

SUMMARY OF MINUTES

PUBLIC SAFETY COMMITTEE

6:39 P.M., MONDAY, SEPTEMBER 13, 2010

COMMITTEE ROOM

ROOM 239, CITY HALL

MEMBERS PRESENT: Council Member Vivian H. Burke, Chair
Council Member James Taylor, Jr., Vice Chair
Council Member Wanda Merschel
Council Member Derwin L. Montgomery

OTHERS PRESENT: Council Member Molly Leight (out at 8:03 p.m.)

Chair Burke called the meeting to order and stated that without objection, the Committee would first consider Item G-1 as it was a quasi-judicial hearing.

GENERAL AGENDA

G-1. CONSIDERATION OF AN APPEAL BY MR. JULIUS L. MITCHELL OF THE DENIAL OF HIS APPLICATION FOR A DRIVER'S PERMIT.

Chair Burke noted that since this process is a quasi-judicial matter, the Deputy City Secretary would swear in all parties wishing to speak.

Mr. Gregory M. Turner, Assistant City Manager/ Public Works, gave a summary of the appeal.

After being sworn in, Mr. Julius Mitchell stated that he accepted responsibility for his actions related to the drug charge from 2005 and that since that time, he has tried to rebuild his life and take care of his children. He also stated that he had been a cab driver for 13 years and lived in Winston-Salem for 37 years. He is currently a dispatcher for Yellow Cab Company.

The Deputy City Secretary swore in Mrs. Marilena Jensen-Guthold, Assistant City Attorney.

In response to Council Member Montgomery's question, Mrs. Jensen-Guthold noted that Mr. Mitchell's probation was terminated successfully.

Mr. Turner noted that in compliance with the Vehicle for Hire Ordinance, a taxicab operator's permit was not issued to Mr. Mitchell due to his conviction. Per that ordinance, the petitioner does have the right to appeal the ruling, but staff's goal is to be consistent with the ordinance and recommends that the denial be upheld.

Council Member Leight noted that there was a similar case a few months ago and the Committee Members were not privy to information that did not apply to the violation being considered in the hearing. Committee Members were misled and misinformed by that individual and voted to go against the Winston-Salem Police Department (WSPD) and court ruling, and allowed that driver's permit to be reinstated. She urged Committee Members that since there is not full disclosure of all convictions, other than those involved in this case, not to make the same mistake again.

Council Member Taylor questioned if similar situations should be reviewed on a case by case basis and that the larger issue at hand is the safety of the City and its citizens. He expressed concern about voting against citizens who are trying to reintegrate into society, inadvertently creating a group of unemployed citizens.

Mr. Mitchell noted that he is committed to providing safe service to residents of Winston-Salem and noted that his violation occurred in 2005, but the conviction was delayed until 2007.

Mrs. Angela I. Carmon, City Attorney, stated that due to comments made by Mr. Mitchell regarding his commitment to the safety of citizens, staff would provide some additional information.

Mrs. Jensen-Guthold presented various other convictions of Mr. Mitchell and noted that the City's Code of Ordinances specifies that criminal record review is limited to certain time period so this information was not previously provided.

Mrs. Carmon noted that the ordinance stipulates the same time period of criminal record review as the City's policy regarding the review of applicants for hire, but Mr. Mitchell's credibility became an issue when he stated that he was a safe driver.

Council Member Merschel made a motion to affirm staff's denial of Mr. Mitchell's permit. The motion died for lack of a second.

Council Member Merschel indicated that she felt a conviction of possession with intent to sell and distribute was a violent act, in addition to the assault convictions. She also indicated that while everyone deserves a second chance, she felt that Mr. Mitchell has had multiple chances to remediate these behaviors.

Council Member Montgomery questioned if citizens would be safe with Mr. Mitchell operating a taxicab and would the denial of his permit retreat him to a life of crime.

The Deputy City Secretary swore in Mr. Scott Cunningham, Chief of Police.

In response to Council Member Taylor's question, Chief Cunningham stated that a possession charge is classified as a non-violent crime.

Chair Burke expressed concern that a lack of education has created the problem of a life of crime and sale/use of drugs within the African-American community, particularly with males. Given the current economy, she indicated it would be difficult to tell an individual that they can no longer be employed.

Council Member Merschel noted that Mr. Mitchell stated he was currently employed as a taxicab dispatcher.

Mr. Mitchell confirmed that he works three days per week as a dispatcher but his passion is to drive a taxicab. He indicated that his wife is also employed so there is another source of income for his family.

Council Member Taylor made a motion to overturn staff's decision and allow Mr. Mitchell to receive his taxicab permit. The motion was duly seconded by Chair Burke.

The motion carried on a vote of two in favor and two opposed. Those voting in favor of the motion were Council Members Burke and Taylor with Council Members Montgomery and Merschel voting in opposition.

Mrs. Carmon noted that without a majority vote, Mr. Mitchell would not receive his permit, and as this is a quasi-judicial hearing, Committee Members may not abstain from voting. She also noted that should the Committee choose to reconsider the vote, she would approve of that decision.

In response to Council Member Merschel's question, Mr. Turner stated that an abstention is considered a nay vote. He also stated that if there were three votes in favor, then staff's recommendation would be overturned, but if two or less voted in favor, staff's recommendation would be upheld.

In response to Council Member Leight's, Mrs. Carmon stated that only to provide clarity of the process would it be appropriate to reconsider the vote.

Chair Burke requested a review of appeal hearing procedures for future use.

Council Member Montgomery made a motion for reconsideration. The motion was duly seconded by Council Member Taylor.

The motion carried on a vote of three in favor and one opposed. Those voting in favor of the motion were Council Members Burke, Montgomery and Taylor with Council Member Merschel voting in opposition.

Council Member Taylor made a motion to overturn the denial of Mr. Mitchell's permit. The motion was duly seconded by Chair Burke.

The motion carried on a vote of three in favor and one opposed. Those voting in favor of the motion were Council Members Burke, Montgomery and Taylor with Council Member Merschel voting in opposition.

Council Member Montgomery apologized for his difficulty in making a decision and noted that he only voted for Mr. Mitchell's permit to be reinstated because he is no longer on probation. He requested that in the future if a citizen is still on probation, dependent upon the type of crime, that the appeal not be brought before the committee.

In response to Chair Burke's concern with the Committee's ruling appearing to overturn a court ruling, Mr. Lee Garrity, City Manager, noted that staff has struggled with this procedure, and also noted that this was not staff's recommendation, rather it was mandated by the ordinance. He suggested that Item G-2 be held in Committee to discuss further options and consideration for these cases in the future.

Mrs. Carmon noted that at the last rewrite of the ordinance, staff was aiming to find a way to protect citizens and to give an individual a second chance. In the upcoming revision, a probationary period is suggested, but a determination needs to be made on how far back a criminal record should be reviewed for convictions.

Council Member Merschel noted that in each of these cases, there has been sufficient information presented that would lead her to vote in favor of revoking the taxicab operating privilege. She expressed concern that in trying to address exceptions in individual cases that the City may be held liable.

Mrs. Carmon stated that the City's liability is nonexistent based upon its governmental function.

Council Member Montgomery requested that staff look further back at an individual's criminal record than what is currently stipulated in the ordinance.

G-2. ORDINANCE AMENDING SECTIONS 78-1, 78-2, 78-50, 78-82, 78-112, 78-178, 78-179, 78-181, 78-183, 78-184, AND 78-185 OF THE CITY CODE RELATING TO THE REGULATION OF VEHICLES FOR HIRE.

By consensus, this item will remain in Committee for further modifications by staff.

Chair Burke stated that the Committee would now 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 Taylor 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 - *S.M. Caesar Drive, Glenn Avenue, and Richard Allen Lane.*

C-2. ORDINANCE AMENDING SECTION 42-122(f) OF THE CITY CODE RELATING TO 25 MILES PER HOUR SPEED LIMITS ON CITY STREETS - *Beckerdite-Stewart Road.*

C-3. RESOLUTION OF ADOPTION OF THE FORSYTH COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN BY THE CITY OF WINSTON-SALEM.

G-3. RESOLUTION AUTHORIZING APPLICATION FOR FUNDING FROM THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM TO ESTABLISH A FORSYTH COUNTY DWI JOINT TASK FORCE.

Chief Cunningham stated that this item was requesting authorization to apply to the Governor's Highway Safety Grant Program for a County-wide Driving While Intoxicated (DWI) Task Force. Winston-Salem has one of the higher rates of DWI convictions, crashes and fatalities in the state and this grant will allow the WSPD to partner with the Kernersville Police Department (KPD) and the Forsyth County Sheriff's Office (FCSO) to form the task force. The DWI Task Force will be almost 100% funded by the grant for its first year and any expense not covered by the grant within the first year will be covered within the existing budget. If the grant is approved, six officers will be appointed to the Task Force: three officers and one sergeant from WSPD, one officer from KPD, and one deputy from the FCSO. The DWI Task Force will allow beat officers to turn over a DWI suspect and remain on their beat to continue their patrol.

In response to Council Member Taylor's question, Mr. Garrity stated that staff is currently only applying for the first year grant because the State does not want to guarantee it for multiple years, although it is staff's hope that it will. During the first year, all costs associated with the designated officers, equipment and vehicles will be covered by the grant. All involved parties will have an opportunity to apply for continued funding for three years, while paying a percentage of the cost. In the fifth year, the City will incur complete costs, which are around \$700,000. If the City does not participate, it may not be eligible for other grants from the State in the future.

In response to Council Member Merschel's question, Chief Cunningham stated that the Forsyth County District Attorney's Office applied for and was awarded a grant that will fund an additional Assistant District Attorney (ADA) position to assess only DWI cases. He also stated that while costs may be incurred, it is better to have increased counseling or probation for individuals rather than injuries or deaths.

Council Member Merschel requested to know the funding source for the ADA position and whether or not it corresponds with the funding of the DWI Task Force. She also requested an update of obligations for Community Oriented Policing Services grants or other public safety related grants

In response to Council Member Montgomery's question, Chief Cunningham indicated that the State has identified Winston-Salem as being in the top ten cities relating to DWIs.

In response to Council Member Leight's inquiry, Chief Cunningham stated that five officers and a supervisor will work together exclusively on DWI enforcement, within a group or individually. During DWI checkpoint times, these officers will be able to reduce the number of officers pulled from their regular duties to serve at those locations or assist and increase the number of officers at those locations. Prevention and education will be a major component of the Task Force. He also stated that this is a large grant for the State to allocate to one area and it may help to generate 1,200 to 1,600 DWIs convictions per year.

Council Member Leight noted the controversy associated with DWI checkpoints across the state regarding their misuse as profiling checkpoints, and expressed hope that this Task Force will not fall prey to that stigma.

Council Member Montgomery noted that DWIs refer to more than just the influence of alcohol.

In response to Council Member Merschel's comment regarding the commitment to the grant, Mr. Garrity stated that the City will need to apply for the grant each year or the funding will dry up.

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

G-4. POLICE DISTRICT OPERATIONS CENTER OVERVIEW.

Mr. Turner noted that at the City Council's request for more diverse locations for police operations, staff has reviewed and identified three potential locations within the community, which will provide most of the police services currently provided at the central police station downtown. These locations will reduce time spent inside the police station and increase time spent in the community, which provides better visibility for officers, a reduction in response time, the benefit of police interaction within the community and increased visibility of police facilities. Staff has developed options and proposed leasing spaces within existing, appropriately zoned properties. Staff has proposed two options within each of three service districts (six facilities): the University Parkway/North Point Boulevard area, the Waughtown Street/Sprague Street/Reynolds Park area and the Country Club Road/Hanes Mall Boulevard area. Staff has toured these facilities and it is known by the property owners that the facilities are being considered and for what purpose.

In response to Chair Burke's questions, Chief Cunningham stated that police patrol groups are divided into districts, with approximately 100 officers per group, and rather than all of the officers going to the Public Safety Center (PSC) every time they need to complete paper work or receive an update, these facilities will be located in the community, providing the same functions. The facilities will provide economic benefits, centrally located police services, and will house the captains, lieutenants and all officers for that patrol area, where they would be expected for roll call, updates, administrative tasks, and then perform their assigned beats within their specified areas.

Mr. Garrity noted that staff reviewed a map of the city, all the police districts, crime rates, and existing or planned facilities to choose the best locations.

Council Member Leight noted that she was puzzled by some of the proposed locations and that the southern part of the city, with the exception of Waughtown Street, will have no presence according to the presented choices, even though there are some crime hot spots in that area.

Mr. Garrity noted that those areas are relatively close to downtown so it is not logical to put additional police locations so close to the existing facilities.

Council Member Montgomery requested to see a larger map outlining the districts, identified problem areas and staff's proposed facility locations.

Mr. Garrity noted that this item is still in the proposal stage and no final decisions have been made. Council Member Merschel expressed her support of dispersing officers throughout the community, but expressed surprise at the size of the proposed facilities and the number of officers who will be transplanted from the PSC. She also expressed concern regarding supervision/management at the off-site facilities and requested a full review of the proposed project.

Chief Cunningham noted that this is a new concept for the City, but it is a good idea not only for convenience, but for the officers to have an even greater presence in their community. In the event there is a called meeting or an officer needs to meet with his/her lieutenant, they can simply go to their community location, rather than downtown, and once that meeting or issue is resolved, they can quickly resume their patrol because they are already in the area.

Council Member Leight expressed concern with the proposed locations and noted that a map would be helpful. She also expressed concern that so many patrol officers will be removed from the downtown area.

Chief Cunningham noted that there will still be a core protective group downtown, such as bike patrol, administrative and special operations staff. He also noted that staff identified some locations near Hanes Mall Boulevard, and while that area would greatly benefit from an increased police presence, the locations are expensive. Staff is trying to find the right mix of affordability, accessibility and visibility, and while being conscious of the wards, delivery of police services is the main focus.

Council Member Leight requested an overlay of hotspots, in addition to the map already requested to help alleviate any confusion.

Chair Burke suggested that staff be sensitive to the City and areas where crime is currently a major concern.

G-5. CONSIDERATION OF APPROVAL OF THE REVISED EMERGENCY RESPONSE LEVELS AND EXPECTATION FORM.

Council Member Leight out at 8:03 p.m.

Mr. Turner reviewed the revised Emergency Response Levels as presented in the Agenda book.

Council Member Merschel requested that any time the media is notified, no matter what assigned level the response may be, that all Council Members be notified. She also requested information on the Reverse 911 process, its effectiveness, whether or not it is the best technology and who maintains the list of numbers.

ADJOURNMENT: 8:07 p.m.