

SUMMARY OF MINUTES

PUBLIC SAFETY COMMITTEE

5:30 P.M., MONDAY, JULY 9, 2007

COMMITTEE ROOM

ROOM 239, CITY HALL

MEMBERS PRESENT: Council Member Vivian H. Burke, Chair
Council Member Molly Leight, Vice Chair
Council Member Nelson L. Malloy, Jr.
Council Member Wanda Merschel

OTHERS PRESENT: Council Member Joycelyn V. Johnson
Council Member Dan Besse (out at 6:30 p.m.)

Chair Burke called the meeting to order.

Mr. Lee Garrity, City Manager, suggested that Item 6 be heard in the place of Item 3 due to the fact that several citizens were waiting to speak on that item.

1. ORDINANCE AMENDING SECTION 42-122(f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS ON CITY STREETS – *Meadowbrook Drive, Silver Creek Trail, Brookgreen Lane, Beeson Park Lane, and Bradford Court.*

Council Member Malloy made a motion to approve the item. The motion was seconded by Council Member Leight and unanimously carried.

2. ORDINANCE AMENDING SECTION 42-97 OF THE CITY CODE RELATING TO WEIGHT LIMITATIONS ON THRU TRAFFIC ON CERTAIN CITY STREETS – *Northwest Boulevard between Hawthorne Road and First Street.*

Council Member Leight made a motion to approve the item. The motion was seconded by Council Member Malloy and unanimously carried.

6. PRESENTATION ON NIGHTCLUB ORDINANCE.

In response to Council Member Johnson's question, Mr. Garrity asked that citizens be provided a revised copy of the proposed ordinance.

Mr. Garrity stated that the goal of the City is to improve the safety of clubs in this area as there have been several disturbing instances in recent months. He further stated that the proposed ordinance would be in the best interest of patrons and club owners, and recommended that staff meet with citizens to have discussions and that the vote on the ordinance be held in August. As it stands, the

proposed ordinance would limit everything but alcohol sales in bars and clubs that were found to be in violation of the ordinance. Mr. Garrity also noted that under North Carolina state law, the City does not have authority to prohibit the sale of alcohol in businesses.

Chair Burke asked for a show of hands of citizens that have attended each of the meetings that were held by the Winston-Salem Police Department regarding the issue at hand.

Mrs. Patricia D. Norris, Winston-Salem Chief of Police, stated that invitations were sent to the businesses with the most police calls, and that there was limited space for attendees, so a series of meetings were held. She further stated that she did not know why some businesses claim they weren't invited to the meetings, but that she would be glad to host other meetings.

Chief Norris presented the proposed ordinance that will pertain to nightclubs and promoters that act for profit. She expressed a need for balance between clubs and the City for the safety of all involved, and encouraged club owners to work with the Police Department but not to rely solely on them. She also gave several suggestions to improve the situation at hand. These include but are not limited to the prohibiting of problem visitors, training programs on violence reduction and control, and an online component for training so that business owners could attend at their convenience. Chief Norris stated that a license revocation or suspension will not prohibit the sale of alcohol in businesses, but if business owners and the Police Department work together, suspension or revocation of licenses won't be needed. She further stated that if the business operates smoothly with no incidents for a three month period, the suspension will be removed.

In response to Chair Burke's request, Chief Norris read the definition of a nightclub and a nightclub entertainment promoter. She noted that the Violence Reduction Program was spelled out specifically beginning on Handwritten Page 15 in the Agenda Book.

In response to Council Member Leight's inquiry, Chief Norris explained that if a business permit is revoked, the doors of the business can remain open to sell alcohol, but nothing else can operate there.

Council Member Johnson asked if alcohol was the root problem at the majority of calls, and how would the revocation of the other operating aspects help.

Chief Norris said that the Police Department will monitor revocations to see what works. Mr. Garrity stated that without the other normal operating items, alcohol alone doesn't have the ability to draw a crowd to a business.

In response to Council Member Besse's request, Ms. Julie Risher, Public Safety Attorney, read the definition of a promoter. She also confirmed that bands and non-profit organizations would not be recognized under the definition of a promoter.

Council Member Merschel asked if the Millennium Center would be considered a club because the definition of a nightclub is so broad.

In response to Council Member Besse's inquiry, Ms. Risher stated that the City has no authority to disapprove or regulate a performer or performance.

In response to Chair Burke's request, Ms. Risher read the statute explaining that municipalities cannot regulate a performer or performance. Mr. Ron Seeber, City Attorney, also commented that there was a case in the which City of Charlotte removed an alcohol license from a business, but the state statute says that a municipality does not have that authority. He further commented that specific language was included in the proposed ordinance that any revocation or suspension will not affect a business' ability to sell alcohol, because it falls under state law.

Council Member Malloy requested that a copy of state Alcoholic Beverage Commission laws, how they are regulated and events that must take place to revoke an ABC permit, be provided to Council Members.

Mr. Richard Emmett, 406 East 4th Street, stated that he lives near the nightclub and bar area downtown. He commented that he has yet to see any statistical information proving that crime in the area is due to nightclubs and bars and that the proposed ordinance would negatively affect promoters, arts presenters and others wishing to bring entertainment to the downtown area. He further commented that under the proposed ordinance, he would not be able to promote the events that he has previously, due to fees and restrictions that would be imposed. He also stated that he would email Council Members with his questions and concerns that were unable to be addressed today.

Ms. Connie Graham, 1704 Elizabeth Avenue, stated that she was an owner of Speakeasy Jazz. She also stated that when the facility opened, it was considered a private club, but it now contains a kitchen and is no longer considered a private club. She commented that the proposed ordinance will remove the ability to sell food, so her business will not be able to open, regardless of the ability to sell alcohol. She further commented that if a public club with a kitchen is unable to sell food, that automatically shuts the business down and they will be unable to sell alcohol. An establishment's sale of food must be higher than the sale of alcohol, otherwise, they could be considered a nightclub. She asked that Council review that point of the proposed ordinance so that all businesses are given a fair opportunity.

Chair Merschel requested additional clarification on private clubs in comparison to public clubs with kitchens.

Ms. Risher stated that if the proposed ordinance prohibits the sale of food in addition to any other entertainment activities and an establishment is not classified as a restaurant or private club, then they cannot sell alcohol during that time.

Mr. Brent Naylor, 180 Townpark Drive, Advance, expressed his concern that criminal and violent acts are threatening to destroy a vibrant nightlife in the downtown area. He stated that if citizens and the Police Department can work together, they can correct or prohibit these types of acts from occurring. He further stated that as a private promoter who has organized 12 events, there has been no criminal or violent activity. As a private promoter, he commented that he would not be able to put on events under the proposed ordinance as he would not be able to afford the police force required. He also suggested a training program that would allow promoters to work with the police department on violence issues when they arise at an establishment.

Council Member Leight stated that if there is no violence, there will be no demand of additional manpower from the Police Department.

Mr. Rick Farmer, Town and Country Estates, 4140 Mill Creek Road, explained that he was opposed to any ordinance or government regulation of the arts. He does not want the Police Department or any other local authority to have the ability to shut down a business for three months due to a violence problem. He further stated that he is opposed to the definition of a promoter because it will eliminate certain groups from promoting events and it will make it difficult to attract new businesses and events. He expressed concern that events will move to other towns where there are fewer restrictions instead of coming to Winston-Salem and the City will lose money. He suggested that a surcharge or tax be imposed for the Police Department to develop an extension program for providing surveillance.

Mr. Jim Toole, 109 Shadylawn Drive, stated that bad legislation has developed a result of tragedy and that the real problem at hand needs to be figured out. He also presented a U.S. Department of Justice Study on violence in and around bars to inform the Council's discussion. He further stated that the proposed ordinance is anti-business, and not in the best interest of public safety. He expressed that young people are the future of Winston-Salem and that they need to be attracted to the City.

Mr. Frank Dules, 3610 Darren Road, Clemmons, stated that he is an owner of Breaktime Billiards. He also stated that a newspaper report claimed that there were 96 incidents reported from his business. Only three of those actually pertained to his business, as he claims the remainder of the calls were from the shopping center that the business is located in, and none of them were violent incidents. He further claimed that business owners, along with police, know who the problem owners are and where the problem spots are located. Mr. Dules also stated that the proposed ordinance will increase fees of business owners and will require their staff to be more extensively trained, increasing operating costs. He further noted that his business always reports each incident to the Police Department.

Council Member Merschel questioned why Mr. Dules' business was not self-policing the nightclub and bar community if they know where problem areas are located. Chair Burke also questioned whether or not there was an organization or association for nightclub and bar owners.

Ms. Vicky Moore, 1772 Houseman Drive, stated that she owns Silver Moon Saloon and Elliott's Revue and that most of the problems around her business stem from the homeless, street people and the Drop. She feels that her clubs are labeled because of the calls that pertain to issues outside of her business.

In response to Council Member Johnson's question, Ms. Moore stated that the restaurant and bar roundtable is sponsored by the Downtown Winston-Salem Partnership.

Council Member Besse out at 6:30 p.m.

Mr. Jason Thiel, President, Downtown Winston-Salem Partnership, commented that there is a monthly meeting with downtown bar owners and restaurants. He also commented that the Downtown Bike Patrol participates in these meetings and a report is submitted to the Police Department. He stated that around 15 to 25 business owners attend the monthly meeting.

In response to Council Member Johnson's question, Chief Norris responded that the main issue with the Drop is that when it ends, there is a large group of kids that may not move as quickly from the area as business owners would like. She also stated that there had been no specific calls regarding the street traffic in front of these businesses.

Council Member Malloy commented that business owners should call the police and report any children or other non-patrons who are gathering in front of a business to move them along.

Chair Burke expressed concern with the homeless population being a distraction to the beauty of the city and affecting tourism in the area. She asked Chief Norris to take more action on dealing with that issue.

Council Member Merschel asked Chief Norris to meet with Ms. Moore and discuss the location of an ATM relevant to her business and how that may be regulated through the panhandling ordinance.

Ms. Graham stated that the main problem was the quick-release of the homeless once reported to and apprehended by the Police Department.

Ms. Amy Lindsey, 1511 Jarvis Street, stated that she lives in the West End area and enjoys living close to the downtown arts district, as she has the freedom to walk to many venues and businesses, rather than driving. She wishes that business owners would clean up parking lots and sidewalks along their property. As a publicist, she is concerned that she may be considered a promoter and asked for a clearer, more explicit definition of a promoter.

Mr. Naylor invited the Council Members to come downtown and visit the various businesses to see who would be affected by the proposed ordinance.

Chair Burke requested a list of club addresses and phone numbers be provided to Council members.

Council Member Johnson noted that there may be a sanitation ordinance stating that a business is responsible for any trash clean up within two blocks of their establishment, and suggested that ordinance be reviewed for clarification.

Ms. Christina Harris, 3604 Heathrow Drive, stated that the proposed ordinance contradicts the existing state nuisance law in reference to the number of calls to the police department. She asked which ordinance would be the one to follow.

Ms. Risher clarified that the state nuisance law does not designate a specific number of calls that can be made to the Police Department. The Winston-Salem Police Department encourages businesses to participate in the Violence Reduction Program, rather than repeated phone calls, but does not

dissuade businesses from calling. While the City does have the authority to revoke a license for such a case, revocation rarely occurs.

Mr. Greg Carlyle, owner of the Millennium Center, stated that he has been working since 1979 to help rebuild the downtown area. He further stated that the Millennium Center is considered an exhibition hall, not a nightclub, but under the proposed ordinance, it could be labeled as such. He spoke on behalf of promoters in the area and the work that they do. He questioned how small venues would be able to secure the number of police force needed for events as outlined in the proposed ordinance. He also questioned how the proposed ordinance would apply to other venues within the City.

Council Member Leight confirmed that unless a business has a track record of violence or expects violence to occur, they will not be under scrutiny of the proposed ordinance.

Chief Norris stated that staff will look at the track record of a business or promoter and the number of events they have participated in, and they may fall under a different provision and would not be subject to the security requirements of the proposed ordinance.

Mr. Carlyle is concerned that the City's police force is understaffed to accommodate multiple events at one given time and that funding may not be available to all venues for additional police patrol.

Chair Burke thanked the citizens for their comments, questions and concerns and stated that Council would hold the next meeting in a larger venue to allow more citizens to share their concerns.

Mr. Farmer mentioned that he has taught for 16 years at High Point University and is opposed to this ordinance as an American. He doesn't foresee this ordinance as it is being passed based on the comments and concerns that have been shared.

Mr. Richard Miller shared that the proposed ordinance will not stop criminal activity. He stated that he has worked hard to help revive the downtown area and that this ordinance will not solve the issues at hand.

Mr. Garner Neil Williams, 729 Polo Road, commented that he is an investor in downtown revitalization and the proposed ordinance will be prohibitive to potential investors.

Chair Burke suggested that any further comments, questions, concerns or suggestions be sent to Chief Norris or Ms. Erin Hudson, City Secretary's Office, via email by August 1.

Mr. Toole commented that it is currently not clear if the City is considered unsafe, and if so, are nightclubs and bars the element at the root of the safety issue.

In response to Council Member Malloy's question, Chief Norris responded that the next meeting with club and bar owners will be held prior to the Council's August meeting and she will bring a report of the discussions.

Mr. Ken Wise, 110 Hanes Square Circle, commented that he just opened a new business in the community and based on the proposed ordinance, it would cost in excess of \$220,000 per year to employ the amount of security forces needed on the outside of his facility. He stated that several doormen have been employed and a security system was installed to ensure safety, but his biggest concern is cost.

Ms. Nancy Daniels stated that she agrees with her predecessor's comments, but questioned why there was not a bigger facility provided for the meeting as many people were left waiting outside, unable to participate in the conversation.

Mr. Jerry O'Neal, 2067 Pinecrest Drive, expressed that the proposed ordinance should apply to all restaurants, nightclubs and bars, not just a few select businesses.

A motion was made by Council Member Merschel that items 3, 4 and 5 be continued to the August Public Safety Committee Meeting to allow Committee members to address the crowds outside.

The motion was duly seconded by Council Member Leight and carried unanimously.

ADJOURNMENT: 7:23 p.m.