

SAFETY COMMITTEE

December 16, 2008

3:50 P.M.

Councilwoman Gaines, Chairman, called the meeting of the Safety Committee to order, with Councilmen Benson, Bennett, Berz, Gilbert, Robinson, Page, Rico and Pierce present. City Attorneys Randall Nelson, Phil Noblett, Valerie Malueg, Phil Noblett and Crystal Freiberg were present, as was Shirley Crownover, Assistant Clerk to the Council.

Others present included Chief Williams, Officer Dunn, Daisy Madison, Greg Haynes, Steve Leach, Barry Bennett, Jim Templeton, Gary Hilbert, Dennis Malone, Lee Norris, Dan Johnson, Chief Parker, Larry Zehnder, Donna Kelley, Richard Beeland and Bill Payne.

Before the meeting began, Councilwoman Berz stated that she had people in the audience who would like to be heard when we get to the Noise portion of the discussion.

Chairman Gaines called the meeting to order, stating that Randall Parker was present to go over a Grant for additional boats, etc.

Chief Parker stated that there was a possibility of a Port Security Grant, and the deadline was January 13th; that this would authorize fire boats and an in-kind match we can get without a direct cost. He reiterated that the deadline was January 13th, and the need to get this on the Agenda for January 6th; that the Grant would cover additional training and additional boats.

Councilwoman Robinson noted that we have a program in place with the capacity to fight fires aboard boats. She asked if this was different?

Chief Parker explained that it was split by the Dam—one below the Dam and one above—that they saw that funding was available.

Councilwoman Robinson asked the amount we were looking at? Chief Parker responded \$300,000 to \$400,000 with a 20% match, which he believed we had offset. He stated that they felt they needed to broach the subject since the deadline was January 13th, and the next Council meeting will be January 6th.

Councilwoman Berz stated that she thought this was a great idea.

Chief Parker confirmed that they would not be coming back to ask for more money.

Chairman Gaines asked him to talk about the boats. He mentioned a Boston type that was bought with grant money and used more often; that we were looking at smaller boats to be used in flooded areas such as the Rubber Zodiac.

At this point, Councilman Benson asked if we needed the subdivision regulations on tonight's agenda or if this could wait until January 6th. Councilwoman Bennett reminded him that this does not come to the Council anyway.

CHATTANOOGA ENDEAVORS—TIMOTHY DEMPSEY, CEO

Tim Dempsey, CEO of Chattanooga Endeavors was present to speak about Remunerative Work Training and to explain the impact on the City of Chattanooga with respect to public safety. He introduced John Lindsay and George Island, stating that George worked with the Senior Neighbors at Alexian Village—that he had gone through their program and now had paid employment. Mr. Dempsey stated that he was asking the City to re-classify some of their positions through attrition for remunerative work training positions for CEi participants. He added that there would be some specific considerations such as the positions could not exceed 12 months and those being released from prison could not re-offend. He noted that a lot of research had been done and showed that employed offenders do not go back to prison; that it would be worth it if even one recidivist stayed out of danger. He stated that there was a lot of work to do, and it takes a lot of resources to do it—that we need to open up jobs.

Chief Williams noted that Mr. Dempsey had mentioned that we were designated the 8th highest in the nation in crime; that the most recent documentation inside the City lists that crime is only up 2%--that in outlying areas it is up a larger amount; however inside the City it has risen only 2% since 2006.

Mr. Dempsey stated that their analysis was correct when you look at the FBI Crime Report—that it puts us at the 8th highest in the land; that other communities look at the FBI Report.

Councilman Benson stated that he thought Chief Williams was disagreeing with the data and not the concept. He went on to say that he thought Mr. Dempsey was selling their program short—that they go into prisons and select good candidates.

Mr. Dempsey stated that 500 people were dismissed from the State into our area, and the number was very likely to go up; that if they are discharged sooner, we have more discharges and this is a problem in this bad economy; that once they identified the people, they vetted them and supported them, and it was really a timing issue; that having positions available in the City of Chattanooga would relate more directly to their Training Program.

Councilwoman Bennett asked if they currently had an understanding with City for these positions? Mr. Dempsey responded “no”—that creating situations with unfair advantages was not appropriate; that they had had good experience with the City and wanted a chance to get something better.

Councilman Page stated that he appreciated the work that he was doing, but he felt the most appropriate thing would be to talk to Donna Kelley and Personnel because they monitor employment, and this Council should not go overboard.

Mr. Dempsey stated that that was where they started out and that Ms. Kelley recommended that they come here; that she asked him to bring this report to the Council and that Councilman Benson put him in touch with Councilwoman Gaines about this committee.

Chairman Gaines stated that the program is receiving County funds but no City funding. She stated that she spoke to Mr. Dempsey about the joint Budget Sessions in May.

Mr. Dempsey mentioned Community Impact along with the nature of what they were doing here.

Councilwoman Bennett stated that it was mentioned that the County does provide funding. She asked if they also provided jobs? Mr. Dempsey stated that he would be discussing this with them as well; that he was having conversations with them. Councilwoman Bennett suggested putting this in the Personnel Committee. Chairman Gaines stated that she thought it would make a great joint item between Safety Committee and Personnel Committee.

Councilman Benson stated that he would ask that Donna Kelley study this.

CURFEW AND NOISE ORDINANCES

Attorney Freiberg stated that she had yet more documents to provide to the Council. Her handout is made a part of this minute material. The first document she went over was the sections dealing with Curfew for minors, which stated that it is unlawful for any minor under 16 years of age to loiter, wander, stroll or play in or upon the public streets, highways, roads, alleys, parks, playgrounds or other public grounds or any place unsupervised by an adult having the lawful authority to be at such places, between the hours of 11:00 p.m on any day and 6:00 a.m.; however on Fridays and Saturdays, the effective hours are between 12:00 midnight and 6:00 a.m. She then went over six exceptions, which are as follows: (1) When a minor is accompanied by his or her parent, guardian or other adult person having the lawful care and custody of such minor; (2) When the minor is upon an emergency errand directed by his or her parent or guardian or other adult persons having lawful custody; (3) When the minor is returning directly home from a school activity or recreational activity; (4) When the minor is returning directly home from lawful employment; (5) When the minor is attending or traveling directly to or from an activity involving the exercise of first amendment rights of free speech, freedom of assembly or free exercise of religion; and (6) When the minor is in a motor vehicle with parental consent for normal travel.

Section (b) cites parental control and the possibility of the parents being cited for allowing a minor to be out after the curfew time.

Section 25-3 pertains to the possibility of the juvenile being cited and detained for a reasonable time after being taken home to ascertain his parents' or guardians' wishes, and they have refused to be held responsible.

Section 25-5 states that violations are to be punished in juvenile court. Attorney Freiberg pointed out that if a parent is cited, they can only be fined \$50.00, and the child goes to Juvenile Court.

Councilwoman Robinson asked if a parent could be brought into court and made to pay?

Councilman Pierce asked the punishment for the child who goes through Juvenile Court?

Attorney Freiberg noted that in either case the fine could not be more than \$50.00.

Councilman Gilbert asked if the adult could be anyone who is 18 years old?

Councilman Pierce stated that he thought Juvenile Court was under State Law. Ms. Freiberg noted that they could not go to City Court, only Juvenile Court. Councilman Pierce wanted to know if they could be regulated by fines other than those City fines. Ms. Freiberg noted that the D.A.'s office will not allow us to prosecute these things, prompting Councilman Pierce to question where we are trying to go with this Law?

Chairman Gaines stated that we were looking at both the Noise Ordinance and the Curfew Ordinance, thinking we might integrate them to strengthen both.

Councilman Pierce wanted to know how many times we have actually imposed curfew offenders in Juvenile Court? Chief Williams responded "very infrequently"—that Juvenile Court has said "don't bring them over for curfew violation, because we won't take them". Councilman Pierce pointed out that we have laws already in effect that we can't enforce and strengthen. Attorney Freiberg noted that Juvenile Court was the only place to send them.

Chairman Gaines noted that in the past Attorney Nelson had mentioned the possibility of increasing the fines questioning if it could be \$50.00 on curfew violation and \$50.00 on noise violation. Attorney Nelson stated that \$50.00 is as high as we can go under State Law. Chairman Gaines noted that many States have higher fines.

Councilman Page stated that he understood what Councilman Pierce is saying; that our laws in force today are problematic and questioned how we could help; that he knew people here today were from Councilwoman Berz' district, and we should get to the point.

Councilwoman Berz stated that people from her district wanted to be heard about these two topics; that our purpose is to look at the laws and see where we go from here.

Chairman Gaines stated that she had said that nothing would be resolved today—that we are just opening up dialog; that she had two people here today—Chip Baker and David Johnson who she wanted to be part of the discussion.

Councilwoman Berz asked Ms. Fogerty if they had a spokesperson for her district.

Chip Baker spoke, stating that he appreciated the opportunity to be here on behalf of Riverbend; that they wanted to be part of the process and part of the discussion and would help in any way that they could; that Riverbend went from 4:30 p.m. to 11:30 or 12:00 p.m.; that he had attended a meeting about Safety and Security and Noise; that this was all about the community and Fred Griggs lives in River Pier Landing; that they worked with the downtown merchants in a cooperative spirit; that Riverbend would be June 5th to the 13th next year.

Chairman Gaines asked if he had had any concerns about noise? Mr. Baker responded only when Alabama played in the big rain; that they returned to the stage and played until 1:00 a.m. and then the fireworks happened after this and 20,000 people were in attendance—that this was the exception and not the rule.

Councilman Benson quipped that he thought that night scared people at St. Barnabas.

Councilwoman Bennett stated that when we talk about policy, it is broad and sweeping and could impact movies and churches, and we need the right people at the table to discuss noise across our community—that we have club noise and even train noise—that the trend is a broader issue and has several different layers, and we don't have the resources that we need; that we need to get the right people working together with good recommendations to update our Ordinance, which she thought would be helpful.

Chairman Gaines stated that she had invited Chip Baker here because he had had calls about noise across the water and the houses there. Mr. Baker responded that people had e-mailed him—some but not many—that it was less than 1%, and they could handle this scenario.

Councilwoman Robinson stated that she thought the work that Riverbend has done with the downtown merchants is very good; that Mr. Baker had a great deal of experience, and it was interesting to see how the new Waterfront would be managed and who would be in charge, and it was Friends of the Festival. She mentioned the management services that they provide to make sure the Waterfront is what it should be.

Mr. Baker thanked Councilwoman Robinson; noting that they started with the biggest event and all else falls in line. He mentioned that they had been discussing recycling and also talking with Gene Hyde.

David Johnson spoke next. He noted that they had had some questions in regards to curfew about people attending events at the Memorial Auditorium; that sometimes their events go to mid-night. He also questioned if the measure of 25 ft. was in front of the building or the boundary line? He mentioned the decibel level; that he and Chip Baker used the same sound people, and he would suggest that they be involved in any discussion. He again questioned where the measurement was taken—25 ft. in front or the boundary level?

At this point, Councilwoman Berz asked that people in her neighborhood be heard—that they were affected by noise and their peaceful lives were interrupted; she asked about the law itself and the enforcement of the law. She noted that Mr. George would be the spokesperson, and we should have other citizen input as well—that the point is peace and quiet and involves clubs or things going on outside clubs.

Councilman Benson stated that she was talking about a neighborhood, and the Riverfront is not a neighborhood.

Chairman Gaines stated that was why she had invited Mr. Johnson and Mr. Baker; that at the onset when we previously had this discussion they were involved; that she invited them to be here as well today; that she wanted to pull everyone back in, and this was the reason they were here; that there would be two sessions between now and February, and they were both welcome to come back; that she understood that there was a neighborhood concern, but these guys wanted to be a part of this and this had started before Councilwoman Berz was even here, and that she had not had an opportunity to share with Councilwoman Berz why this is taking place; that she did welcome Councilwoman Berz' community members today.

Councilwoman Berz stated that this involved various clubs and a Conoco Station, which was part of Councilwoman Gaines' district as well; that she had asked them to come here and that Mr. George would be the spokesperson.

Mr. George stated that Riverbend has nothing to do with their problem; that their concern is in the neighborhood and the noise level on Saturday nights; that they would like to see the Noise Ordinance enforced, which is the only recourse that they had; that you can't force people to move along after the club closes; that they would like to see the Noise Ordinance enforced as written here; that they would like to be able to sleep on Saturday nights and did not want to have to make videos.

Councilwoman Bennett asked if the noise was coming from the parking lot or the business?

Mr. George stated that it was all put together; that most Saturday nights you would see the Conoco Station and people parked in Brainerd Road and walking all over the street and the people that lived around there could not sleep; that the noise level is well above the rules, and they wanted the rules enforced.

Councilman Rico asked if they had called the police? Mr. George responded that they called the Police on a regular basis and were told they had to file a complaint, and the police had to actually hear the noise. Councilman Rico questioned if this could not be dealt with as a public nuisance?

Chief Williams explained that the situation would have to be tied to that business and that address to be declared a public nuisance.

Councilwoman Bennett questioned if this club or "a" club has this much noise, why would the people around it need to call the police?

Chief Williams stated that the police were already out there; that this is the Delta Zone and this situation had been going on for a long time at the same location; that Saturday night was a very busy night and Deep Blue had a robbery; that there are parking problems for all the owners around the club and moving vehicles; that they issued 15 citations Saturday night and had a DUI arrest; that noise violation was listed and it showed how many citations there had been; that there was a high call number and Deep Blue is a real strain on the community; that there are further problems after Deep Blue closes and the people go other places like Tunnel Blvd and use the adjoining parking lots with loud music. He stated that they got to the scene as soon as possible; that last Saturday night a large fight broke out—that this was all normal procedure with Deep Blue and Millennium; that they had only four officers and 400-500 people to deal with.

Councilwoman Bennett asked if the clubs had their own security? Chief Williams responded on-premise.

Councilwoman Robinson asked if security was required outside the facility on the parking lot? Chief Williams responded that they tried to do this—that a lot of the business owners are afraid if they block the parking lots that they will vandalize their businesses.

Councilman Benson asked the timeframe and was told from 11:00 p.m. to 3:00 a.m. Chief Williams stated that they issued citations and make arrests but there was such a volume of people. He stated that he had Officer Dunn with him.

Officer Dunn stated that from January 1st to December 12th, they had 16 actual calls involving noise; that they know this is happening and when they get to Deep Blue, they are gone; that they tried to be there as much as they could; that he knew how the people felt—that the noise would shatter their windows, and they were doing all they could; that most of the problem is with Deep Blue—it is their patrons on the outside on the parking lots; that Deep Blue is the problem, and they had turned their music down. He stated that the noise was too loud and the music systems could shatter cars.

Chief Williams stated that Conoco had ignored them because this is such a profitable location.

Mr. George asked if the people could not be made to move along so that the noise would not be such a problem? Chief Williams stated that there was nothing to prevent them from being on city streets.

Chairman Gaines stated that Mr. George had heard her say that we had convened this meeting to try to strengthen our laws; that there would be another meeting on January 20th; that right now we were happy to hear from him but that she would like to go back to Attorney Freiberg to talk about the actual law and what is real and what is not; that right now we don't have laws to control this.

Attorney Freiberg stated that the Noise Ordinance was ten pages long. She referred to **Section 25-68** where the problem of noise is discussed and how we define noise; that she could go through and talk about noise and define what is too much. She stated for instance in looking at dogs—that it is crazy but there is a problem in how we define it; that there is a machine to measure decibels.

Councilman Pierce stated that he thought we had bought some of these machines.

A man from the neighborhood stated that they had bought two for the City.

Officer Dunn stated that he did not know how many decibel meter machines we had, but at 50 ft., it was too loud.

Councilman Pierce stated that he thought the Judge said we had to measure decibels.

Councilwoman Berz stated that when she came on board, this problem existed and since it had been going on so long, there should be some sort of solution to give people peace, and they should not have to wait for that.

Chairman Gaines asked Councilwoman Berz if she had any suggestions.

Councilwoman Berz stated that the bottom line is enforcement; that laws are enforced legally; that we needed to look for a paradigm shift to give these people relief.

Chairman Gaines again asked Councilwoman Berz if she had any suggestions.

Councilwoman Berz stated that she did not know the answer; that we needed to sit down and have a discussion with the citizens and also the police and have a real open discussion about the solution.

Chairman Gaines stated that that was a point well taken—that whatever we do, we have to be lawful.

Councilwoman Berz asked Chairman Gaines if she had heard the people? Chairman Gaines responded that she heard the people; that she had frequented Deep Blue; that we needed to wrap this discussion up.

Mr. George stated that on Friday and Saturday nights there are not enough enforcement officers to move the people along. Officer Dunn noted that they had other calls, too. Mr. George suggested pulling officers from more peaceful areas to come here.

Chairman Gaines stated that she had been asking for this same thing for 25 years and still said that we needed to be realistic. Mr. George responded that he thought he was being realistic. Chairman Gaines stated that you can't pull cops out of other districts. Councilman Gilbert added that we are short on cops already; that it is difficult to cover all the areas now—that things are going on everywhere.

Mr. George stated their only problem was noise and this gets to the heart of the issue; that it would keep these cops from having to watch a drug bust; that if we had enough police officers, they could keep the people moving and keep them from congregating were drug problems will happen.

Beverly Whitley asked to speak. She stated that their business was across the street from Deep Blue; that the first of the year they were contacted by the Police and were told there was a nuisance abatement and unless they took action they would be co-defendants and would lose their building; that they cared about the community and stepped up to do what they had to do—that they liked their tenant, but they evicted him, and he was a guy who worked hard, and she felt the City had dropped the ball on the Deep Blue situation; that the noise goes on from 11:00 p.m. to 4:00 a.m., and the sound is from the club; that even the owner of the club was illegally parked, and he moved his car when the police officer came out. She questioned why they obeyed and the owner of Deep Blue does not obey. She stated that there was illegal action going on in the club and questioned why this was not enforced—that it had been going on for ten years and makes no sense.

Chairman Gaines asked Chief Williams if it was true what she was describing about the parking and could you not arrest someone for illegal parking?

Chief Williams stated that the vehicle could be towed if it was on a city right-of-way.

Ms. Whitley stated that their dumpster had been set on fire and burned to the ground and their windows had been shot out.

Mr. George stated that shots were fired every Saturday night.

Ms. Whitley asked why this could not be considered a nuisance abatement?

Chief Williams stated that they had compiled volumes on this and took it to the City Attorney and also to the DA's office, and the DA said it was not enough to go on for a nuisance abatement—that they could not act on this.

Ms. Whitley noted that this had such a long history and so many people were involved and there should be some solution, questioning holding them to the fire, stating that the other person should be held to the fire also; that the City did have some control, and there are solutions.

Chairman Gaines stated that we needed some changes; that she knew we don't have enough to actually be tough.

Ms. Whitley stated that there were other methods of attack.

Councilman Rico suggested that Attorney McMahan work on this. He stated that he would be as happy as anyone if this could be closed.

Councilwoman Berz suggested looking at some ordinances and clubs so close to residential areas; that these clubs are grandfathered in; that we need to look at all angles and she thought Zoning was a big angle; that we had talked about establishments not selling beer within so many feet of a Day Care Center, and she thought we could protect our neighborhoods without having other changes.

It was noted that this club is properly zoned.

Councilwoman Berz suggested changing the zoning, and if they don't open for 100 days, they would lose their zoning; that she thought we needed to look at this.

Councilman Pierce stated that this would be downzonng, and we don't won't to take property rights away.

Councilwoman Robinson suggested this be put into committee and that we meet again on this.

Mr. George thanked the Committee for hearing him.

Councilwoman Bennett stated that there would be another meeting on January 20th and everyone could come back, and we needed a working committee and suggested that Councilwoman Berz work with Chairman Gaines to put a committee together; that it could include Mr. George and other property owners.

Chairman Gaines stated that it should include people from each district.

Councilwoman Robinson noted that this problem seemed to be very focused.

The meeting adjourned at 5:00 p.m.