

# **MINUTES**

## **PUBLIC SAFETY COMMITTEE MEETING**

**5:54 P. M., OCTOBER 16, 2019**

### **A/V CONFERENCE ROOM**

Keeley Steele, Chairperson, called the meeting of the Charleston City Council Committee on Public Safety to order at 5:54 p.m., OCTOBER 16, 2019, in the Audio/Visual Room in City Hall.

#### **Committee Members Present:**

Keeley Steele, Chair  
Chuck Overstreet, Vice Chair  
Naomi Bays  
Becky Ceperley  
Joseph Jenkins

1. Councilmember Bays moved to approve the minutes of the previous meeting on 10-7-2019. Councilmember Ceperley seconded. There was no objection and the minutes were approved.

#### **2. Resolution No. 251-19**

City Attorney, Kevin Baker, added that the resolution authorizes the Charleston Police Department to enter into a Memorandum of Understanding with the United States Marshall Service to create a Violent Offender Task Force, which is similar to other cooperative agreements the City has made.

Councilmember Ceperley confirmed that this would be a new agreement.

With no further discussion, Councilmember Ceperley made a motion to approve the resolution. Councilmember Overstreet seconded. With the ayes being in the majority, Resolution No. 251-19 was approved.

### 3. Bill No. 7835 Committee Substitute

Councilmember Steele explained that the Committee had discussed the bill during the last meeting, and was held over to discuss changing some terminology.

Baker added that the language in sub section b concerning certified mail has now been moved to the beginning of sub section c. The last section that discusses warrants has been removed for clarity.

With no further discussion, Councilmember Ceperley made a motion to approve the bill. Councilmember Jenkins seconded. With the ayes being in the majority, Bill No. 7835 Committee Substitute was approved.

### 4. Discussion

Speaking as a citizen, Jeanine Faegre, along with Mr. and Mrs. Randolph and Ms. Moyers, addressed an ongoing problem with a house on Somerset Drive. This dwelling is known to be a problem with the CPD; the house is a disturbance and dangerous. Councilmember Jenkins asked why the current code of 50-34 hadn't been used. Deputy Chief, Paul Perdue, answered that there isn't a landlord involved, but a property owner. After further discussion, the Committee thanked the citizens for expressing their concern.

Councilmember Jenkins motioned to adjourn the meeting. Meeting adjourned.

**Resolution No. 251-19** – “Authorizing the Chief of Police to enter into a Memorandum of Understanding with the United States Marshall Service to create a Violent Offender Task Force, pursuant to 28 U.S.C. § 566, to investigate and arrest persons who have active state and federal warrants for their arrest, thereby improving public safety and reducing violent crime.”

**Now, therefore, be it Resolved by the Council of the City of Charleston, West Virginia:**

That the Chief of Police is hereby authorized to enter into a Memorandum of Understanding with the United States Marshall Service to create a Violent Offender Task Force, pursuant to 28 U.S.C. § 566, to investigate and arrest persons who have active state and federal warrants for their arrest, thereby improving public safety and reducing violent crime.

**Committee Substitute for Bill No. 7835** - A BILL to amend and reenact Sections 50-34 ~~and 50-36~~ of the Code of the City of Charleston, as amended, ~~all~~ relating to clarifying the process by which the Charleston Police Department may address houses where illegal activity is ongoing; updating notice requirements; and defining terms; ~~and clarifying certain warrant requirements related to inspections.~~

**Now, therefore, be it ordained by the Council of the City of Charleston:**

That Sections 50-34 ~~and 50-36~~ of the Code of the City of Charleston, as amended, are hereby amended and reenacted to read as follows:

**Sec. 50-34. - Additional nuisances; penalties.**

(a) No owner or operator of any property shall knowingly allow on the property or permit the use of the property for any illegal activity. Conduct prohibited by this shall constitute a nuisance. Each day ~~such activity exists~~ conduct prohibited by this section continues shall constitute a separate offense.

(b) Any owner or operator who shall violate the provisions of subsection (a) shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$500.00 \$1,000.00 ~~or by confinement in jail not more than 30 days~~ for each offense. ~~An owner or operator of a property who receives notice by certified mail from the Charleston Police Department of illegal activity on the property shall take action to terminate the illegal activity within thirty (30) days after receiving notice by certified mail by the Charleston Police Department. If the owner or operator fails to terminate the illegal activity within thirty (30) days after the notice then he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 for each offense.~~

(c) ~~An owner or operator of a property who receives notice by certified mail from the Charleston Police Department of illegal activity on the property shall take action to terminate the illegal activity within thirty (30) days after receiving notice by certified mail by the Charleston Police Department. If the owner or operator fails to terminate the illegal activity within thirty (30) days after the notice then he or she shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000.00 for each offense. Any owner who is not the operator of the property upon which illegal activity is taking place or which is being used for illegal activity who fails to take action to terminate the illegal activity for a period of 30 days after notice by the chief of police or his designated representative shall be subject to a civil fine of \$500.00 for each day the illegal activity takes place after expiration of such 30-day period, The conduct prohibited by this subsection~~ (b) of this section is subject to the following:

(1) ~~The chief of police or his designated representative~~ Charleston Police Department shall first provide a notice by certified mail to the tenant in owner and/or operator of the property that illegal activity is being conducted and that the ~~tenant will be~~

subject to eviction if any such activity is not corrected within a period of 15 days, a copy of which notice shall be provided to the owner of the property and payer of rent owner and/or operator of the property are subject to the provisions of this article if not corrected, and the property could potentially be subject to forfeiture if applicable by state and federal laws.

(2) Any notice to the owner of the property under this section shall also be served on the tenant by regular mail.

(3) A letter to the owner of the property shall describe in specific detail the facts forming the basis for the allegation of the illegal activity and the specific illegal activity occurring. The letter to the owner shall inform the owner that the illegal activity constitutes a nuisance and that the owner has a duty to take all action reasonably expected to abate the nuisance.

(4) If the owner properly notifies the Charleston Police Department, then the chief of police or his a designated representative shall appear at any hearing on eviction action or other legal action taken by the owner of the property pursuant to this section and produce witnesses and other evidence detailing the illegal activity of the tenant.

(5) It shall be an absolute defense for the owner of property for charges under this section if such owner initiates legal activity to evict the tenant pursuant to this section, regardless of the ultimate ruling or outcome of the case in court.

~~(6) An owner of property shall have the absolute right to evict any tenant of property upon receipt of the 30-day notice letter from the chief of police or his designated representative.~~

(d) For purposes of this section the following definitions shall apply:

(1) "Operator" means any person, whether an owner, tenant, possessor or any agent, partner, officer or employee, in possession and control of property.

(2) "Property" means any business, establishment, building, vehicle, home, structure or other property, together with the land surrounding property.

(3) "Illegal Activity" means an act harmful not only to an individual but also to a community, society or state, which is forbidden and punishable by law.

#### **~~Sec. 50-36. -- Inspections, investigations and complaints.~~**

~~It shall be the duty of the building and housing commissioner, chief of police, chief of the bureau of fire prevention in the fire department, city engineer, city manager, health commissioner and such other city officers as may be subject to the orders of the city manager and designated by him for such purpose to make inspections and investigations, or to cause inspections and investigations to be made, from time to time to determine whether any condition exists or any activity is being engaged in which~~

~~constitutes a nuisance; and any such officer shall make or cause to be made an inspection and investigation upon complaint being made by any responsible person. Any inspection of investigation that encroaches upon the curtilage of the real property not owned or maintained by the City, absent exigent circumstances, must be made pursuant to a valid warrant or consent. For the purpose of this section, "curtilage" means an area of land attached to a house and forming one enclosure with it.~~