

MINUTES

PUBLIC SAFETY COMMITTEE MEETING

5:30 P. M., JANUARY 14, 2021

*IN RESPONSE TO THE COVID-19 PANDEMIC, THE MEETING OF THE PUBLIC SAFETY COMMITTEE WAS CONDUCTED ELECTRONICALLY. THE MEETING WAS MADE AVAILABLE TO THE PUBLIC AS A LIVE STREAM VIA ZOOM (PER THE AGENDA).

Keeley Steele, Chairperson, called the meeting of the Charleston City Council Committee on Public Safety to order at 5:30 p.m., JANUARY 14, 2021.

Committee Members Present:

Keeley Steele, Chair
Chuck Overstreet, Vice Chair
Pat Jones
Bruce King
Deanna McKinney
Shannon Snodgrass

ABSENT:

Tiffany Wesley-Plear

1. Approval of Previous Minutes –
Councilmember Jones moved to approve the minutes of the previous meeting on 9-24-2020. Councilmember King seconded. There was no objection and the minutes were approved.

2. Bill No. 7889 – A BILL to amend the Code of the City of Charleston relating to prohibiting standing, congregating and obstructing the flow of traffic near an inherently dangerous intersection or highway and declaring halting or obstructing the flow of vehicular traffic a nuisance -

Councilmember Steele asked City Attorney, Kevin Baker, to discuss the bill. Baker stated that the bill creates one new section in City Code to prohibit a person(s) from willfully standing or congregating within 25 feet of an inherently dangerous intersection or highway with the intent of attracting or distracting the attention of the operator of a motor vehicle for any reason. It also requires the City to post signage indicating which intersections are inherently dangerous and where the conduct is prohibited in order to provide notice to the people at those intersection in that area. Baker added that the bill defines an inherently dangerous intersection or highway as to be any intersection within the City where traffic is permitted to flow at a speed of 40 MPH or above, or where vehicular traffic is engaged in the ingress or egress upon a controlled access highway or within the immediate proximity of a bridge. In order for the bill to apply, the City would have to post signage at the intersection, providing notice to the public. It also defines the immediate proximity of a bridge to be a one block radius of the entry or exit of a bridge and it makes this a misdemeanor violation, subject to a fine of up to \$500 or possible jail time upon multiple violations. Baker added that the bill was created at the request of Councilmember Robinson.

Councilmember Jones asked if this would help at the foot of Patrick St. and at Edgewood (where there is not a 40 MPH speed limit), but there is a dangerous intersection. Chief Hunt replied that it would help at Patrick St. Baker replied he did not think the area at Edgewood would meet the criteria as defined in the bill.

Councilmember Steele asked Baker to describe the listed section of the code. Baker replied that the rest of the Article contains other regulations on pedestrians.

Councilmember Overstreet stated he had received several concerns over restricting fundraising groups (such as for schools) and political campaigning. Baker replied that any sort of political signage, fundraising or any type of conduct would be prohibited if deemed an inherently dangerous intersection.

Councilmember Steele asked how many complaints the CPD had received for this issue, and how much time would it take Officers to enforce if the bill were to pass. Chief Hunt replied that he wasn't sure of the number, but he had heard of several complaints. He added that the bill should be looked at from a safety standpoint. Baker added that the Traffic Engineering Department informed him that the intersection on Pennsylvania and Lee had 28 crashes and another 23 metro calls for service during 2020. Additionally, Pennsylvania and Washington had 24 crashes and 44 calls for service. The intersection off of Patrick St. had 4 crashes and 8 calls for service. Leon Sullivan Way and Washington had 2 crashes and no calls for service. In order to uphold a constitutional challenge, the bill was created with data that would show the dangerous intersections. Chief Hunt added that there are extant laws that dictate a degree of amnesty or educational period when these sorts of laws are changed.

Councilmember Steele added that one of the issues is the overly broad language. There is a perception that the bill is being written to curb “panhandling.” Baker replied that the language was written as carefully as possible in order to withstand a constitutional challenge, and one of those ways is to make sure that the law applies in a content neutral way.

Councilmember Overstreet confirmed that a group or individuals can still campaign, for example, they will just be asked to move 25 feet away. Additionally, private property is not affected.

Councilmember Steele asked if any pedestrians were injured in the crash reports statistics cited. Baker did not know as he had not reviewed each accident report, but that information could be obtained. Chief Hunt added that the distraction of signage and other activities is a problem. Councilmember Steele asked if this could be taken on a case-by-case basis through a resolution or bill for a particular intersection through relevant data. Baker replied that they could adopt language for that.

From the audience, Councilmember Robinson added that the language as written doesn’t impact every intersection within the City, adding that a resolution for case-by-case basis is something currently done with changing speed limits. As for campaigning, they can go to business owners for permission for private property. While he is not against fundraising, he stated that he did not want kids at dangerous intersections when they can go on private property or another section of town. Councilmember Robinson added that there should be a broad education on this issue of the different intersections, signage included.

From the audience, Councilmember Cook stated that she had not seen the letter from the ACLU, but she has concerns over the bill. Councilmember Steele read the first paragraph of the letter. Councilmember Cook asked if Baker has had any conversations with the ACLU, and if he had any concerns with 1st Amendment rights. Baker replied that he had spoken with the ACLU to explain the meaning of the bill. He added that the bill was written to withstand constitutional scrutiny. Councilmember Cook asked if there are any other cities in WV that have enacted a similar ordinance that have been challenged, and Baker replied that he was not aware of any.

Councilmember Jones asked how many 40 MPH speed limits are there in the City. Baker reminded him that the definition for inherently dangerous intersection is not 40 MPH and the other things, it is listed as or.

From the audience, Councilmember Hoover added that they are lowering speed limits within the City, and it is not being received well. She added that the ACLU posted on Facebook that the bill would prohibit panhandling, politicking, union picketing, etc., which is not true. Councilmember Hoover added that the bill is not eliminating those activities throughout the City, just at intersections where it is dangerous.

From the audience, Councilmember King added that the Federal government has

restrictions on where people can do these things, such as on highways, because it is inherently dangerous. The goal is to protect citizens.

From the audience, Councilmember Adams asked for a copy of the traffic report data that Baker had.

From the audience, Councilmember Jenkins clarified that essentially the bill could apply to the full length of MacCorckle, the full length of the Boulevard, probably 7th Avenue and Corridor G. As for picketing concerns raised, those mentioned could still have picketed, just not at those intersections. Baker agreed, and added that the restrictions would only apply at those intersections where signage was added. Councilmember Jenkins asked who would have the discretion to post those signs. Baker replied that as the bill is written it would be at the discretion of the Administration, but it could be amended to require that to go through the Planning, Streets and Traffic Committee. Councilmember Jenkins added that it made sense to do that as well since they also do that for things like handicap parking or no parking.

With no further discussion, Councilmember King made a motion to approve the bill. Councilmember Jones seconded. With the ayes being in the majority, Bill No. 7889 was approved.

Yeas: Overstreet, Jones, King, McKinney, Snodgrass

Nays: Steele

Absent: Wesley-Plear

3. SOAR Update –

Councilmember Steele asked Chief Hunt to speak. Chief Hunt stated that the CPD was made aware of potential violations of the law. He assigned the investigation to the Metro Drug Unit, who conducted an extensive investigation that lasted several months. Their findings were given to the Kanawha County Prosecuting Attorney's Office and the City and Attorney, and both offices deemed that there was no violation of the law.

Councilmember McKinney expressed concerns about the needle exchange program, citing children being stuck with needles. She also expressed concern over the behavior that SOAR had given the community. Councilmember McKinney stated she had no invites or conversations with them and their presence in her Ward. She, personally, has been picking up used needles. She cited the report that raised suspicion that SOAR was giving out needles, not in exchange, before public attention on the matter was raised, adding that she did not understand why the investigation was announced giving anyone breaking the law notice. Councilmember McKinney added that the program is supposed to exchange needles but has not been doing that. She asked where the data reports were for the purported rise in needle-related diseases. She asked what other geographic locations were the focus of the study. She asked what numbers were received to determine what areas were in need of such programs. She asked if SOAR was operating in other neighborhoods other than the East Side and West Side of Charleston. Councilmember McKinney added that these decisions should be made by City Council votes with medical guidance.

Councilmember Steele added that she just received statistics from the HIV Task Force, and summarized that between 2018-current, HIV cases have doubled. She will share the report with the rest of the Committee.

Councilmember Jones stated that Council had debated this before 3 years ago, and the passed ordinance is apparently not effective. He stated that SOAR is not requiring needles to be exchanged. They announced that there were going to give out around 360,000 needles in 2021. He stated that this was going to heavily impact the flats. He stated that no other surrounding City had this problem, because those needle exchanges are run correctly.

Councilmember King commented that it seemed to him that the Kanawha County Prosecuting Attorney's Office did not have enough information to make a decision one way or another. Chief Hunt replied that what they were referring to was the not-for-profit status, but he was able to get them the documentation for that. Councilmember King asked why SOAR's grant application to the state was included in the investigation report, and why not the denial letter. Chief Hunt stated that the denial letter came after that date; the grant information was submitted to show relevance to the investigation. Councilmember King asked if other ordinances get this amount of scrutiny from the City Attorney. Baker replied that the City Attorney's role is to scrutinize laws on the books as much as possible. The Attorney's Office looks at all the laws especially whenever there are questions about them. Chief Hunt added that it is not uncommon to seek the opinion of the City Attorney as an investigation moves forward. Additionally, there had never

been a violation of the “needle” ordinance on file. Councilmember King read the denial letter from the DHHR application, citing a lack of the requisite official and community support. Councilmember King stated that harm reduction is a contradiction and is enabling harmful behavior.

Councilmember Snodgrass stated that the original ordinance came about because of an increase in house fires and overdoses, and from discussions with first responders. The goal was to decriminalize hypodermic needles because the Kanawha County Health Department wanted to start a needle exchange program and a vehicle into rehab. She stated that this was a debacle, so the State decertified that harm reduction program. The result was an increase in needle litter, house fires and overall crime. She stressed that the intent of the ordinance was to control what was going to happen to the City, that had nothing to do with profit or non-profit. Councilmember Snodgrass added that the Prosecuting Attorney’s Office showed that SOAR sent a letter of intent to the Mayor’s Office, adding the Councilmembers did not see that letter. She added that the Prosecuting Attorney’s Office stated that if SOAR continued with its needle distribution program as they have informed the City, it appears to be in violation of the ordinance. She added that the Administration had stated publicly several times that if they are distributing needles, they are in violation. She asked how can they continue to advocate a program when they have knowingly violated the ordinance, lied on their application, and how the City’s first responders have not been involved in this (adding that she spoke to first responders who knew nothing about this). Councilmember Snodgrass stated that the City has an ordinance that was set up to have some type of governance. She stated that it appears that the Administration is specifically trying to promulgate this particular program. Baker responded that for-profit or non-profit is not really the problem with the needle ordinance that was passed in 2015. The problem with the ordinance from a legal standpoint is that it requires groups to have any and all State licenses for the distribution of needles, but there are no State licenses. He added that DHHR does a certification, which is what makes it impossible to convict someone under this ordinance in his opinion. However, Baker added that he agrees that the intent was certification, but it wasn’t written that way. Chief Hunt added that his job is to gather facts and present those to the Courts, which is what he has done by getting the facts in the hands of those that take it to the point of punishment. Councilmember Snodgrass disagreed with Baker as to the intent being certification since it says that it also requires the approval of the Chief of Police if no license. Baker replied that words matter in a court of law, and the words that were written in the ordinance are legally ineffective.

From the audience, Councilmember Knauff added that these needles are likely to be used in conjunction with illegal activity along with increased house fires, ER visits from accidental needle sticks and miscellaneous diverted police resources. Discussions to remove the authority to determine who is responsible for public safety issues away from the City’s public safety officers or City Council should be rejected immediately. Public safety decisions should not be made by un-elected public safety task forces, special commissions etc. He added that they need to be made within the realm of public safety officers or City Council as a whole.

From the audience, Councilmember Pharr asked if the ordinance can be amended with specific language as to what they support (such as a one-on-one exchange), and Baker replied in the affirmative, that it can be voted upon as a body of Council.

Councilmember Pharr added they that they have not been thinking about how other people (such as families) are effected by addiction. She added that this is an issue that effects so many communities in the area. Councilmember Pharr stated that if they want to change the ordinance, they should do something and stop talking about it. She added that she has knowledge of people who have moved into the City and want to leave because of the drug issues, and businesses want to close because they cannot deal with this problem.

From the audience, Councilmember Cook agreed with Councilmember Pharr. She added that the data for relevant substance abuse disorders, the rise of HIV/Hep C and the lack of rehabilitation means that they have to find a way forward to better educate organizations that want to do fact-based harm reduction in collaboration with the Police, Fire, Community leaders and healthcare organizations. She added that there is no way one organization (i.e., Health Rite) can serve the needs of the entire community. She encouraged everyone to share the WV Drug Intervention Institute's survey that is trying to gauge harm reduction views and level of knowledge in the community.

Councilmember King sated that they are working on a bill to be introduced that will hopefully address this issue. Councilmember Pharr added that she would like to discuss that with him.

Councilmember Faegre said that she too, had experienced loss from addiction. She expressed concerns about needle litter, and added that the Refuse workers needed to be taken into consideration. She stated that she will do whatever she can to see the City safe and beautiful.

From the audience, Councilmember Knauff stressed looking at the data, its source and impartiality. He added that he had doubts over data that is self-reporting.

4. Resolution No. 418-21 – Authorizing the Chief of Police and the Charleston Police Department to enter into a Memorandum of Understanding with the United States Marshal Service who will direct and coordinate a Regional Fugitive Task Force for the purpose of locating and apprehending fugitives.

Baker added that the resolution authorizes the Chief of Police and the Charleston Police Department to enter into a Memorandum of Understanding with the United States Marshal Service for a Regional Fugitive Task Force. There have been similar MOUs with other federal agencies.

Chief Hunt added that the resolution is addressing the US Marshal's task force, and they will deputize our officers as well also reimburse some of their pay for their overtime.

With no further discussion, Councilmember Jones made a motion to approve the resolution. Councilmember Snodgrass seconded. With the ayes being unanimous, Resolution No. 418-21 was approved.

5. House Fire Update –

Councilmember Steele added that there had been a string of abandoned house fires, and asked for an update.

Assistant Chief Jones from the CFD stated that there were 62 fires in 2015, 70 in 2016 (28 were vacant), 82 in 2017 (28 were vacant), 102 in 2018 (46 were vacant), 104 in 2019 (61 were vacant) and 98 in 2020 (43 were vacant). He stated that roughly 45% of fires are from vacant homes, adding that the Building Department does an excellent job of trying to secure those vacant structures. Most of those fires are from careless heating or cooking. During the current year there have been 10 fires (5 were vacant). He urged anyone who sees someone in an abandoned home or trying to gain entry to call 911.

Councilmember Snodgrass stated that there was a public speaker who requested to speak Councilmember Steele stated that they were not going to allow non-Councilmembers to speak during the meeting due to time. She had previously suggested to others requesting to speak earlier in the day to reach out to their Councilmembers with their questions.

6. Inspection of Apartments Currently Registered –

Councilmember Steele asked Head of the Building Commission, Tony Harmon, to speak. Harmon stated that during Covid-19, they were not going inside apartments for regular inspections unless it was an emergency or safety concern. During normal conditions, they conduct anywhere from 75-80 inspections every two weeks. Most of the fires have been from single-family dwelling vacant structures.

Councilmember McKinney motioned to adjourn. Councilmember Overstreet seconded the motion. Meeting adjourned.