

SUMMARY OF MINUTES

PUBLIC SAFETY COMMITTEE

5:30 P.M., MONDAY, FEBRUARY 11, 2008

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*

Chair Burke called the meeting to order and recognized a citizen for comments.

Mr. Phillip Carter, 5033 Eltha Drive, Apartment H, stated that he was seeking a cooperative and joint effort between the Housing Authority of Winston-Salem (HAWS), the Police Department and the City Council to address drug activity in and around Cleveland Avenue homes, as well as surrounding neighborhoods. He also stated that he has spoken with various Council Members, the Mayor, and the City Manager and is trying to speak with the Chief of Police regarding any assistance that could be provided. He further stated that when he spoke with the HAWS manager of the complex, he was told that the budget had been cut and they could not afford any additional police assistance.

Chair Burke requested that HAWS representatives, Mr. Carter, Winston-Salem Police Department representatives, and owners of the units meet to discuss their issues. She noted that HAWS has a budget in place to protect its residents and they should not have to wait for a resolution to this issue.

Mr. Carter stated that in 2001, a similar issue occurred and it was swiftly taken care of. He also provided suggestions from residents in the area on how to solve the problem.

Chair Burke stated that, without objection, the Committee would now consider the Consent Agenda.

CONSENT AGENDA

- C-2. RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH DAVID G. SOUTHERN FOR THE POLICE DEPARTMENT'S SPECIAL ENFORCEMENT TEAM, GANG UNIT AND K-9 UNIT - 400 Northgate Park Drive. [Payment of \$42,504 per year.]

In response to Council Member Malloy's questions, Mr. Kirk Bjorling, Real Estate Administrator, stated the lease would be three years and that there is no space available in other City-owned buildings.

Mrs. Patricia D. Norris, Chief of Police, noted that staff was operating out of a space off Marshall Street and was asked by the owners of the property to find another location. She also noted that staff is looking at other comparable locations to work out of while investigations and day to day operations will be conducted there.

In response to Council Member Malloy's question, Mr. Lee Garrity, City Manager, stated that the first phase of renovations to the Thomasville Plant on Patterson Avenue will be completed in 12 to 15 months, but there is a second floor in the building that is not included in the budget at this point and would not be able to house these units until sometime in the future.

In response to Council Member Malloy's inquiry, Chief Norris stated it is the goal of the operation to pursue the Thomasville Plant as a potential location.

In response to Chair Burke's question, Chief Norris noted that various units would be working from the new location and individual units would not be easily identified while working there.

In response to Council Member Malloy's question, Mr. Bjorling stated that the owners of the current facility have requested the units be removed as soon as possible, although the lease runs through mid-November. The current facility will pay the difference in the monthly rent of a new facility through the end of the lease period.

Council Member Malloy made a motion to hold the item in committee until March. The motion was duly seconded by Council Member Leight and carried unanimously.

Council Member Johnson noted that the museum owners will be meeting February 25 and if the Committee Members have any questions, to forward them prior to that meeting.

C-1. ORDINANCE AMENDING SECTION 42-122(f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS - *Waccamaw Path*.

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

C-3. RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH THE TOWN OF BETHANIA FOR EXTENSION OF CITY FIRE SUPPRESSION SERVICES INTO THE TOWN LIMITS OF BETHANIA.
[Receipt of \$21,720 per year.]

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

C-4. PROSTITUTION INITIATIVE REPORT.

For information only.

C-5. NEW BEGINNINGS REPORT.

For information only.

Council Member Johnson asked that staff gather information from Mr. Carter related to the drug issues in his community.

GENERAL AGENDA

G-1. REVIEW OF SILK PLANT FOREST COMMITTEE SCOPE.

Mr. Garrity stated that Mrs. Angela Carmon, City Attorney, would review her memo regarding legal standings, subpoena power and the use of the state Innocence Inquiry Commission (IIC).

Mrs. Carmon stated that her memo addresses the two issues of subpoena power within the committee and the IIC as an option to the committee. She also stated that the IIC has subpoena power and has the authority to look at the guilt or innocence of the involved party. If it finds substantial evidence of innocence, it has the power to have that information reviewed by the court. She further stated that an option would be to have the committee review administrative procedures of the Police Department in regards to the case while the IIC reviews the issue of Mr. Smith's guilt or innocence.

In response to Council Member Leight's questions, Mrs. Carmon stated that in the past, there was some confusion regarding the Innocence Center and the IIC as well as how to ask the IIC to look at the matter. She further stated that consent from all parties involved is not required to request a review from the IIC. Any one of the parties can make the request, then an independent attorney appointed by the IIC will explain the process and the IIC will move forward to determine whether or not a formal inquiry is justified. She also noted that the IIC will determine whether or not to take the case if there is new evidence to warrant the request. She further noted that the IIC is currently reviewing two or three cases.

In response to Council Member Leight's inquiry, Chief Norris noted that the IIC currently has approximately 240 cases up for review. She also noted that many cases are given to local law schools to gather information and once gathered the IIC will review the case. She further noted that a request for review coming directly from the Police Department will take precedent over other cases.

Mr. Garrity stated that he has spoke with the D.A.'s Office and they have completed their investigation. He also stated that their information will be helpful in a request to the IIC.

In response to Council Member Leight's question, Mrs. Carmon stated that while information from the D.A.'s Office would be helpful, it is not required and the IIC's investigation could proceed without it.

In response to Council Member Malloy's question, Chief Norris stated that requests from Police Department's do take priority over other requests.

Mrs. Carmon noted that the IIC currently has two cases that would take priority over another Police Department request.

Chair Burke requested that staff obtain a letter from the IIC stating that they have a clear understanding of the urgent need and an established timeframe for the review.

In response to Council Member Malloy's question, Mrs. Carmon noted that cons of a review committee would be that it would not have subpoena power, although the Council does, and the inability of the committee to impact the criminal process. The committee would also be helpful in a review of the policies and procedures followed by the Police Department.

Council Member Johnson stated that the committee would be an extension of the Council and both groups could work together. She also stated that the General Assembly is not currently in session, so the Council would not be able to request a transfer of subpoena power to the committee.

Mr. Garrity stated that if a testimony is subpoenaed, the IIC could use that information in a trial.

Mr. Larry Little, stated that it is the responsibility of City government to ensure the safety of citizens and feels that Kalvin Michael Smith has spent 12 years in prison for a crime he did not commit, and if that is the case, the wrong person has been jailed and a criminal is still loose. He also stated that the City is responsible in addition to the IIC and noted that the Duke Innocence Project has already deemed the issue worthy of further investigation. He further stated that it is important for the committee to find flaws in the criminal process and suggests that both a committee and IIC work together. Mr. Little noted that citizens need to be assured that City government is protecting them, and pointed out that a positive result came from the Sykes Review Committee as they uncovered facts that were not previously disclosed.

Chair Burke commented that Chief Norris has been reviewing the Police Department procedures and wants to assure the public that they can be confident in the job that the Police Department is doing.

Mr. Mark Rabil, 2244 Alistair Avenue, stated that the IIC was created in response to the Daryl Hunt case. He also stated that Mr. Smith's attorney is advising him not to go through the IIC because a request for them to review the case requires the defendant to waive all rights. He further stated that unless all facts are uncovered and presented, no action can be taken by the IIC. Mr. Rabil stated that the review of Mr. Smith's case needs to be independent from the IIC and that the City owes Mr. Smith for his unjust incarceration. He also stated that the Skyes Review Committee was able to obtain information in one year that he was unable to obtain in 20 years because the Police Department covered evidence. He further stated that he spoke to the director of the IIC and there is a two year backlog of cases that will be heard prior to Mr. Smith's.

Ms. Lyn Warmath-Boyd, 4719 Linebach Drive, representative of Mothers and Women for Justice, stated that aside from the IIC review, a local review committee needs to be established for this case. She also stated that she expects the committee to establish policies and procedures that should be followed by the Police Department and if not, that disciplinary action should be taken to ensure that the judicial system is not compromised. She further stated that everyone is at risk when someone is wrongly convicted.

Mr. Daryl Hunt stated that it is important for all evidence in cases to be turned over to the authorities, because if evidence in one case is tampered with, there is no way to know how many other pieces of evidence are also being corrupted. He also stated that in 1994, Officer Brandon Weavil planted a vial of his blood in the rape kit of another case, and he stated that the committee should require that all evidence be turned over and all information exposed to seek justice.

In response to Council Member Malloy's questions, Chief Norris stated that Officer Weavil retired in 2007 and that staff was not aware of the alleged tampering of evidence in 1994. She also stated that Officer Weavil was involved in the interview of Mr. Smith.

Mr. Garrity stated that the scope of the report was not broad enough to exclude Officer Weavil from being involved with Mr. Smith's case.

Council Member Malloy requested that staff review Officer Weavil's role in the investigation of Mr. Smith.

In response to Chair Burke's question, Mr. Garrity noted that if someone does not voluntarily submit for questioning, the committee could ask that the City Council subpoena that individual. He also noted that during the Sykes review, most of the detectives had since retired and would not participate in questioning. He further noted that the Skyes Review Committee did not have subpoena power.

In response to Council Member Merschel's inquiry, Mrs. Carmon noted that the lack of subpoena power for the committee is a limitation, but that the committee has the ability to request a subpoena be issued by the Council. She also noted that the Sykes Review Committee could have requested the Council to subpoena individuals for questioning.

Mr. Garrity noted that the City Manager and City Attorney at that time would have needed to have that discussion to make the committee aware of that option.

Council Member Johnson requested that the option of requesting subpoena power from the Council be made clear to the committee and that a working relationship be established between the two groups.

Mr. Garrity noted that it will be made clear in the scope of the committee that if subpoena power is needed, it can make that request to Council.

Chair Burke requested that any suggestions from citizens be given to Mr. Paige to be passed on to members of the Public Safety Committee.

Mr. Damon Boyd, 4719 Linebach Drive, stated that the guilt or innocence of a suspect is not the biggest concern of the committee, rather that certain information was not provided to prepare an adequate trial for Mr. Smith. He also asked that the City departments be required to do their jobs and function effectively. Evidence presented in 1994 exonerated several people from the Sykes case and Mr. Boyd requested to know what the criteria are to reopen a case when individuals are exonerated or found not guilty of a crime.

In response to Council Member Merschel's questions, Mr. Boyd stated that citizens are requesting fact finding about the case because all that is known is what the Police Department brings forth to make decisions and the Council can't leave all decisions to the courts.

Mr. Jet Hollander, 5020 Brookner Lane, stated that he is not asking for a determination of guilt or innocence, rather he is asking for a follow up to examine the facts and review the judicial process. In the past, faulty records were kept and simply looking at those documents will not suffice. He further stated that the main difference between this and the Sykes case is that Daryl Hunt was already free when the Sykes review Committee was formed. Mr. Hollander also requested a follow up on Officer Weavil's involvement as being a critical person in both cases being discussed. He presented a resolution and pointed out that it is very different from the resolution presented to Council previously.

Reverend Dr. Carlton Eversley, 114 Dellabrook Drive, representative of the Ministers Conference of Winston-Salem, stated that uncovering the facts of the case is a technicality and the real issue at hand is a moral dilemma. He also stated that the case has caused a split on race and class in the city as another African-American man is in prison for a crime against a white woman, and the true assailant is free. He further stated that the Council should use its right of subpoena power to provide leadership in the community, rather than relying on the state and the District Attorney, and that both the committee and the IIC should be utilized to conduct the review.

Council Member Malloy noted that a lot of information has been provided and that while everyone wants to move forward, staff needs to take time to redefine the direction of the committee and requested citizen input to work towards a concrete suggestion. He made a motion that the comments made and the resolution provided by Mr. Hollander be used to compile a document for consideration by the Public Safety Committee in March..

Council Member Leight duly seconded the motion and stated that the review should be sent to the IIC and that Chief Norris contact the director of the IIC to verify that they have a clear understanding of the needs. She also suggested that the charge to the committee be developed by the full Council.

Mr. Garrity stated that staff will refer the case to the IIC, work on a revised resolution for the committee and ask for clarification on independent members. He also stated that staff will have to review the costs involved with the committee, especially since Mr. Hollander's resolution suggests use of independent office staff.

Council Member Johnson requested a timetable from the IIC and requested that staff have all information to the full Council for a follow up meeting prior to the March Public Safety Committee meeting.

Council Member Leight inquired about the feasibility of getting all of the materials compiled to provide to City Council along with a proposed charge for the Committee by February 18.

Council Member Merschel requested that the chair of the IIC meet with Council in the near future. She also requested that the D.A. and any other interested parties meet with Council to make sure everyone is of one accord.

Chair Burke requested a written statement from the IIC verifying its understanding of the case and that the City Manager and City Attorney develop recommendations for the committee. She also stated that the Public Safety Committee would call a special meeting if needed.

Council Member Malloy requested that a working document be formed to establish guidelines for the review and to have information provided to Council within ten days.

The motion of an item to come back for consideration in March carried unanimously.

G-2. MAYOR JOINES RECOMMENDATIONS FOR APPOINTMENTS TO THE SILK PLANT FOREST REVIEW COMMITTEE: *[City Council remanded this item to the Public Safety Committee for further discussion.]*

Guy Blynn

Sharon Cook

William Davis

James Ferree

Barry Lyons

Lois Mendezoff

Cheryl Mouzon

Council Member Leight stated that while the suggested appointees are excellent candidates for the committee, more individuals should be added if a larger group is needed.

Mr. Garrity stated that the Mayor has two more individuals he would like to appoint to the committee.

In response to Council Member Malloy's question, Mr. Garrity stated that the resolution brought back in March will include the number of individuals required for the committee.

By consensus, the Committee decided to hold this item pending a resolution for Item G-1.

ADDITIONAL ITEM

In response to Council Member Johnson's question, Mr. Garrity stated that the proposed nightclub ordinance will come back to committee in March.

Council Member Malloy requested that staff provide information on a nightclub opening on Thurmond Road and Northwest Boulevard and to ensure that they participate in the violence reduction training.

ADJOURNMENT: 7:15 p.m.