this is a limited release and I specifically reserve all over right of confidentiality." So, it refers to itself as a limited release.

COUNCILWOMAN DIRUZZO: Why do you have that sentence before it? Why is that required?

MR. D'AMICO: Which sentence?

COUNCILWOMAN DIRUZZO: "I hereby specifically waive any rights of confidentiality which may be necessary to release this information."

MR. D'AMICO: Because you have a right of confidentiality of the return, so you would have to have at least some partial waiver of that in order for them to divulge to the City the residency information.

COUNCILWOMAN DIRUZZO: But, you have before it underscored, "for the sole purpose of verifying my residency". Why is that there?

COUNCILMAN CLARKIN: If they don't give up the confidentiality of allowing the address, then they can't give the address out.

CHAIRMAN IGLIOZZI: Why don't we just say that, Bob, that's my question. Why don't we just say that we have an authorization that says "I hereby authorize the Division of Taxation to take the address off my tax return and put it in the 'blanks' on this authorization" and send that to the City, as opposed to giving the impression and making it seem any information with regard to verifying my residency. It's a very broad terminology, that's what bothers me.

MR. D'AMICO: The only thing is that this is the language that Patricia McLaughlin checked with the Division of Taxation.

CHAIRMAN IGLIOZZI: And that's what they want.

MR. D'AMICO: Like I said, I'm not the one who spoke with them. But, I am perfectly comfortable with the idea that that's why they told her. I certainly don't mean to misrepresent anybody. It is my understanding that this is what they said will fly. This is good for us to release the information.

COUNCILMAN ALLEN: Mr. Chair, it was more than a conversation with the Division of Taxation. This was faxed to them and they agreed with the language there before we let it come out of Committee. It wasn't just a communication kind of verbal agreement, but a document was faxed. There was an agreement that this is what they would need or require or accept to do what we want to do. I don't know the legal ramifications here, you two attorneys can....

CHAIRMAN IGLIOZZI: Let me just ask you a question....

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COUNCILMAN ALLEN: Let me just tell you, there's a bigger question I have and I can't some - - the intent of this thing is a solid problem and if we keep going back and forth, back and forth, it will be 1999 before we get - - . Everybody around this table knows that there are many, many people on the City of Providence payroll that don't live in the City that are abusing this here. We need to get something out of Committee and onto the Council that we think works. Now, no matter what we do, it's going to get challenged. And we want to do due diligence in terms of trying. But, we keep bringing this thing out. You know when I asked the attorney to pull that information out and he faxed it to me and I faxed it to you and to check it out and if there's any problem with it. We just can't keep dilly-dallying with this thing. We have to get something out. Because every month and very month we get a report and every month I get a call from someone who says "You know so and so just got a job. She doesn't live in the City, she lives in Cranston." Shame on us if we let this kinds of problems go without addressing them. Whether this is going to fly, I don't know. But, it's been worked on and worked on and worked on and now it's time to - - .

COUNCILMAN JACKSON: If I can even comment further on that is we've even had people from the School Department in here saying they don't even ever verify any teacher's address. They don't have to verify that. Isn't that correct, Kathy, what they said in that meeting? They lay them off - - they threaten to lay you off if you don't show something. They use that State law that allows them so much time which has nothing to do with residency whatsoever. It's has to do that they have to lay them off legally by a certain date or they have to keep them on. They check no residency whatsoever.

COUNCILMAN CLARKIN: Mr. Chairman, I passed to the Councilman over here that a person was in an accident with a person who works with me and they used an address in Providence on their license plate. Their telephone number was in Narragansett where they can be reached at. Their wife who in the car, her address was in Narragansett. They had a license that said they were from Narragansett.

CHAIRMAN IGLIOZZI: Let me just state for the record, nobody needs to convince me of the importance of residency. I spent \$1,000 to campaign against the false advertising of residency in 90' and 92'. So, nobody is a stronger supporter of residency then me. Two, I personally feel that, yes, we're here to solve a problem, but you don't solve a problem by creating another problem. And the third thing is, unfortunately, the Ordinance Committee creates ordinances which is the

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closest thing we have to legislation on the City level and I think, unfortunately, my problem is that I'm a lawyer and I believe in being precise and I believe in trying to look at every potential problem. What I don't want to see here is if I'm forced to sign this, as Councilman let's say, if you argue I'm an employee of the City which I'm technically not, but I guess you can argue I am, if my return ever got received information about my wife, I would sue the City and I would win. That's what I'm worried about.

COUNCILMAN ALLEN: Who would you sue?

CHAIRMAN IGLIOZZI: I'd sue the City because there's no way on Earth....

COUNCILMAN ALLEN: The State gave the information. The City very clearly says what we want to deal with is the issue of where you live, to verify residency.

CHAIRMAN IGLIOZZI: I think that the affidavit has got to be a form limited to the address listed on the return and specifically say that. There's other information on a tax return that gives you indicia of residency, your listing of real estate holdings. I mean whether or not you're filing a multiple return in several states. You know not everybody has a simple tax return. Some people have more complex tax returns.

COUNCILMAN JACKSON: That's true, but this is what through the Division of Taxation that they said that that sub-committee that they needed to have and all it's asking for is the address.

CHAIRMAN IGLIOZZI: All I'm doing, Kevin, is placing my position on the record, so that the record is clear. I'm not going to convince you that your way is wrong, you have taken your position and I'm taking mine. I think that this is fatally defective and I think it's unfair to taxpayers and I think it's unfair to people who work for the City to expose them to any potentiality of disclosing financial information on their tax return. If this is ever interpreted by anybody as potentially allowing any other information other than the address and that's what I'm afraid of, I think it's unfair. That's just me, that's all I'm saying. We can't always agree on every issue.

COUNCILMAN ALLEN: I agree, I don't have any problem with that.

COUNCILWOMAN DIRUZZO: Is there any way you can change that language, John?

MR. D'AMICO: The only thing that occurs to me that meets the Committee's approval is you say "I hereby the State of Rhode Island Division of

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Taxation to release the residence address on any return or document filed by me with the Division of Taxation to the City of Providence."

COUNCILWOMAN DIRUZZO: That's better.

CHAIRMAN IGLIOZZI: I would live with that.

COUNCILWOMAN DIRUZZO: That's much better.

CHAIRMAN IGLIOZZI: The residence address. There is no way that they could get any other information besides my address off my tax return. If they do, then I have the State confidentiality laws as recourse. That's my point.

COUNCILMAN ALLEN: What would be stricken from this document?

MR. D'AMICO: You're on very last page, it would say "I hereby direct the State of Rhode Island Division of Taxation to release..." the new language would say "the residence address on any return or document filed by me".

COUNCILWOMAN DIRUZZO: I think it's safer language. Your eliminating "any and all information relative to my legal residence" in place of it.

CHAIRMAN IGLIOZZI: You know what it should say, John. It should say "I hereby direct the State of Rhode Island Division of Taxation to release my legal resident address on any return or document."

MR. D'AMICO: I wouldn't put "legal".

CHAIRMAN IGLIOZZI: You know what your doing, that's why you shouldn't throw that in there because you're putting what we're trying to find out and what we're using for indicia in there. You're saying, if you want the address then "release my address listed on any return or document filed by me with the Division of Taxation." If you say "my address" and then if you put at the bottom "for the sole purpose of verifying my address" again "my address", if you don't want to put "legal" then don't put legal on top. See that? If you put down my address, that's fine. They want to know what my address is, I'll give that to them. But, I don't think anybody should be taken

COUNCILMAN ALLEN: Mr. Chair, you're saying.....

CHAIRMAN IGLIOZZI: Here's what I think it should read, "I, David Igliazzi, hereby direct the State of Rhode Island, Division of Taxation, to release my address on any return or any document filed by me with the Division of Taxation to the City of Providence, its agents or representatives for the sole purpose of verifying my address."

COUNCILWOMAN DIRUZZO: "or my residency"

CHAIRMAN IGLIOZZI:"or my residence", not "my residency", "my residence" right? It should be "my residence". There should be no "y" there, it should be an "e". Do you disagree with that grammatical change?

MR. D'AMICO: I don't think that it matters. But, I think it's "residency" because what the City is verifying is residency, not residence.

CHAIRMAN IGLIOZZI: Well, then leave the "y" out.

MR. D'AMICO: I don't think it's of any significance, if every body is more comfortable with residence, I think it's still good. "necessary to release this information."

CHAIRMAN IGLIOZZI: Not "this information", "release my address". Unless your after more then the address, then I don't see any need to list more then the address.

MR. D'AMICO: "This is a limited release and I specifically reserve all other rights of confidentiality."

CHAIRMAN IGLIOZZI: And I'd like to have instead of "Release of State Income Tax Return Information" as a title, I'd like to have a limited release of address.

MR. D'AMICO: How about "Limited Release of State Tax Return Address". Do the members want me to read it one more time?

COUNCILMAN ALLEN: Yes, go through it one more time.

MR. D'AMICO: The whole thing will read "City of Providence Limited Release of State Tax Return Address, I, *blank*, hereby direct the State of Rhode Island, Division of Taxation, to release my address on any return or document filed by me with the Division of Taxation to the City of Providence, its agents or representatives, for the sole purpose of verifying my residence. I hereby specifically waive any rights of confidentiality which may be necessary to release my address. This is a limited release and I specifically reserve all other rights of confidentiality." And then the signature line and dates as they appear in the copy that the Committee members have.

CHAIRMAN IGLIOZZI: I can live with that.

On motion of Councilman Allen, seconded by Councilman Clarkin, it is voted to approve the foregoing amendment.

CHAIRMAN IGLIOZZI: Any questions or comments on that?

COUNCILMAN ALLEN: Kathy, do you have any problem with that?

MRS. MORETTI: No, I'm fine.

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CHAIRMAN IGLIOZZI: Any other comments or questions on that amendment? All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The ayes have it. Now, Kathy, you had some impute that you wanted on the record.

MRS. MORETTI: No, I just wanted to be up-to-date on what was transpiring.

On motion of Councilman Allen, seconded by Councilman Clarkin, it is voted to approve the foregoing ordinance, as amended.

CHAIRMAN IGLIOZZI: Any questions or comments? John, one question about the commission. Since the determination of residency is a Charter responsibility invested in the City Council, we can delegated to the Commission like that?

MR. D'AMICO: I think making recommendations back to the Council...

CHAIRMAN IGLIOZZI: That's what I'm saying, as long as they come back, you're okay with that.

MR. D'AMICO: Yes.

CHAIRMAN IGLIOZZI: Any questions or comments? The motion has been made and seconded. All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it. At this time, I would like to entertain a motion to postpone all other pending matters regarding proposed residency. There's about two or three of them in there. Can you identify them for the record?

MRS. POIRIER: There all drafts that John submitted.

CHAIRMAN IGLIOZZI: There all in the record.

MRS. POIRIER: There all in the record.

On motion of Councilman Allen, seconded by Councilman Clarkin, it is voted to postpone indefinitely any pending matters regarding residency.

CHAIRMAN IGLIOZZI: All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it. So, that means all those can be stricken without reference to any specific one, John.

MR. D'AMICO: Yes, that's fine.

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CHAIRMAN IGLIOZZI: Now, what about all the ordinances that were pending in the docket with regard to the fees that we just dealt with, is there is motion to postpone all the ones that are pending in the docket indefinitely.

On motion of Councilman Allen, seconded by Councilman Clarkin, it is voted to postpone indefinitely all pending matters regarding fees schedules.

CHAIRMAN IGLIOZZI: Any questions or comments? All those in favor?

COMMITTEE: Aye.

CHAIRMAN IGLIOZZI: Opposed? The "ayes" have it. Where's Tom Deller, is he here?

PETITION OF THOMAS FUREY, PRESIDENT OF FUREY ROOFING COMPANY, INC., P.O. BOX 9103, PAWTUCKET, RI, 02860 REQUESTING PERMISSION FOR A ZONING CHANGE FROM A R-2 ZONE TO AN M-1 ZONE ON ASSESSOR'S PLAT 101, LOTS 280 AND 281, KNOWN AS 150 CAROLINA AVENUE.

CHAIRMAN IGLIOZZI: Mr. Furey, why don't you come over here and sit here so I can explain at least the procedure for you. Generally speaking this is not a public hearing, we don't take testimony from the public at this hearing. Zoning matters like this at some point and I'll explain the procedure, if they're going to be entertained as potentially being passed by the Council have to by law have to have a public hearing and that's when somebody like yourself testifies about it. This isn't the time for that. However, you're here today and I want to explain the procedure, so that we don't have any misgivings. Public hearings are expensive, obviously, and they're your taxpayers money and mine that go to those public hearings. So, any thing that comes in doesn't go to public hearings just because people want a zoning change.

MR. FUREY: I understand that.

CHAIRMAN IGLIOZZI: They don't do that. What normally happens is we take purpose zoning changes and refer them to the Planning Commission and the Planning Commission compares it to the Comprehensive Plan. If it's not consistent with the Comprehensive Plan and I read through this, by the way, if it's consistent with the Comprehensive Plan, as a general rule the recommendation from the Department of Planning and the Planning Commission would be don't waste your money on a public hearing, they recommend denial because if your in violation of the Comprehensive Plan your in violation of State law and if we do it, we're only going to get overturned on appeal when somebody objects. You follow what I'm saying?

MR. FUREY: Sure.

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CHAIRMAN IGLIOZZI: I'm talking quickly here, stop me if you don't understand. I know this petition was in and this is the first time it's been on our docket. I was hoping Tom Deller, he was here a minute ago, would tell us if this had been heard by the Planning Commission. Right now, if this had been heard by Planning Commission and we had a report from them, then I would entertain a motion to schedule a public hearing on this, if that is what the Committee so choose based upon their recommendation of the Planning Commission. I hesitate to even do something like that without having that information because it costs money.

MR. FUREY: What is the other scenario if it hasn't been heard by the Planning Commission?

CHAIRMAN IGLIOZZI: It has to go to the Planning Commission. The procedure would be this, it would go the Planning Commission, come back with a recommendation, first and for most we would know on the record in writing that is not in violation of the Comprehensive Plan. Even though you say it's in compliance, we can't go by your petition. We need an objective verification by the Planning Commission, at least that's been our position. Then let's assume they say, it is in compliance, you may entertain it and we put it on the docket for a public hearing. We have a public hearing in the City Council Chambers and then you can testify. You can bring in all your witnesses and everybody within 200 foot radius would get notice, plus it's advertised. So, if people come and object, they get to testify too. It's not a one sided procedure, both sides get their point. Then after the public hearing, it comes back to this Committee and based upon the testimony, this Committee takes a vote. We could say "No, we don't want to do this" or "Yes, we do want to do this." If we said yes, we would recommend it back out to the full Council for passage. Ordinances take two passages at least separated by 48 hours a piece. Normally our meetings are twice a month, the first and third Thursday of the month. So, the quickest something like we're talking about could happen, is like three to four months. There's no way to expedite it. The law specifically prohibits us from moving quickly because it doesn't want the zoning changes in real estate to happen without the public having impute and being put on notice in the Providence Journal at least separated by....what's it, John, three advertisements on zoning at least 10 days in advance.

MR. D'AMICO: Not more then 10 days in advance.

CHAIRMAN IGLIOZZI: Not more less then 10 days in advance.

MR. FUREY: Can I ask a question?

CHAIRMAN IGLIOZZI: Yes.

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MR. FUREY: Assuming the best case scenario, Tom Deller comes in and this has been studied and approved and it meets all the requirements.....

CHAIRMAN IGLIOZZI: Well, we don't have a report from them, so I can't believe that happening, but go ahead.

MR. FUREY: Well, even the best case scenario, it's still another three or four months from this.

CHAIRMAN IGLIOZZI: You see you figure if we put it out to public hearing today, she would call the Journal and find out the next time she could get the ad in the paper and they're going to require two days notice?

MRS. POIRIER: Three days.

CHAIRMAN IGLIOZZI: The Journal requires three days notice and we've got to have it advertised three times at least 10 days in advance of the public hearing. So, you can't advertise today for a public hearing tonight. It's going to be advertised today for a public hearing 10 days from now and then two other days prior to that 10 days. Then you have the public hearing, so that's like at least 20 days to get this out to public hearing.

MR. FUREY: Best case scenario.

CHAIRMAN IGLIOZZI: Then it comes back to here and we vote up or down based upon what we hear, not based upon what one person says, based on what public says and the Department of Planning will testify, you will testify if you wanted to, you can bring in any witnesses that you want. It's not a question and answer period, people just put their information on the record and a stenographer takes that information and it's a permanent record of the evidence. Based upon that it comes back to the Committee and we would vote. It takes three members of this Committee to vote positive or negative. If three voted down, it would die in Committee and it would never make it to the floor. If three votes vote positive, it makes it to the floor and that is scheduled for the next Council meeting whenever that it. Now, if you happen to fall on a Wednesday, like this is a Wednesday when there is no Council meeting tomorrow which is Thursday, if it were passed let's say today, it would make it next Thursday for the first passage. But, let's assume it's on a Wednesday when it's the same meeting, it's two weeks. In other words, I'm just telling you, you got give or take a week or two weeks from passage out of a committee to get it on the docket. It takes two passages. Passed once and it's at least one or two weeks away and then you got to wait at least two weeks for the next passage, even though the law says 48 hours, we don't schedule Council meetings just for one item. We schedule them on the first and third Thursday of the

month, so that's twice a month the full Council. Then it goes to the Mayor's Office and he's got ten days to veto it and so it sits on the Mayor's desk for 10 days after the second passage. If the Mayor's vetoes it, the only way it would be law is if it comes back to the Council and we override it by two thirds vote instead of just a majority vote.

MR. FUREY: Isn't there an appeal process also for the residents in the neighborhood?

CHAIRMAN IGLIOZZI: Not at this level. What would happen is if the ordinance passed, they can go to Superior Court and move to the reason why I'm giving you the procedure is the procedure is very created to protect property rights of City residences. We had a situation where I can tell you a couple of years ago where the City passed a zoning change in violation of the Comprehensive Plan. As a result of that not only did the City get penalized, but the Council person, who was involved because we don't have immunity, was involved in that spot zoning and got sued for million dollars and got a million dollar judgment against him. The reason why I tell you that is because these are very serious rights and I'm very particular and it sticks out in my mind about that case of that other Councilman. We're not like the legislator, we don't have immunity. People think we do, but we don't. I'm glad they do, I'm glad they think we have immunity. But, you can sue Council people for their actions, just like I sue you in a car accident. We have no immunity.

MR. FUREY: Can I ask you a question?

CHAIRMAN IGLIOZZI: Sure.

MR. FUREY: Specific to what my situation is right now. My Purchase and Sales Agreement for this building expired 30 days ago. I have the option to extend this over one month intervals for a total of four months up to December 15th which is 90 from now at a penalty of my expense to keep on extending this Purchase and Sales Agreement. It sounds like from what you're describing, even the best case scenario, I need to go back to the seller and extend that.

CHAIRMAN IGLIOZZI: Well, I'm not going to give legal advise on what you should be doing. I won't do that. We can't make decisions on these issues based upon your time table.

MR. FUREY: I understand that.

CHAIRMAN IGLIOZZI: We can't do that and I can't give you advise on that. I'm trying to explain to you the process and I'm doing a bad job, obviously. I'm trying to explain to you the process because obviously you're interested in this. But, the reality is, the process can not be expedited for you or anybody else, the

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City can't expedite this process. The law prevents us, not City law, State law prevent us from doing it. And the thing is also, you can't just assume you're going to be successful on the petition, I mean you can't make that assumption. That's why I'm not going to be give you advise on that. You got to talk to your lawyers and make decisions based upon this property and based upon what you think is best.

MR. FUREY: I guess what I'm asking, even though the best case scenario, it doesn't look like I'm going to fit in the....

CHAIRMAN IGLIOZZI: Ninety days is pushing it. I mean in my mind, I mean we're almost in the middle of September and you figure you got I'd have to look at a calendar and figure out whether or not you'd make it, I don't know.

MR. FUREY: It would be tight.

CHAIRMAN IGLIOZZI: It appears to me that 90 days would be pretty close, if every thing went smoothly. I would suggest to you that probably 90 days is not likely knowing what I know. Because I can tell you right now where not going to schedule this for a public hearing tonight because I don't have a report from the Planning Commission. I'm not going to spend \$2,000 of taxpayers money without having things resolve now, well at least I'm not. I mean the whole Committee can take a vote otherwise. But, I wouldn't do that. That would be my position, my position is that we need our "t's" crossed and our "i's" dotted before we go out and spend \$3,000 of your taxpayer money and mine. What are they now?

MRS. POIRIER: Zoning ones? You'd probably spend about \$1,500 all total.

CHAIRMAN IGLIOZZI: So, it's \$1,500. It doesn't sound like a lot, but if you do that all for something that is technically defective, we might have to do it again. I know it doesn't help you and it doesn't give you the information you want, but at least it tells you where we are. There should have been a report, if this was heard by the Planning Commission, we should have a report by now.

MRS. POIRIER: That's why Tom came tonight.

CHAIRMAN IGLIOZZI: He had a report?

MRS. POIRIER: I don't know what he had on him. But, he came for this issue.

COUNCILMAN IGLIOZZI: I can tell you this that I've talked to the City Solicitor, we're going to be in the next month, right now starting the next month, this is just a matter of discussion, the City Solicitor and I have put together an aggressive meeting schedule for this Committee until the end of October. So, even though we might not get to this tonight, it's going to be a weekly meeting pretty aggressively in the next few weeks and months.

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COUNCILMAN CLARKIN: So, Mr. Chairman, we can basically get him on in the next few meeting, if we have it.

COUNCILMAN IGLIOZZI: That's what I'm suggesting. So, you're going to lose two weeks.

MR. FUREY: I'm a little confused. Why would Tom Deller be here if it wasn't for him having the - - .

COUNCILMAN IGLIOZZI: Because any time there's any kind of issue involving zoning, he's the Planner of the City of Providence. We insist on him being here. I insist on the Department of Planning placing on the record what their position is. Do you know why I do that? To protect me from a law suit because I know I don't have immunity. I do it to protect the Committee too. But, they may not realize why I do that. Just like I make the City Solicitor give his opinions on every single item on this... to interject his malpractice policy between us and them. That's what I do even though his malpractice policy is the City's policy, I'm just making the point. I'm being funny, but it's the truth is why I do it. I know it doesn't help you when it's looks like you're going to be postponed. In other words, I can't tell you how this is going to involve and I can't give advise, nor can these Committee members give you advise on what you should do with P & S and I think it would be inappropriate for us. I mean we can come here to a public hearing down the road and here from a substantial amount of residents and every body feels we don't want to do this.

MR. FUREY: I realize that's a wild card. Sure I realize that.

COUNCILMAN IGLIOZZI: I've got to be honest with you, I'm just looking at this, this is just off the top of my head just to let you know, going from Residential from M-1 is a big change. You're not even in Commercial 1, 2, 3 or 4, you're in R-2. I've got to tell you that the hair on the back of my neck goes up when you talk about those kinds of changes. I just tell you that because that's a major change. M-1 is the most aggressive zone there is. It's higher then all the lower commercial zones. I just tell you. Let's not get into the merits of it, but I'm trying to let you know because you're making decisions on whether to spend money here. What you should probably do is probably talk to your legal counsel on this.

COUNCILMAN CLARKIN: Mr. Chairman, if I could give a piece of advise, I would also talk to the local council person over there.

MR. FUREY: I have. I met with Councilman Rollins three times now.

COUNCILMAN CLARKIN: It's a big help.

COUNCILMAN IGLIOZZI: Well, it's good that the Council person comes down and makes a statement on the record, that's always helpful. But, as a general rule, these kinds of things are very, very..... the law really determines how we act and how we proceed. We have very stringent guidelines as far as zoning is concerned. Other than the other types of ordinances, zoning is although it's vested primarily in the locality like cities and towns where - - there a lot of State laws that tells us what we should be doing and how we should be handling it. So we have to be very careful, at least I think we have to be very careful. So, if that information is helpful at all, I'm glad. If it's not, I apologize, but that's about all I can do.

MR. FUREY: Nothing else it has been an educational experience for me.

COUNCILMAN IGLIOZZI: Unfortunately this is a very cumbersome process and it's cumbersome specifically as a result of all the reform, they don't want governments to make decisions like this in a quick fashion. They want them slow, they want open meetings. They want 48 hours notice. Those are all legal State requirements. They want them slow and methodical, so that nobody gets blindsided or sandbagged with any kind of change in the law. If you want summarized what all this procedure is, it's not to make me come here 5 times, it's to force people - - 5 opportunities to object. See that?

MR. FUREY: Sure.

COUNCILMAN IGLIOZZI: So, I know that's probably a little bit disheartening. But, I will construct the Clerk to notify Tom Deller right away and we'll definitely schedule this for the next meeting which will be two weeks. Can we do one next week?

MR. D'AMICO: No, I don't think so, Mr. Chairman. I will have a schedule done by Tuesday, a tentative schedule for Tuesday.

COUNCILMAN IGLIOZZI: I've got to understand that most of the work that we do here is very legal in nature. The Law Department is doing all the drafting of these documents. They draft every thing. So, if he's not prepared we're not prepared. That's the simple answer. So, I appreciate the fact that you're done here and came here and I hope we've been of some help.

MR. FUREY: I realize all the requirements and conditions you are faced with.

COUNCILMAN IGLIOZZI: I mean generally zoning changes, if they are typical zoning changes, unless there is some unusual situation, normally people should go the Zoning Board and file for variances, as opposed to coming for these

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kinds of changes. I just tell you, not that we won't entertain it if there is an opportunity. I'm just letting you know that this is an unusual thing. But, for whatever reason you are trying to do it that's fine. We'll give you every opportunity we can under the law that the law provides. That much I will promise you.

MR. FUREY: Without getting into merits.....

COUNCILMAN IGLIOZZI: The merits don't matter here, not today. The merits are down the road. There's going to be a public hearing and when that public hearing is here and that stenographer is there taking the information down, you should make sure your merits are on the record. Unlike the Zoning Board where you can appeal what the Zoning Board does, you can't appeal. A legislative body, 8 votes decides to do something in our form of government that's the law. That's the law, you don't appeal that. You know how you get back at us, you run against us. I'm inviting an invitation, but that's how you get us. When you don't like what the Councils doing that's what you have to do, not appeal, unless we do something illegal, like pass this tonight. If we were to pass this tonight, you could be sure that we'd get sued for the money that it cost...whoever is around that area in the detrimental value of their property, if they argue that and we would lose and we would be personally liable, in addition to the City being liable.

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


COUNCILMAN IGLIOZZI: All those in favor?

COMMITTEE: Aye.

COUNCILMAN IGLIOZZI: Opposed? The "ayes" have it. Will you contact Tom Deller?

MRS. POIRIER: Sure.

ADJOURNMENT: On motion of Councilman Clarkin, seconded by Councilman Allen, it is voted to adjourn at 6:30 p.m.


CLERK


Assistant Clerk