

## SUMMARY OF MINUTES

### PUBLIC SAFETY COMMITTEE

5:30 P.M., MONDAY, AUGUST 10, 2009

COMMITTEE ROOM

ROOM 239, CITY HALL

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*MEMBERS PRESENT:* Council Member Vivian H. Burke, Chair  
Council Member Molly Leight, Vice Chair  
Council Member Wanda Merschel (out at 6:20 p.m.)

*MEMBER ABSENT:* Council Member Nelson L. Malloy, Jr.

*OTHERS PRESENT:* Council Member Joycelyn V. Johnson (in at 5:36 p.m.)

Chair Burke called the meeting to order and stated that without objection, the Committee would first consider the Consent Agenda and asked if any items needed to be pulled. No items were removed for discussion.

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

#### CONSENT AGENDA

- C-1. ORDINANCE AMENDING SECTION 42-122 (f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS ON CITY STREETS - *Magnolia Place*.
- C-2. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPAND THE SCOPE OF AN EXISTING AGREEMENT WITH GRIFFITH ENTERPRISES FOR PROFESSIONAL SERVICES RELATED TO ENVIRONMENTAL EVALUATION AND CLEANUP OF THE EXISTING FIRING RANGE LOCATED AT 6020 GUN CLUB ROAD IN THE VILLAGE OF CLEMMONS.
- C-3. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXPAND THE SCOPE OF AN AGREEMENT WITH STEWART-COOPER-NEWELL-ARCHITECTS, P.A. FOR PROFESSIONAL SERVICES RELATED TO THE DESIGN OF FIRE STATION #19 LOCATED ON GLENN HI ROAD.
- C-4. APPROVAL OF PUBLIC SAFETY COMMITTEE SUMMARY OF MINUTES - *July 13, 2009*.

#### GENERAL AGENDA

G-1. ORDINANCE AMENDING CHAPTER 78 OF THE WINSTON-SALEM CITY CODE RELATING TO VEHICLES FOR HIRE.

Mr. Greg Turner, Assistant City Manager/Public Works, stated that proposed changes are summarized on pages five and six of the Agenda Book and a list of questions received from interested parties are on pages three and four. He also stated that major changes are that the new ordinance will license companies and operators of vehicles as well as sub-owners of companies. He further stated that criminal record checks will be required for all drivers, that the ordinance outlines specific authorizations that the Vehicle for Hire Inspector will have, and will require operation of at least one half of certificates issued within one year of approval by Council, which will help to address how many certificates are current and how many drivers there are.

Mr. Herman Mazzeo, 1017 Pewter Court, noted that he was concerned about enforcement of the ordinance. He also noted that there are several drivers that used to drive under his company that are no longer certified under him, but they still operate in the same car with the same colors. He questioned what provision in the new ordinance will address that issue.

Mr. Turner stated that under the current ordinance, there is a limit on how much enforcement can be taken against illegal operators who may have had a certificate that they were operating under. Under the new ordinance, certificates will be issued for operating permits to individuals, as opposed to just companies. If an individual loses his ability to operate for one company and other companies are notified, he will not be able to drive for other companies and his certificate will be pulled. Currently, staff can only notify other companies that an individual is not authorized to operate because of a specified issue, whereby the new ordinance will allow for penalty directly on the individual.

Mr. Mazzeo noted that with the new ordinance, the certificate will be issued for an individual to drive a cab, and if he fills out his paperwork that he works for a certain company, that is the company his information will be associated with. If that individual decides he no longer wishes to drive for that company, he may continue to operate his cab illegally.

Mr. Turner noted that if a driver is operating a cab illegally, the Vehicle for Hire Inspector can assess the situation during business hours and the Winston-Salem Police Department (WSPD) is responsible for stopping him after hours.

In response to Chair Burke's question, Mr. Scott Cunningham, Chief of Police, stated that he envisions that once a driver is no longer allowed to operate a cab, the cab company owner will notify the City and the WSPD, who will have a list of license numbers to pull from and verify if a cab is legal or not. This ordinance may not bring an end to each problem Mr. Mazzeo described but if the WSPD has appropriate notification, an illegal cab can be stopped if and when it is seen. He also stated that as presented, he feels the new ordinance is enforceable.

Ms. Robin Willard, 604 West Street, stated that she writes letters and takes photographs to indicate license tag numbers each time she sees one of these occurrences, but it still happens regularly.

Mr. Phil Banks, 3028 S. Stratford Road, representing Lott's Taxi, stated that this ordinance infringes on the economic freedom of an individual, whereby drivers are independent contractors, free to contract under the State and Federal constitution with whomever they desire. What is in question is compliance with the rules and regulations for a vehicle and its operator. He also stated that the constitution prohibits governmental authority of such freedoms and that since cab companies are not a monopoly, they are considered a free market source. He further stated that there is a problem with a certificate determining a certain number of cabs in operation, but what it really certifies is whether or not the operator and cabs are in compliance.

Mrs. Angela I. Carmon, City Attorney, stated that she and her staff have reviewed the applicable statutes and the ordinance does address compliance with Mr. Banks' issues.

In response to Council Member Leight's question, Mr. Turner stated that the ordinance should reference section 78-53, rather than 78-50, of the City Code for regulation of suspension or revocation.

In response to Council Member Merschel's question, Mr. Turner noted that the State owns the license tag and issues a citizen permission to use that tag when a fee is paid. He also noted that each cab driver will have to have a valid North Carolina driver's license, a valid North Carolina license tag, a Certificate of Public Convenience and Necessity, the permit issued by the City and operate under a certificate issued to a company.

Council Member Merschel questioned that if the license tag is State-owned/issued, and if a driver's relationship with a cab company is severed, would the tag be removed from the vehicle.

Ms. Willard reviewed the process for obtaining a license tag and noted that it belongs to the owner of the vehicle, whether they operate a cab or not.

Mr. Michael Harrison, Vehicle for Hire Inspector, stated that the owner of the car also owns the tag, unless it is a fleet car in which the company would purchase the tag.

Mr. Turner noted that some companies issue fleet vehicles, but some drivers operate a personal vehicle under a company name.

Mr. Harrison noted that a decal is issued for every cab and the new ordinance states that it is a company's obligation to remove any decals or logos associating that car with the company.

Council Member Merschel noted that the WSPD could identify an illegal cab by a specific license tag and whether or not a decal was present.

Chief Cunningham noted that any additional information will be helpful and that while the new ordinance does not provide for the easiest method of enforcement, WSPD will still offer assistance.

In response to Council Member Leight's question, Mr. Turner stated that while a driver may lose the ability to drive for one company, if he is in good standing, he will not lose his individual permit to operate a cab and can move from one company to the next.

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

G-2. CONTINUATION OF DISCUSSION ON CURFEWS. *[Item continued from the June meeting of the Public Safety Committee.]*

Mrs. Martha Wheelock, Assistant City Manager, stated that Ms. Marva Reid and Ms. Mattie Young were contacted and provided this information. She also stated that statistics were broken into four hour increments and seasonal fluctuations, and noted that trends are similar across all seasons. Between the hours of 2:00 p.m. and 10:00 p.m. is when a substantial amount of youth crime occurs and would not be addressed with a curfew. She thanked Ms. Lori Sykes, Public Safety Attorney, for information provided and noted that there has only been one constitutionally significant curfew case in this jurisdiction. Other options to curfews fall into three categories. The control category would allow for an increased use of WSPD personnel in identified targeted crime areas, which is being addressed with the new police department redeployment model. The accommodation category would provide activities and opportunities at specified times, such as different uses of recreation facilities, partnerships with existing programs and community organizations. The development category would establish an outreach or program targeted to specific individuals. The Recreation and Parks Committee and Youth Advisory Council are organizations that may be given an opportunity to review these tools in a more comprehensive manner to address programming for youth.

Chair Burke suggested that staff focus on a smaller population at first to verify its response to some of the suggested activities.

In response to Council Member Leight's statement that the City of Charlotte showed that most serious crimes committed by juveniles was during curfew hours, Mrs. Wheelock stated that staff would provide that specific information as related to the City. She also stated that the Mix ran through last Friday and staff is preparing its report and recommendations, as they collaborated with the National Black Theatre Festival (NBTF) to host integrated youth activities. She further stated that she spoke with Ms. Sylvia Hamlin, and that she was satisfied with the festival and appreciated the efforts of City staff. Mrs. Wheelock noted that she was obtaining information from the WSPD to add to the report.

Council Member Johnson expressed concern that a curfew would be punitive for those youth not causing a problem and suggested that staff find a way to support recreation centers and other available programs.

In response to Chair Burke's question, Mrs. Wheelock stated that staff is focusing on youth under the age of 18.

Ms. Marva Reid, 1434 North Cameron Avenue, stated that the Mix and NBTF did not address the children that the community is concerned with as many of them are not allowed at these activities due to behavior, and because of this, youth seem to be more organized in destructive behaviors. Ms. Mattie Young, 1001 E. 15<sup>th</sup> Street, "Mayor" of Cleveland Avenue Homes, expressed her thanks to staff for their efforts and for listening to citizens concerns.

## G-3. SILK PLANT FOREST CITIZEN REVIEW COMMITTEE PRESENTATION.

*Council Member Merschel out at 6:20 p.m.*

Mr. Guy Blynn, P.O. Box 20383, presented the formal report of the Silk Plant Forest Citizen Review Committee (SPFCRC) and an executive summary of key findings.

Council Member Leight noted that the report addresses a lack of police work on the case in not obtaining polygraphs or verifying witness statements. She questioned if these oversights may still be occurring within the police department.

Chief Cunningham stated that there is an oversight practice in place and while in reality, it would be nice to have everyone involved in every case to take a polygraph, there is no mandating for that and it may not be given any weight in a court of law.

In response to Chair Burke's question, Chief Cunningham stated that there is a standard protocol for asking and documenting questions if a polygraph is administered. He also stated that certified polygraphists are reviewed by the National Association of Polygraphists and staff ensures that there is continuing education training and that they are recertified regularly. He further stated that additional procedures for all evidence, support materials, case files and other relative materials have been strengthened, but he is anxious to see what the SPFCRC has recommended.

Chair Burke expressed her appreciation to the SPFCRC and noted that they will be recognized at a future Council meeting.

Mr. Blynn expressed the SPFCRC's thanks for being chosen to serve the community.

## ADDITIONAL ITEM

Council Member Johnson noted that the City of Charlotte recently awarded \$675,000 to the family of a man who was tased for 37 seconds, which led to his death, and have implemented additional training pieces. She questioned if the City had incorporated any additional training based on this information.

Chief Cunningham noted that there will never be a continuous taser exposure of more than five seconds, and only two additional five second intervals if deemed necessary. The City's taser policy will be available on the police department website with a letter to community. The City's training meets or exceeds what staff has been exposed to and taser usage will continue to be evaluated.

Mr. Garrity noted that there is video on the WSPD website demonstrating taser usage.

ADJOURNMENT: 6:37 p.m.