

MINUTES

PUBLIC SAFETY COMMITTEE MEETING

5:00 P. M., MARCH 30, 2021

Keeley Steele, Chairperson, called the meeting of the Charleston City Council Committee on Public Safety to order at 5:00 p.m., MARCH 30, 2021 in West Hall 1 of the Charleston Coliseum and Convention Center, and was made available as a live stream via Zoom per the agenda.

Committee Members Present:

Keeley Steele, Chair
Chuck Overstreet, Vice Chair
Pat Jones
Bruce King
Deanna McKinney
Shannon Snodgrass
Tiffany Wesley-Plear

Other Councilmembers Present:

Adam Knauff
Jennifer Pharr

1. Approval of Previous Minutes –
Councilmember Snodgrass moved to approve the minutes of the previous meeting on 2-24-2021. Councilmember King seconded the motion. There was no objection and the minutes were approved.

2. To Review the Results of the Survey – The results of the survey can be viewed <https://charlestonwv.civicclerk.com/Web/Player.aspx?id=1220&key=-1&mod=-1&mk=-1&nov=0> and will be made available upon request to the Clerk's Office

Councilmember King stated that the results of the survey speak for itself. He appreciated the time of those involved that completed the survey.

Councilmember Snodgrass noted that

- 86.76% of the respondents do not believe that the Health Department's needle program was good for the City of Charleston.
- 83% believe that the Health Department's needle program led to an increase in crime.
- 89.7% believed that needle programs increase the likelihood of an accidental needle prick for the public, Refuse employees and First Responders.
- 89.7% believed that needle programs increase syringe litter throughout the community.
- 83% believed that needle programs result in an increase in the number of intravenous drug users coming into the City from outside areas.
- 88.9% believed that participants in a needle program should be required to meet with a medical professional during each visit to the program.
- 91.9% believed that participants in a needle exchange program should be required to return their used needles to receive new ones.
- 83.8% did not believe that additional needle programs are needed within the City.
- 52.2% had not been asked for their opinion regarding needle exchange programs in the City of Charleston.
- 16.9% have been stuck by a needle in the course of their work.
- 77.9% know how to properly handle a syringe needle.

Councilmember Snodgrass added that it is imperative that they listen to their first responders.

Councilmember Wesley-Plear added that while all the responses were from City workers, there really wasn't a breakdown of how many from each department there were. Some professions are more exposed than others. Councilmember Wesley-Plear added that was also a difference in the Health Department's program in 2018 versus recently.

Councilmember Steele added that according to the HR reports that she received (dating from 2015), the majority of incidents involving needles came from Refuse. She added that the source of those discarded needles (from diabetics, drug use or other) is not known. The second highest degree of incidents were from the CPD (none reported in 2016). There were no reported incidents from the Fire Department since 2015.

Councilmember Wesley-Plear stated that it is important to note that 77.9% knew how to properly handle a syringe needle, because education is important and should continue.

Councilmember Snodgrass stated that the additional comments were important to read.

Councilmember Jones added that the locations of reported needles were important.

Councilmember King added that there had been comments about how 2/3 of the employees did not respond. In any survey, a 30% response rate is astronomical, adding that the WV Drug Institute's response rate was much lower.

Councilmember Jones read 2 responses:

- Don't hand them out, period. Let's just use common sense on this, more needles will do more harm than good. People that have no idea what PD deals with can't understand how big a problem this is. Come join me on one of my frequent abandoned house searches where there are needles left laying [sic] around like cigarette butts, not one or two but literally dozens of open dirty needles. The individuals in support of this need to stop and think for a moment...
- Supporting the needle exchange is a punch in the gut to law enforcement and emergency responders. It's a heartless and thoughtless thing to do regarding the individuals that have been stuck by a dirty needle as well as a slap in the face of their family. Let's put our time and effort and money into healing individuals from their addictions instead of condoning it.

Councilmember Wesley-Plear added that there were also responses using terms like "junkies." At the last meeting, they heard from representatives of some groups using this kind of terminology. There needs to be a mindset change to understand that they are dealing with people on both sides, and they need to not be biased. Councilmember Wesley-Plear added that she would have wanted to know the circumstance around the responders finding the needles and/or being stuck by a needle.

3. Bill No. 7893 - A BILL to amend and reenact the Municipal Code of the City of Charleston relating to requiring any distribution of hypodermic needles within the City of Charleston to be performed by persons or entities that have a certification as a Harm Reduction Program from the State of West Virginia in addition to any required state license; eliminating the ability for the Chief of Police to provide exceptions, and establishing penalties for violations.

Councilmember Steele asked City Attorney, Kevin Baker, to give an overview of the bill. Baker stated that the bill eliminates sections related to the Chief of Police being able to sponsor, approve and participate in needle exchange programs, and authorizing the Chief of Police to create rules related to needle exchange programs. The bill increases the penalty for violation of the ordinance. Section 78-381 would make it unlawful for any person to distribute any hypodermic syringes, needles or other similar objects used or designed for injecting substances into the human body without obtaining and having certification as a harm reduction program from the West Virginia Bureau of Public Health and any licenses required under State law to do so. Section 78-382 specifies that every person under the organization shall comply with all applicable state regulations.

Baker noted that there was currently a bill in Legislature that addresses similar topics, which will be resolved in approximately 10 days. If that bill were to pass, it would go to the Governor for signature or veto. Baker added that his general legal advice would be to wait to see what the State does. Councilmembers Snodgrass and King stated that this was a City matter. Baker replied that the current City law was drafted incorrectly as it relates to State law. Councilmember McKinney requested that Baker be allowed to finish speaking. Baker continued that if the bill in front of Legislature passes, it would require programs to be licensed with the West Virginia Office for Health Facility Licensure and Certification not with the West Virginia Bureau of Public Health as Bill No. 7893 currently states.

Councilmember Snodgrass confirmed with Baker that if the State passed their bill (and the bill is more restrictive), then it would supersede the City's less restrictive bill. Baker clarified that if the State bill requires a license by the West Virginia Office for Health Facility Licensure and Certification and the City requires certification from the DHHR, then it would not match under the law. Councilmember Snodgrass stated that they should address things that are happening today, not many months from now. Baker added that the State has to act by April 10th.

Councilmember King submitted an amendment to Bill No. 7893 (additionally supported by Councilmembers Snodgrass and Jones), adding that a number a survey responses mentioned that they would like a 1:1 program model, to track the needles that are distributed, and for participants to see a medical provider at every visit.

On Page 2, Section 78-382, at Line 35, after the word "regulations.", by inserting the following: "In addition, every Harm Reduction Program operating within the City of Charleston shall (1) receive one returned syringe for every syringe it distributes; (2) maintain a confidential list of the number of syringes dispensed and returned by the program participant for every visit; (3) individually mark each syringe it dispenses with identifying information that clearly and unambiguously allows for the identification of each syringe dispensed by the program that dispensed it; and (4) document at every visit that each participant was offered medical services, including mental, behavioral health, and drug treatment services, by a licensed or certified health care provider."

Councilmember Wesley-Plear wanted to know if the needle identification would be connected to the participant or the program. Councilmember King answered that it would be identified by the program.

Councilmember Snodgrass motioned to approve the amendment. A roll was taken:

Yeas: Overstreet, Jones, King, McKinney, Snodgrass, Wesley-Plear

Nays: Steele

With the Yeas being in the majority, the amendment was approved.

Councilmember Wesley-Plear submitted an amendment to Bill No. 7893 as amended, adding that the intent is that hospitals are not included under the rules are they are equipped to handle it.

On Page 1, Section 78-381, at Line 30, after the period, by inserting the following: "Notwithstanding the foregoing, a hospital licensed by the West Virginia Department of Health and Humans Resources' Office of Health Facility Licensure and Certification is exempt from the requirements of this article."

Councilmember Snodgrass asked if Councilmember Wesley-Plear wrote the amendment. Councilmember Wesley-Plear replied that she did not, but she worked with the City Attorney to write it after having conversations with Matt Sutton and Baker. While she did not initiate it, she fully supports the proposed amendment. Councilmember Snodgrass stated that the previous amendment was proposed due to the feedback from the public and survey that there needed to be accountability (coding the needles, seeing a medical provider, etc.). She added that the proposed amendment would allow hospitals to choose whether or not to do those things. Councilmember McKinney stated that they should be discussing the merits of the amendment, not where it came from.

Councilmember Jones stated that he did not understand why a hospital would have to have a different set of rules. Councilmember McKinney asked why a hospital would not act responsibly. Councilmember Wesley-Plear added that a hospital would also have more resources, such as mental health and a variety of substance abuse programs to offer. She added that she would feel comfortable having a hospital in charge of those programs and would not question their medical expertise.

Councilmember King asked what would prevent a hospital from contracting with a third party for a harm reduction program. Councilmember Wesley-Plear replied that they shouldn't be prevented from partnering with a third party, adding that if they are partnering, then they would be held liable. Councilmember King replied that did not have anything to do with the language of the bill as amended. Councilmember Snodgrass added that in 2015, Council allowed medical professionals to run a harm reduction program and it was a disaster to the community. Councilmember McKinney stated that there was no way a hospital would hand out needles without additionally offering other avenues of help. Councilmember Snodgrass stated that a hospital should comply with the rules as stated in the bill. Councilmember Jones asked if the Cabin Creek Clinic was considered a hospital. Baker added that the Office of Health Facility Licensure website lists: CAMC, Thomas, Highland and the Surgical Center as listed as hospitals in Kanawha County.

Councilmember Overstreet stated that his major concern is for the 1:1 exchange. He would prefer that all entities be required to follow the guidelines rather than trust that they will. Councilmember McKinney added that the point is that there is accountability. Councilmember King stated that the requirements should be for everyone. Councilmember Stelle added that Bill No. 7893 as amended would preclude hospitals from participating in a harm reduction program and ssp, but it wouldn't allow them any

more leeway than what the amendment states.

Councilmember Wesley-Plear motion to approve the amendment to Bill No. 7893 as amended. Councilmember Steele seconded. A roll call was taken:

Yeas: McKinney, Steele, Wesley-Plear

Nays: Overstreet, Jones, King, Snodgrass

With the Nays being in the majority, the amendment was not approved.

Baker suggested that the amendment be worked into the bill as a Committee Substitute.

Councilmember King motioned to approve Bill No. 7893 Committee Substitute.

Councilmember Snodgrass seconded. A roll call was taken:

Yeas: Overstreet, Jones, King, McKinney, Snodgrass

Nays: Steele, Wesley-Plear

With the Yeas being in the majority, Bill No. 7893 Committee Substitute was approved.

Councilmember McKinney motioned to adjourn. Councilmember Wesley-Plear seconded. Meeting adjourned.

Bill No. 7893 Committee Substitute - A BILL to amend and reenact Sections 78-381, 78-382, and 78-383 of the Municipal Code of the City of Charleston and to repeal Sections 78-396 and 78-397 of said Code, all relating to requiring any distribution of hypodermic needles within the City of Charleston to be performed by persons or entities that have a certification as a Harm Reduction Program from the State of West Virginia in addition to any required state license; creating certain requirements for Harm Reduction Programs operating within the City; eliminating the ability for the Chief of Police to provide exceptions, and establishing penalties for violations.

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

That Sections 78-381, 78-382, and 78-383 of the Municipal Code of the City of Charleston is amended and reenacted, and that Sections 78-396 and 78-397 of said Code are repealed, all to read as follows:

~~Subdivision II. - Sale, Marketing, and Distribution of Hypodermic Needles and Syringes~~

~~Sec. 78-381. - Sale, marketing and distribution~~ Distribution of hypodermic needles; state license certification required.

~~It shall be unlawful for any person or persons as principal, clerk, agent, or servant or otherwise acting individually or on behalf of any entity, organization or group to sell, market, or distribute any hypodermic syringes, needles and other similar objects used or designed for injecting substances into the human body, without obtaining and having certification as a Harm Reduction Program from the West Virginia Bureau for Public Health within the West Virginia Department of Health and Human Resources and any and all licenses required under state law to do so: except that, items distributed by or exchanged at a needle exchange program sponsored or approved by the Chief of Police of the Charleston Police Department, as provided by Subdivision III herein, are thereby approved and are not unlawful.~~

~~Sec. 78-382. - Compliance with state law and regulations.~~

~~Every person, entity, organization, or group certified or licensed to sell, market, or distribute hypodermic needles shall comply with all applicable state law and regulations. In addition, every Harm Reduction Program operating within the City of Charleston shall (1) receive one returned syringe for every syringe it distributes; (2) maintain a confidential list of the number of syringes dispensed and returned by the program participant for every visit; (3) individually mark each syringe it dispenses with identifying information that clearly and unambiguously allows for the identification of each syringe dispensed by the program that dispensed it; and (4) document at every visit that each participant was offered medical services, including mental, behavioral health, and drug treatment services, by a licensed or certified health care provider.~~

~~Subdivision III. - Needle Exchange Program~~

Sec. 78-383. - Penalty.

Any person violating any provision of this subdivision shall, if convicted, be guilty of a misdemeanor and be fined not less than five hundred ~~ten~~ dollars nor more than one thousand ~~five hundred~~ dollars for the first offense and succeeding offenses. Each day that such violation shall continue shall be deemed a separate and distinct offense.

~~Sec. 78-396. - Needle exchange program authorized.~~

~~The City of Charleston, by and through its Chief of Police, may sponsor, approve, or participate in a program or programs within the City of Charleston for the distribution or exchange of hypodermic syringes, needles and other similar objects used or designed for injecting substances into the human body.~~

~~Sec. 78-397. - Rules and regulations; Chief of Police authorized.~~

~~The Chief of Police of the City of Charleston Police Department is authorized to promulgate reasonable rules or regulations deemed necessary to implement and administer a program within the City of Charleston provided for in Section 78-396 for the distribution or exchange of hypodermic syringes, needles and other similar objects used or designed for injecting substances into the human body.~~