

Minutes

**Asheville City Council Public Safety Committee Meeting
February 23, 2015
3:30 p.m.-5:00 p.m.
Training Room, Municipal Building**

Council Members: Cecil Bothwell, Jan Davis, Chris Pelly

Guests: John Ostendorf, Carl Solesbee

Staff: Interim Police Chief Steve Belcher, Asheville Police Department Strategic Operations Plan – Project Facilitator Scott Burnette, , Assistant City Manager Paul Fetherston, Chief Wayne Hamilton, Chief Barry Hendron, City Attorney Robin Currin, Deputy City Attorney Martha McGlohan, Assistant City Attorney John Maddux, Assistant City Attorney Catherine Hofmann, Transportation Planning Manager Mariate Echeverry, Executive Assistant Alex Carmichael

Chairperson Davis called the meeting to order at 3:30 PM.

1. **Approval of the January Minutes:** Councilmember Chris Pelly motioned to approve the January minutes. Councilmember Cecil Bothwell seconded. The motion passed with all in favor.
2. **Staff Updates:**
 - a. **APD Update –**
Assistant City Manager Paul Fetherston
Interim Police Chief Steve Belcher
Interim Strategic Operations Plan Facilitator Chief Scott Burnette

Assistant City Manager Paul Fetherston reported that the recruitment process for the Chief of Police position is underway. The 1st of 3 community meetings will be on 2/24/15. Residents can provide input for the recruitment profile through the meetings, or through a link on the City's project page. The recruitment timeline is on track.

The organizational assessment consultant team is hard at work and will likely have a report next month.

Chief Scott Burnette, Interim Strategic Operations Plan Facilitator reported that Interim Chief Steve Belcher has already met with 5 of the 6

teams. Those teams met and continued working through the winter storms. Chief Belcher reported that he had individual meetings with 11 of the 12 Lieutenants. The Department is working to keep the Strategic Operations Plan implementation moving forward.

3. New Business:

a. Ordinance Amendment to Include E-Cigarettes

Deputy City Attorney Martha McGlohan

Deputy City Attorney Martha McGlohan reported on the evolution of smoking laws in North Carolina and the history of community feedback received by the Transportation Department on e-cigarettes. The School of Government informed the Legal Department that under Chapter 130A of the NC General Statutes, cities could not regulate e-cigarettes as traditional cigarettes, but cities could regulate e-cigarettes under 160A-174 “Police Powers.”

The Transit Committee unanimously recommended an amendment. Staff recommended that Section 11-31 be amended to add the “use of e-cigarettes” to conform to state law; Section 11-32 be amended to define e-cigarettes; and the remaining sections be amended to add the “use of e-cigarettes.”

Councilman Bothwell asked if the Housing Authority was covered. Ms. McGlohan responded that there was a provision under the ordinance that could allow for a ban in the Housing Authority. Councilman Pelly asked if other NC cities banned e-cigarettes. Ms. McGlohan responded that Raleigh, Greensboro, and a number of counties had.

Councilman Bothwell motioned to recommend the ordinance revisions to Council. Councilman Pelly seconded. The motion passed with all in favor.

b. Moped/ Bicycle Regulation

Robin Currin, City Attorney

Catherine Hofmann, Assistant City Attorney

City Attorney Robin Currin reported that last year the NC General Assembly passed a law that required license plates for moped. Previously, the Asheville Police Department was not able to enforce moped parking violations because of the difficulty in determining who owned the mopeds.

The City currently bans “motor vehicles” from driving on sidewalks, but the definition of motor vehicles excludes mopeds. The City prohibits “vehicles” (which includes cars, mopeds, and bicycles) from parking on sidewalks.

Staff recommended ordinance amendments to arrange the ordinance to prohibit mopeds from driving or parking on sidewalks, but allow bicycles to drive and park in designated areas of sidewalks.

The Committee members asked where mopeds would be permitted to park and attached to permanent structures. The Committee did not recommend the ordinance amendments and directed staff to address safe moped parking before moving the amendment moved forward.

c. Citation Requirement – Sections §1-5 of the Asheville City Code

Robin Currin, City Attorney

Catherine Hofmann, Assistant City Attorney

A 1956 provision in the Asheville City Code required that every civil citation be preceded by a warning. Staff recommended amending the code to remove the blanket warning requirement, add new mandatory warnings for certain citations, and allow for discretion in others.

Councilman Pelly moved to recommend the code amendments to Council. Councilman Bothwell seconded. The motion passed with all in favor.

4. Public Comment:

- a.** Carl Solesbee addressed the Committee regarding a noise complaint at Southern Concrete, which is located adjacent to his home on 641 Brevard Road. Mr. Solesbee asked the Committee to find a way to prevent Southern Concrete from operating at late night hours, or changing the Noise Ordinance to allow for a single-household complaint process. Chairman Davis informed Mr. Solesbee that the Public Safety Committee does not have purview over zoning portion of the issue.

Assistant City Attorney John Maddux reported to the Committee that the two-household requirement in the Noise Ordinance prevents “he said – she said” arguments. Further, if the ordinance were to be changed, it would require Council action. City Attorney Robin Currin reiterated that the City does not have the authority to restrict the hours of operation of such a business. A court would not uphold such an attempt by the City.

The meeting adjourned at 4:46 PM.