

CITY OF PROVIDENCE
RHODE ISLAND



CITY COUNCIL

JOURNAL OF PROCEEDINGS

No. 76 City Council Special Meeting, Monday, July 19, 1993, 5:30 o'clock P.M. (E.D.T.)

PRESIDING

COUNCIL PRESIDENT

JAMES A. PETROSINELLI

IN CITY COUNCIL

SEP 2 1993

APPROVED:

Michael L. Clement CLERK

ROLL CALL

Present: Council President Petrosinelli, Councilmen Clarkin, DeLuca, Dillon, Councilwomen DiRuzzo, Fagnoli, Councilmen Fenton, Glavin, Lombardi, Mancini, Councilwoman Nolan, Councilman Rollins and Councilwoman Williams—13.

Absent: Councilman Iglizzi and Councilwoman Young—2.

INVOCATION

The Invocation is given by COUNCIL-
WOMAN RITA M. WILLIAMS.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

COUNCILMAN THOMAS M. GLAVIN
leads the members of the City Council and
the Assemblage in the Pledge of Allegiance
to the Flag of the United States of America.

CALL FOR SPECIAL MEETING COMMUNICATION FROM COUNCIL PRESIDENT JAMES A. PETROSINELLI

Honorable Michael R. Clement
City Clerk
City Hall
Providence, RI 02903

Dear Mr. Clement:

July 16, 1993 406 of the Providence Home Rule Charter of 1980,
I, the undersigned, hereby respectfully request
you call a Special Meeting of the City Council
on Monday, the 19th day of July, 1993 at 5:30
o'clock P.M.

The purpose of said meeting is for the City
Council to consider the following matters, viz:

In accordance with the Provisions of Section An Ordinance Providing for the Assessment

and Collection of 1993 Taxes in a sum not less than One Hundred Fifty-Eight Million Six Hundred Seven Thousand Seven Hundred Dollars (\$158,607,700) and not more than One Hundred Seventy-Seven Million One Hundred Sixty-Eight Thousand Two Hundred Dollars (\$177,168,200) Being based on One Hundred Percent (100%) of the 1993-1994 Fiscal Year Tax Collections.

An Ordinance making an Appropriation of Two Hundred Ninety One Million, Three Hundred Seventy-Five Thousand, Eleven Dollars (\$291,375,011) for the Fiscal Year Ending June 30, 1994, as Amended.

An Ordinance Establishing the Classes of Positions, the Maximum Number of Employees and the Number of Employees in Certain Classes in the City Departments and Repealing Ordinance Chapter 1992-32 Effective August 7, 1992, as Amended.

An Ordinance Establishing a Compensation Plan for the City of Providence and Repealing Ordinance Chapter 1992-31 Effective August 7, 1992, as Amended.

Resolution Requesting the City Solicitor to apply for injunctive and any other appropriate relief

to prevent any further enforcement of cost-of-living adjustment (COLA) and other benefit provisions for retirees as provided in a consent decree entered by the Superior Court in the matter of the *City of Providence et al v. Employee's Retirement Board of the City of Providence et al* dated December 18, 1991.

Consideration of Mayor Vincent A. Cianci, Jr. VETO of Resolution adopting instructions to the Mayor concerning his authority to negotiate or enter into Collective Bargaining Agreements with Labor Organizations on behalf of the City.

Resolution Accepting and Approving KPMG Peat Marwick to Perform an Independent Audit of the Financial Accounts of the City of Providence for the Fiscal Years Ending June 30, 1993, 1994 and 1995.

Sincerely,

JAMES A. PETROSINELLI
Council President

Received.

FROM THE CITY CLERK

The City Clerk reads the following Warrant with the City Sergeant's Return endorsed thereon certifying that he did notify the members of the City Council of the Special Meeting to be held Monday, July 19, 1993, at 5:30 o'clock P.M. (E.D.T.) by personally delivering a copy of the Warrant on July 16, 1993:

July 16, 1993

TO RALPH GUGLIELMINO,
CITY SERGEANT:

Whereas, James A. Petrosinelli, Council President of the City of Providence has, pursuant to Section 406 of the Providence Home Rule Charter of 1980, requested the City Clerk, in writing, to Call a Special Meeting of the City Council to be held on the 19th day of July A.D., 1993, at 5:30 o'clock P.M. (E.D.T.) for the purpose of Enacting the following:

An Ordinance Providing for the Assessment and Collection of 1993 Taxes in a sum not less than One Hundred Fifty Eight Million Six Hundred Seven Thousand Seven Hundred Dollars (\$158,607,700) and not more than One Hundred Seventy Seven Million One Hundred Sixty Eight Thousand Two Hundred Dollars (\$177,168,200) Being based on One Hundred Percent (100%) of the 1993-1994 Fiscal Year Tax Collections.

An Ordinance making an Appropriation of Two Hundred Ninety One Million, Three Hundred Seventy Five Thousand, Eleven Dollars (\$291,375,011) for the Fiscal Year Ending June 30, 1994, as Amended.

An Ordinance Establishing the Classes of Positions, the Maximum Number of Employees and the Number of Employees in Certain Classes in the City Departments and Repealing Ordinance Chapter 1992-32 Effective August 7, 1992, as Amended.

An Ordinance Establishing a Compensation Plan for the City of Providence and Repealing Ordinance Chapter 1992-31 Effective August 7, 1992, as Amended.

Resolution Requesting the City Solicitor to apply for injunctive and any other appropriate relief to prevent any further enforcement of cost-of-living adjustment (COLA) and other benefit provisions for retirees as provided in a consent decree entered by the Superior Court in the matter of the *City of Providence et al v. Employee's Retirement Board of the City of Providence et al* dated December 18, 1991.

Consideration of Mayor Vincent A. Cianci, Jr. VETO of Resolution adopting instructions to the Mayor concerning his authority to negotiate or enter into Collective Bargaining Agreements with Labor Organizations on behalf of the City.

Resolution Accepting and Approving KPMG Peat Marwick to Perform an Independent Audit of the Financial Accounts of the City of Providence for the Fiscal Years Ending June 30, 1993, 1994 and 1995.

You are therefore, hereby commanded and required to summon each Member of the City Council to that Special Meeting, as Called.

Hereof, Fail Not, and make true return of this Warrant, with your doings thereon.

Given under my Hand and Official Seal of the City of Providence, State of Rhode Island, and Providence Plantations this 16th Day of July, A.D., 1993.

MICHAEL R. CLEMENT
City Clerk

July 16, 1993

I, Ralph Guglielmino, City Sergeant, do hereby certify that I have notified each Member of the City Council of the Special Meeting scheduled to be held on Monday, July 19, 1993, at 5:30 o'clock P.M. (E.D.T.) in the Chamber of the City Council, City Hall, Providence, in accordance with the subject warrant by delivering to each member, a copy thereof.

RALPH P. GUGLIELMINO
City Sergeant

Received.

VETO BY HIS HONOR THE MAYOR

Communication, dated July 8, 1993, Informing the Honorable City Council of his Disapproval and Veto of that Resolution regarding negotiating Collective Bargaining Agreements between the City and its Labor Organizations, in accordance with Sections 302 (f) and 412 of the Providence Home Rule Charter of 1980.

to be consistent with the pronouncements of the courts in this matter.

Sincerely,

VINCENT A. CIANCI, JR.
Mayor of Providence

July 8, 1993

The Honorable
The City Council of the
City of Providence
City Hall
Providence, R.I. 02903

COUNCILMAN GLAVIN moves that the Communication be Received and the Veto Overridden.

This motion being seconded by COUNCILMAN LOMBARDI and COUNCILMAN DeLUCA is Put to Vote and Passed by the following Roll Call Vote:

Dear Honorable Members:

In accordance with Sections 302(f) and 412 of the Providenc Home Rule Charter of 1980, I hereby disapprove and veto the attached resolution regarding negotiating collective bargaining agreements between the City and its labor organizations.

Ayes: Council President Petrosinelli, Councilmen Clarkin, DeLuca, Dillon, Councilwomen DiRuzzo, Fargnoli, Councilmen Fenton, Glavin, Lombardi, Mancini, Councilwomen Nolan and Williams—12.

I have taken this action because the underlying premises on which the resolution is based do not accurately reflect the decisions of the courts on these issues. Additionally, all actions taken by this administration have been and will continue

Noes: Councilman Rollins—1.

Absent: Councilman Igliazzi and Councilwoman Young—2.

The Veto is Thereupon Not Sustained.

PRESENTATION OF RESOLUTION

COUNCILMAN DILLON, COUNCILMAN GLAVIN, COUNCILWOMAN FARGNOLI, COUNCILMAN IGLIOZZI and COUNCILMAN FENTON:

Resolution Requesting the City Solicitor to apply for Injunctive and any other appropriate relief to prevent any further enforcement of cost-of-living adjustment (COLA) and other benefit

provisions for retirees as provided in a Consent Decree entered by the Superior Court in the matter of the *City of Providence et al v. Employees' Retirement Board of the City of Providence et al* dated December 18, 1991.

Whereas, The Retirement Board of the City of Providence at a meeting on December 6, 1989 voted to the effect that:

a) The city would be liable for any deficiency in any member's individual retirement allowance resulting from the city's failure to deduct eight percent (8%) of the member's compensation;

b) All Class A employees and all beneficiaries of Class A employees who retired or died prior to January 1, 1990 would on February 1, 1990, receive a cost of living retirement adjustment in the amount equal to three percent (3%) of the retirement allowance, and would receive an additional three percent (3%) in each succeeding year;

c) All Class A employees and all beneficiaries of Class A employees who retire or die on or after January 1, 1990 would on the first day of January next following the first anniversary date of such retirement, receive a cost of living retirement adjustment in the amount equal to three percent (3%) of the retirement allowance, and would receive an additional three percent (3%) in each succeeding year thereafter;

d) The minimum age for service retirement for Class A employees would be age 55 or the age at which 20 years is complete;

e) All retired Class B employees and all beneficiaries of Class B employees who have retired or have died, would on the first day of January of the year following the date of retirement or decease, receive a cost of living retirement adjustment in the amount equal to six percent (6%) of the retirement allowance, and would receive an additional six percent (6%) in each succeeding year thereafter;

f) All retired Class B employees and all beneficiaries of Class B employees who have retired or have died, would have a minimum pension of \$1,000 per month;

g) 42 police and fire department employees would receive longevity increases in their pensions; and

Whereas, Subsequent to said vote of the Employee Retirement Board a consent decree in the matter of *City of Providence, et al v. The Employee Retirement Board of Providence, et al* was entered by the Superior Court on December 18, 1991 which purported to provide for, among other things, a cost-of-living adjustment (COLA) and by said court's order did adjudge and decree that Rhode Island Public Laws of 1923, Chapter 489 (Providence Employee Retirement Act) be amended so as to provide the COLA benefits as voted at the aforesaid meeting of the Employee Retirement Board; and

Whereas, Section 908 of the Providence Home Rule Charter of 1980 granted the Employee Retirement Board certain powers and duties to establish rules and regulations for, and be responsible for the administration and operation of the Employee Retirement System; however, said Section 908 did not provide that said Employee Retirement Board had the authority to legislate retirement benefits; and

Whereas, Said Employee Retirement Board by majority vote established a new class of benefits (among other provisions) by adding COLA benefits to Class A retirees not previously granted COLA benefits as provided in the Employee Retirement Act and/or the Providence Home Rule Charter of 1980; and

Whereas, The majority vote of the Employee Retirement Board as set forth above was approved and incorporated in a consent decree by the Superior Court on December 18, 1991 which purported to amend the Rhode Island Public Laws of 1923, Chapter 489 so as to provide COLA

benefits among other benefits to Class A and Class B employees; and

Whereas, The Rhode Island Supreme Court on April 8, 1992, as by the record appears in *Betz v. Paolino*, 605 A.2d 837 declared that the Providence Retirement Board did not have the power to amend the Retirement Act to include additional benefits because this amounted to legislative action beyond the power and jurisdiction of the Employee Retirement Board; and

Whereas, It is the considered judgment of this City Council that by virtue of the pronouncements of the Rhode Island Supreme Court in *Betz v. Paolino* that the consent judgment entered by the Superior Court is null and void and beyond the jurisdiction of that

Court and that the City is entitled to relief from any enforcement of that decree;

Now Therefore, Be It Resolved, That this City Council does hereby request the City Solicitor to apply for injunctive and any other appropriate relief to prevent any further enforcement of the COLA and other benefit provisions of said consent decree.

Read and Passed, on motion of COUNCILMAN GLAVIN, seconded by COUNCILWOMAN FARGNOLI.

The motion for Passage is Sustained.

REPORTS FROM COMMITTEE

COUNCILMAN DAVID G. DILLON, Chairman COMMITTEE ON FINANCE

Transmits the following with Recommendation the same be Severally Adopted:

An Ordinance Providing for the Assessment and Collection of 1993 Taxes in a sum not less than One Hundred Fifty-Eight Million, Six Hundred Seven Thousand, Seven Hundred Dollars (\$158,607,700.00) and not more than One Hundred Seventy-Seven Million, One Hundred Sixty-Eight Thousand, Two Hundred Dollars (\$177,168,200.00) being based on One Hundred Percent (100%) of the 1993-1994 Fiscal Year Tax Collections.

Read and Passed the First Time, on motion of COUNCILMAN GLAVIN, seconded by

COUNCILWOMAN FARGNOLI, by the following Roll Call Vote:

Ayes: Council President Petrosinelli, Councilmen Clarkin, DeLuca, Dillon, Councilwomen DiRuzzo, Fargnoli, Councilmen Fenton, Glavin, Lombardi, Mancini, Councilwoman Nolan, Councilman Rollins and Councilwoman Williams—13.

Noes: None.

Absent: Councilman Igliozzi and Councilwoman Young—2.

The motion for Passage the First Time is Sustained.

Resolution Accepting and Approving KPMG Peat Marwick to Perform an Independent Audit of the Financial Accounts of the City of Providence for the Fiscal Years ending June 30, 1993, 1994 and 1995.

Resolved, That the City Council hereby selects KPMG Peat Marwick, Certified Public Accountants, 600 Fleet Center, 50 Kennedy Plaza, Providence, Rhode Island, 02903-9605, to complete the Audit of City Departments and Funds in accordance with their proposal submitted to the Committee on Finance of the City Council with Federal and other funds or departments reported both jointly and separately, where required for the following years, at fees not to exceed the following respectively:

FOR THE YEAR ENDING	ALL INCLUSIVE AUDIT FEE	WITH PBA REVIEW ONLY
June 30, 1993	\$149,500*	\$149,500*
June 30, 1994	\$159,000**	\$154,000
June 30, 1995	\$166,000	\$161,000

Whereas, That estimated billable hours, years and fees not to exceed the following, respectively:

FOR THE YEAR ENDING	ALL INCLUSIVE AUDIT HOURS	WITH PBA REVIEW ONLY
June 30, 1993	3,800*	3,800*
June 30, 1994	4,100**	3,850**
June 30, 1995	4,100	3,850

Whereas, KPMG Peat Marwick, anticipated that there will be approximately 300 hours in start-up time that the City will not be billed for under the contract, and

Whereas, That the increase in hours reflects the expected time to complete the PBA Audit/Review in 1994 and 1995 with the rates and fees not to exceed the following respectively:

STAFFING LEVEL	RATE PER HOUR
Partner	\$170
Manager	\$100
Senior	\$ 70
Staff	\$ 40

Now Therefore, Be It Resolved, That the City Council does hereby select KPMG Peat Marwick, Certified Public Accountants to perform Auditing Services for the City of Providence, pursuant to the circulated specifications for bidders which is incorporated by reference into our Agreement.

Read and Passed, on motion of COUNCILMAN GLAVIN, seconded by COUNCILWOMAN FARGNOLI, by the following Roll Call Vote:

Ayes: Council President Petrosinelli, Councilmen Clarkin, DeLuca, Dillon, Councilwomen DiRuzzo, Fagnoli, Councilmen Fenton, Glavin, Lombardi, Mancini, Councilwoman Nolan, Councilman Rollins and Councilwoman Williams—13.

Noes: None.

Absent: Councilman Igliazzi and Councilwoman Young—2.

The motion for Passage is Sustained.

PERSONAL PRIVILEGE

COUNCILMAN DeLUCA requests to Speak on a Point of Personal Privilege and states:

"Mr. President, I would like to speak on the issue of the City Budget. I passed out a copy of the City Charter and I have a few problems again with this City Budget. I will start out questioning what savings are included in here and one is the Contingency Fund which is said to save a couple of Million Dollars or so and what is required for the Medical Insurance . . . I don't know how they wound up with that figure. Number two, is the Five Million Dollar saving and again, I don't know where that came from and what they relied on, a guess or what. I don't know, it is amazing how they conduct City business.

"I also request the City Clerk to send a letter to the Board of Park Commissioners demanding that the proposed Triggs Golf Course 20-year lease be submitted to the City Council for approval as stated in Statute 416, paragraph 6, of the City Charter and also, please send a copy to the Mayor, the City Council Members and the City Solicitor. He should be made aware of this charge of inappropriated improvements that this particular lease has taken. Okay, and now for the knockout punch.

"My final objection to the Budget. Some Council people see it as the Mayor's Budget. It is my opinion that it belongs to the City Council and it is my opinion that we should wash our hands of this budget, because we have been voted in and if you vote to support it, then you are saying to the people of the City of Providence, you are saying to them, to your neighbors, you are saying to your enemies and to your friends, that you support this Budget and you are saying that this is a valid and responsible Budget. That's what you are saying. But once we vote for it it is not the Mayor's Budget any longer and our actions make it our business and our Budget. This batched

Budget violates the City Charter in accordance with Section 416. No bids have been received and nothing advertised for the sale of the Port. Nothing before the City Council Committee on City Property has been received and no proposals made for the sale of the Port and that is supposed to be due process. Whenever City Property is to be sold, the City Council Committee on City Property is to review same and the Committee on City Property will direct the City Clerk to advertise for bids. That is the process. We did not do that. That is due process. They are supposed to do that and make a recommendation to the full Council and we will open the bids in front of everyone and make a recommendation. That is due process for any City Property and should be especially for something like the Port. Where is our part in this process? It is gone and this violates the City Ordinance, Section 16 (f) Chapter 21 which basically refers to the 'Collection of delinquent taxes, rents, sales of City owned real estate escheats and forfeitures shall not be included in any estimated collection of revenues unless said amounts have been collected or a written agreement evidencing the intent to pay said delinquent amounts or sums certain has been signed by the person or persons owing said delinquent amount or sums certain'.

"The amount of 16 million dollars should not be included unless that amount has . . . already in hand or signed by the person willing to buy it. I submit to all of you, ladies and gentlemen, members of the City Council, I have not seen any written agreement or any judgments, or any collections of these funds. Since we have no such letter of commitment, the fact is that voting for this amount of money makes it illegal and irresponsible for us to vote on it. This deal has no letter of intent. No majority of the Council agreed to sell the Port. The legal due process, the rights the duties of this Council have been violated by the Administration by proposing this \$16 Million Dollar Port Sale.

"The due process has been violated. I also make a motion that this Appropriation Ordinance be resubmitted to the City Council Committee on Finance to study the financial, legal and due process defects which exist in the Appropriation Ordinance and should that motion fail, no personal intentions are meant, but I took an Oath of Office to uphold the City Charter of the City of Providence and there are numerous violations

in this. I will sue personally every member of this Council who votes for the Appropriation Ordinance. I will sue the Mayor and anyone else . . . I will start the Taxpayers Association Group and put all the money that is due in taxes in an escrow account until the legal question is resolved. Thank you very much."

Transmits the following with Recommendation the same be Severally Adopted, as amended:

An Ordinance Making an Appropriation of Two Hundred Ninety-One Million, Three Hundred Seventy-Five Thousand, Eleven Dollars (\$291,375,011.00) for the Fiscal Year ending June 30, 1994, as Amended.

COUNCILMAN DeLUCA moves that the Ordinance be Referred Back to Committee on Finance.

This motion is seconded by COUNCILMAN FENTON.

COUNCILMAN GLAVIN moves Reconsideration of the foregoing motion.

Accordingly, COUNCILMAN DeLUCA withdraws his motion to Refer Back to Committee and COUNCILMAN FENTON withdraws his second.

PERSONAL PRIVILEGE

COUNCILWOMAN FARGNOLI requests to Speak on a Point of Personal Privilege and states:

"Since I have served on the Board of Park Commissioners, I would like the Councilman of the Sixth Ward to know that we sit there and we preuse everything that comes before us. With this proposal that came before us, we studied it, and we have not completely signed on it until the

contract . . . which extends this lease that will benefit the City of Providence and its residents to the ultimate. There is nothing wrong with extending the lease and having the money come up front as long as there are certain restrictions in place. The residents of the City of Providence will continue to enjoy the benefits of a public Golf Course. The Board of Park Commissioners makes sure that they understand every issue that comes before them and it was the Board of Park

Commissioners working together with the Parks Department and have done a tremendous job in

making our Park and our Zoo, Roger Williams Park, one of the best."

COUNCILMAN GLAVIN moves the Ordinance be Read and Passed the First Time, as Amended.

Ordinances be Severally Read and Collectively Passed, the First Time as Amended.

This motion being seconded by COUNCILWOMAN NOLAN is Put to Vote and Passed, by the following Roll Call Vote:

This motion is seconded by COUNCILMAN DILLON.

Ayes: Council President Petrosinelli, Councilmen Clarkin, Dillon, Councilwomen DiRuzzo, Fagnoli, Councilmen Glavin, Mancini, Councilwoman Nolan, Councilman Rollins and Councilwoman Williams—10.

COUNCILMAN CLARKIN Moves that "An Ordinance Establishing the Classes of Positions, the Maximum Number of Employees, and the Number of Employees in Certain Classes in the City Departments and Repealing Ordinance Chapter 1992-32, effective August 7, 1992, as Amended" be further amended on Page 5 Section 18 by deleting "21 Fire Medics" and insert in lieu thereof "0 Fire Medics", and by deleting the total figure of "586" and insert in lieu thereof the figures "565".

Noes: Councilmen Fenton and Lombardi—2.

Absent: Councilmen DeLuca, Igliazzi and Councilwoman Young—3.

This motion being seconded by COUNCILMAN GLAVIN is Put to Vote and Passed by the following Roll Call Vote:

The motion for Passage the First Time, as Amended, is Sustained.

Ayes: Council President Petrosinelli, Councilmen Clarkin, Dillon, Councilwoman Fagnoli, Councilmen Fenton, Glavin, Lombardi, Mancini, Councilwoman Nolan, Councilman Rollins and Councilwoman Williams—11.

An Ordinance Establishing the Classes of Positions, the Maximum Number of Employees and the Number of Employees in Certain Classes in the City Departments and Repealing Ordinance Chapter 1992-32, effective August 7, 1992, as Amended.

Noes: None.

Not Voting: Councilwoman DiRuzzo—1.

An Ordinance Establishing a Compensation Plan for the City of Providence and Repealing Ordinance Chapter 1992-31, effective August 7, 1992.

Absent: Councilmen DeLuca, Igliazzi and Councilwoman Young—3.

COUNCILMAN GLAVIN moves the

COUNCILMAN FENTON and **COUNCILMAN LOMBARDI** desire to be recorded as voting "No" relative to "An Ordinance Establishing a Compensation Plan for the

City of Providence and Repealing Ordinance
Chapter 1992-31, effective August 7, 1992,
as Amended."

Not Voting: 1.

Absent: 3.

Recapitulation of Vote:

The motion for Passage the First Time, as
Amended, is thereupon Sustained.

Ayes: 9

Noes: 2.

PERSONAL PRIVILEGE

COUNCILWOMAN NOLAN requests the
Floor to Speak on a Point of Personal
Privilege and states:

"Mr. President, I will make an Official
Resolution that every Council person has at their
desk, a Microphone, and let's get the 5 others
replaced."

ADJOURNMENT

There being no further business, on
motion of COUNCILMAN GLAVIN, second-
ed by COUNCILMAN DILLON, it is voted
to adjourn at 8:00 o'clock P.M. (E.D.T.).

Michael R. Clement

City Clerk