

PUBLIC SAFETY COMMITTEE

10:00 a.m., Thursday, November 6, 2014

The regular meeting of the Public Safety Committee was held at 10:00 a.m., Thursday, November 6, 2014 in the City Hall Conference Room, 1207 Palm Boulevard, Isle of Palms, South Carolina. Attending the meeting were Councilmembers Bergwerf and Carroll, Chair Bettelli, City Administrator Tucker, Fire Chief Graham, Police Chief Buckhannon, Assistant Administrator Dziuban and City Clerk Copeland a quorum was present to conduct business.

1. Chair Bettelli called the meeting to order and acknowledged that the press and public were duly notified of the meeting in accordance with the Freedom of Information Act.

2. Approval of Previous Meeting's Minutes

MOTION: Councilmember Carroll moved to approve the minutes of the regular meeting of October 9, 2014 as submitted; Chair Bettelli seconded.

Councilmember Carroll stated that the minutes need to be corrected to reflect his attendance at the October meeting and not Councilmember Loftus'.

VOTE: The corrected minutes PASSED UNANIMOUSLY.

3. **Citizens' Comments – None**

4. **Old Business**

Update on Waterway Boulevard and 25th Avenue Intersection

Chief Buckhannon reported that the signs requested by the Committee were now in place, and a photograph was included in the minutes. He added that there have been no accidents.

Chair Bettelli said that, particularly in the off-season, people frequently roll through the STOP sign.

5. **New Business**

MOTION: Chair Bettelli moved to re-order the *Agenda* to address item E at this time; Councilmember Carroll seconded and the motion PASSED UNANIMOUSLY.

E. Contracts in Excess of \$10,000

- 1. Award of a Contract to Vic Bailey Ford for 1 2015 Ford Sedan Police Interceptor in the amount of \$24,168, state contract pricing**

Chair Bettelli commented that twenty-nine thousand dollars (\$29,000) was included in the FY15 Hospitality Tax budget.

MOTION: Chair Bettelli moved to award a contract to Vic Bailey Ford as stated above; Councilmember Carroll seconded and the motion PASSED UNANIMOUSLY.

Chief Buckhannon stated that the money remaining in the budget for this vehicle will be used to appropriately outfit the vehicle for police use.

2. Status of RFB on the Fire Truck

Assistant Dziuban reported that the purchase of the fire truck was included in the FY15 budget. The RFB has been issued, questions have been answered and the bid opening would be at 10:00 a.m. on Tuesday, November 11th. The bid results will go directly to Ways and Means and City Council for a contract award. The Assistant added that some vendors stated that it would be difficult to complete the process in FY15; therefore, the City might need to re-budget the funds to FY16.

The Administrator commented that the RFB is on the City's website, and Assistant Dziuban warned that the bid is complicated and contains pages of specifications.

A. Discussion of Noise Ordinance

Administrator Tucker recalled that she had sent a communication to Council about noise complaints at Morgan Creek Grill; the issue went before the Real Property Committee. As a result of reviewing the documentation presented by the complainants and the police responses over several years, the Committee recommended that Morgan Creek Grill be placed in default of their lease because they are violating a City ordinance. The complainants cited two (2) things in the ordinance that they believe Morgan Creek Grill is violating as follows:

- The ordinance states that amplified music is not allowed outdoors on public property; and
- Even if one argues that MCG is not in violation of the above because Morgan Creek Grill is a private entity leasing public property, they remain in violation due to the extent of the information offered by the complainants. The ordinance states that, if the noise disturbs someone in their home, it is a violation.

The current noise ordinance came into being because many years ago, the City started getting noise complaints and conflicts related to the noise from Coconut Joe's; the City enforced on those complaints. Coconut Joe's, in turn, filed a complaint against the City that was heard in federal court under the old noise ordinance which was a decibel level ordinance, and the City did not prevail.

In the arguments presented today by Senator Campsen, he referenced case law about what constitutes a public place, and in one (1) case, a hotel lobby could be considered a public place despite being privately owned. That highlighted the component of the noise ordinance that speaks to amplified music in a public places. When Morgan Creek Grill stated that they would adhere to the ordinance to come into compliance and get out of default, they also implied that, if the City is going to enforce that section of the code for public place, they hope the enforcement would be done equally throughout the City.

The Administrator explained the Police Department's enforcement of the noise ordinance was based on the view that, if something was privately leased or private, amplified music in a public place was not the section of the code under which they were enforcing. The City has, in the past, not had the habit of making that interpretation; when Morgan Creek Grill was involved, that was not the interpretation being made for the one (1) time they were issued a citation for violation of the noise ordinance.

If Senator Campsen's interpretation is correct and the wording stays in the City's ordinance, other areas of the island or other businesses on the island might be interpreted to be in violation because they have entertainment that is outside or is amplified in spaces that would be considered public places. Therefore, if the City was to enforce the noise ordinance evenhandedly, the City would be put in a position to let the other establishments know that they need to shut down the amplified music; among the venues that come to mind were Coconut Joe's, the Grand Pavilion, the Villages, the Palm Cove pool, sometimes on the deck at the Boathouse, etc.

The Administrator suggested that the City may want to consider some modifications to the noise ordinance if it is not the City's intent to shut the amplified music down, unless the music is disturbing someone in their home under the existing provisions of the noise ordinance. Administrator Tucker commented that she has provided this information for the Committee members to think about; she noted that City Attorney Halversen has not completed her research or reviewed the file on the other case with Coconut Joe's. The Administrator stated that one (1) way to solve the potential for enforcing in all of these locations would be to take out the provisions that refer to outdoor places owned by the City and under the control of the City. If the City wanted to become more restrictive, the venues that have had outdoor, amplified music in the past must be informed that they could no longer do so without incurring a violation under the City's noise ordinance. Administrator Tucker advocated leaving the statements in the noise ordinance that refer to disturbing people in their home, but to get more clarity on the outdoor spaces issue.

Councilmember Carroll asked whether the City lost the Coconut Joe's case over the decibel level; Chief Buckhannon said that it was not decibels but the use of the word "and" in one (1) of the sentences in the ordinance. There were other parts that the judge found to be at fault, but he could have separated parts of the case out if the City had used the word "or." The Chief stated that one of the most important things the case pointed out was a noise ordinance is a First Amendment/free speech issue, and as such, it is hard to enforce. A narrower ordinance is easier to enforce, but must avoid the appearance of taking away someone's rights.

Councilmember Bergwerf acknowledged that she is a member of the Real Property Committee; one (1) gentleman showed an invoice for eight thousand dollars (\$8,000) trying to soundproof his home; allowing amplified music in a public place is not a solution. She recalled that there was not only one (1) person complaining at the meeting, but a neighborhood; residents attended who live on Intracoastal Court and Waterway Island Drive. The complainants' recommendation was for Morgan Creek Grill to move its music inside.

Administrator Tucker reiterated that, if the outdoor music – amplified or not – disturbed the neighbors, it would still be a violation.

The Administrator reported that, to her knowledge, no one has complained about music emanating from Morgan Creek Grill since they were put on notice; they have cancelled acts and changed the type of entertainment offered to come into compliance.

Councilmember Carroll said that he would consider any building where people can come and go without prohibition to be a public place; he reported that he lives on Tabby Lane, coming from either Front Beach or 41st Avenue – he was not sure which. He also informed the Committee that Goat Island now has a music venue, Goat Island Gatherings, that offers music, and there is no control for that location. The Councilmember added that he supports the residents that they should be allowed to go to bed and to sleep undisturbed.

The Chief reminded the Committee that the idea of sleeping undisturbed was the thought behind the differences between daytime and nighttime regulations. The Chief explained that, when an officer responds to a noise call, he meets with the complainant and goes into the house where they are hearing the disturbing noise to confirm the problem. There have been times when simply closing a window corrected the problem; on other occasions when the officer could hear the noise through double pane windows, the officer agreed that a violation was occurring and something could be done about it.

Upon reviewing the list of police responses to Morgan Creek Grill from 2009 forward, Councilmember Bergwerf asked whether these calls were included with the monthly Livability Report; Chief Buckhannon responded that they were on the report and identified by address, 80 Forty-first Avenue.

The only call to the City Administrator from the Smiths was about the location of the band at Morgan Creek Grill; the Administrator contacted Jay Clarke and Carla Pope about it. As a result, they pointed the stage toward the restaurant rather than into the parking lot.

Administrator Tucker noted that the complainants had quite a bit of documentation and had taken the time to prepare.

B. Consideration of Improvements to the IOP Kennels

Chair Bettelli said that he had made a trip to the Public Safety Building to get a firsthand look at the City's kennels and to take some pictures; he stated that he was unaware of any specific complaints from people who have had their dog boarded there for any length of time. Chief Buckhannon concurred.

Administrator Tucker explained that the previous kennels were outside and beside the old Building Department; a Councilmember voiced the need for the kennels to be improved, i.e. climate-controlled and comfortable for the animals when detained. Although the new kennels in the Public Safety Building meet design standards, they are not climate-controlled, except for heat and nature; so the conditions are not as refined as they were at the old facility. That member of Council is serving again and has had his dog incarcerated; he asked the Committee to consider whether any changes could be made. The climate-controlled issue was mentioned, and he indicated that there was no way for the animals to get off the concrete floor; Chief Buckhannon has assured the Administrator that the animals do have beds, which was depicted

in a photograph the Chief passed around, showing that they can get off the concrete floor. In terms of air conditioning, the kennels are not climate-controlled; the Chief reported that the area never gets really hot because there is air through the downstairs and the space is shaded.

Chief Buckhannon's photographs show an elevated shelf and the beds are a mesh material that can be washed; the dogs can easily access the shelf.

Councilmember Carroll asked how long an animal was normally incarcerated; the Chief said that about ninety percent (90%) of the animals spend only a few hours in the kennels. Animals staying longer than a few hours are normally picked up by the owners within a day; if an animal is not claimed for two (2) days, it is transported to the SPCA.

The advocacy was to inspect the kennels and, if it is found that improvements can be made, that they be made in the FY16 budget.

Administrator Tucker noted that she had gone online to research standards for municipal kennels and was unsuccessful, but she did find standards for kennels, like the SPCA, produced by a group of veterinarians. The Administrator stated that she was unable to find any information about the conditions for municipal kennels where animals are detained for a short time.

Chief Buckhannon reported that officers routinely walk the dogs and talk to the dogs.

Chair Bettelli stressed the need for all dogs on the island to be registered with the City so that, if a dog was picked up, it could be reunited with its owner sooner.

Councilmember Bergwerf stated that air conditioning the entire space was unrealistic, but she could support the use of a fan to circulate the air in the heat of summer. In the Councilmember's opinion, the City was doing all it could for animals that are picked up, especially since the stays are typically less than two (2) days.

The Public Safety Building is in a very public space and the kennels are in the garage area of the building and if the dog(s) are crying or barking, the public might be concerned that the animals are distressed for some reason.

C. Discussion of Ebola Protocol

Administrator Tucker stated that she had asked that this item be put on the *Agenda* to inform Council that the City does have a plan and citizens can be reassured that the Public Safety personnel are prepared. If the City was to have a suspected case of Ebola, first responders have the protective gear to wear, have been given information, have trained for and have the appropriate numbers to call. The Isle of Palms is a transient community, and many of the island's residents travel quite a bit, so the City is more vulnerable than some others might be.

First responders actually have two (2) protocols; the first would be if personnel knew ahead of time that the person is suspected to have Ebola, and the second would be that personnel were made aware of the Ebola possibility after they arrive at the location.

D. Discussion of NCIC Budgetary Impact

Administrator Tucker explained that this was a situation where powers that the City does not control but whose services the City needs make adjustments that pass an expense down to the end-user. The anticipated budgetary impact is a maximum of thirty-three hundred six dollars (\$3,306), that staff believes to be absorbable within the FY15 budget.

Chief Buckhannon commented that NCIC is the National Crime Information Center, the database that contains any warrants or "hits" on people in the system throughout the nation; this is the entity that the City communicates with on the ten-minute (10 min.) hits. NCIC also issues BOLOs, be on the lookout for, on someone who is missing or who might be in danger; they also provide tag and driver's license information.

By way of explanation, the Chief reported that the City has two (2) services that are provided by the State to have access to NCIC; the first service is a frame-relay connection, similar to a broadband connection that is provided by AT&T. AT&T has notified the state that the service is being discontinued which forces the City to have a T1 line, and the T1 is more expensive than the frame-relay. A second cost component to have the NCIC access is the state's Chief Information Officer (CIO) system that maintains the connectivity between NCIC and SLED to all of the agencies that participate in the NCIC system. The cost for the CIO system will remain the same at one hundred twelve dollars (\$112) per month; the cost will increase from one hundred seventy-two dollars (\$172) per month for the frame-relay to four hundred thirty dollars (\$430) a month for the T1 line.

Administrator Tucker explained that staff has anticipated the increase for a period of seven (7) months on the FY15 budget, but the cost could be less if they do not have it ready for two or three (2-3) months.

In addition, Chief Buckhannon stated that there is a one-time (1) charge because the router that the City uses to allow the hookup with the state has reached its end-of-life, and the state CIO office has informed the City that it needs a new router. The router is expected to be fourteen to fifteen hundred dollars (\$1,400-1,500).

Chair Bettelli asked where the line terminates, and the Chief replied that it goes into the state CIO office in Columbia.

The Administrator added that the expense would be paid from the "Telephone and Cable" line in the FY15 Police Department budget.

6. Highlights of Departmental Reports

Fire Department – Chief Graham

On October 31st, personnel responded to a home on Cameron Boulevard about an odor coming from the hot water heater; after checking the residence for carbon monoxide and being unable to locate the source of the smell, the residents were advised to have the water heater inspected by a service technician. Total calls for the month were eighty-one (81), and, of that number,

thirty-one (31) calls were EMS calls; five (5) pre-incident surveys were done. Thirty-six (36) fire inspections were done that found a total of ninety-three (93) violations. October saw a variety of training, but Chief Graham was pleased to have a new device for securing an airway that has less room for error for medical in-service training. Vehicle maintenance was relatively low, but all invoices were not available and will be included on the report next month. Several members of the Fire Department purchased the wood and replaced the steps to a residence to make them safe for a disabled resident.

Councilmember Carroll reported that a previous member of Council, who is in her late seventies, called the Fire Department for assistance because her washing machine was going haywire and had soaked the carpet in the house. Two personnel responded and took care of her situation until Boss Carpet could arrive to dry out the carpet. The Councilmember thanked Chief Graham and her crew for their random acts of kindness.

Police Department – Chief Buckhannon

In one (1) October case, a woman hired two (2) men to paint her house and gave them her credit card information to buy supplies; when she received her bank statement, she found that they had made several unauthorized purchases. Mid-month, a man reported having contracted with a company to provide strippers for a party at his residence; only one (1) stripper arrived, charged his credit card over two thousand dollars (\$2,000) and left immediately without fulfilling the contract. On Sunday, October 19th, an officer saw three (3) juveniles driving a golf cart after dark; the juveniles were not authorized to use the golf cart and the owner did not know them; one (1) of them had keys to several types of golf carts in his pocket. The Department hopes that it has found the persons responsible for golf cart thefts and damage to those carts when returned. A Meet and Greet was held in the City Hall parking lot on Thursday, October 30th and approximately fifteen (15) residents attended. Dispatchers handled five thousand four hundred twenty-four (5,424) calls in the month; four thousand eight hundred forty-eight (4,848) were for the Police Department; five hundred sixty-seven (567) traffic stops were made, resulting in two hundred thirty-four (234) tickets. Officers arrested eighteen (18) persons in October primarily for traffic offenses. There were eleven (11) noise complaints and all received warnings. This is the time of year when training picks up for the Police Department; the state is encouraging training in criminal domestic violence.

Administrator Tucker reported a plumbing problem in the Public Safety Building that required attention; the Administrator noted that information continues to be funneled to Chris Deters with the Kirshner Firm.

7. Miscellaneous Business

Next Meeting Date: 9:30 a.m., Wednesday, January 7, 2015 in the Conference Room.

8. Adjourn

MOTION: Councilmember Carroll moved to adjourn the meeting at 11:19 a.m.; Councilmember Bergwerf seconded and the motion PASSED UNANIMOUSLY.

Respectfully submitted:

Marie Copeland
City Clerk