

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration Committee
Monday, October 17, 2011 – 7:00 p.m.
1st Fl. Council Committee Rm. – City Hall
-MINUTES-

Present: Chair, Councilor Sefatia Theken; Vice Chair, Councilor Anne Mulcahey; Councilor Bruce Tobey
Absent: None
Also Present: Councilor Verga; Linda T. Lowe; Mark Cole

The meeting was called to order at 7:00 p.m. Councilor Tobey entered the meeting at 7:20 p.m. Items were taken out of order.

1. Old Business:

- A) CC2011-042 (Verga) Revisit of 4-way stop signs at intersection of Magnolia Avenue, Shore Road and Raymond Street

Councilor Verga noted this was a result of reexamining an ordinance amendment to reconfigure a four-way stop. It was determined that a yield intersection on Raymond Street at its intersection with Shore Road would be a better configuration. Councilor Theken noted this motion was overlooked when O&A took the matter up at their October 3rd meeting.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council to AMEND the GCO Sec. 22-269.1 (Yield Intersections) by ADDING “Raymond Street on the southwest corner at its intersection with Shore Road AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

2. Continued Business:

- A) Discussion on Noise Factor at Stage Fort Park (Cont'd from 10/03/11)

Councilor Theken, Councilor Mulcahey, Linda T. Lowe, City Clerk and Mark Cole, Assistant DPW Director reviewed the City zoning map to make a determination as to what zoning classification corresponded with Stage Fort Park. It appeared to be R-20, low-medium residential. **Mr. Cole** also noted that the map shows pockets of neighborhood business but the park appeared to be residential. **Councilor Theken** stated the ordinance does need changing for the Police Department to be empowered to enforce the noise ordinance and not just the Building Inspector, as he doesn't work on weekends. **Councilor Mulcahey** discussed placement of signs throughout the park saying, "Permitted Parties Only"; which **Mr. Cole** felt there should be signage only for the designated area for group events, but not throughout the park. **Councilor Theken** added when the police are called they are unable to ticket those breaking the noise ordinance and reiterated her belief that they need to be able to empower the police to be able to enforce the noise ordinance. There is a need of rules being enforced and that enforcement should be by the police. **Dr. John Wolfe** and his wife, Suzanna brought up the recent Reid's Ride event at Stage Fort Park and the noise from the announcing. **Councilor Theken** asked Ms. Lowe about the permitting process for that event. **Ms. Lowe** informed the Councilor that the permitting for all aspects of the event was all done in advance of it; and this group came before the Licensing Commission and Mark Cole for necessary approvals. **Dr. Wolfe** pointed out both ends of Hough Avenue had been closed for some time on Sunday. **Ms. Lowe** stated if they blocked the road, it was done with the knowledge of the police. Both Chief Lane and Chief Dench are members of the Licensing Commission meeting where representatives of Reid's Ride had presented their requests for permits on a variety of matters. **Councilor Verga** and **Mr. Cole** commented about Hough Avenue being blocked; and that it is after the 'season'. **Mr. Cole** could not confirm the event organizers took liberties with closing the road without the knowledge of the police. **Councilor Theken** assured that she knew there was a police presence at that event. **Councilor Verga** stated for the permitted events, they'll get the heads up when they come up for permitting and empower the police by amending the ordinance but that would not exclude them enforcing a permitted event. **Councilor Tobey entered the meeting at 7:20 p.m.**

Ms. Lowe pointed out it is still the Police Department's responsibility to make sure the plan filed by the event organizers with the Police Department for traffic control is followed. She suggested the best route to empower various agents and agencies of the City through civil ticketing under the Code of Ordinances Sec. 1-15 – Penalty for violation of certain specified sections of Code). The Council spells out who they want to enforce the ordinance. Then those various parties can write tickets on the spot. Due to the complexity of the ordinance (Chapter 13), leaving the Building Inspector as the primary enforcing person would be a good idea. She believed if the Councilors have the alternative of a civil ticket on the noise levels it is more straightforward. She suggested they amend under Sec. 1-15 by inserting the enforcement of Chapter. 13. Then they would spell out who the enforcing persons are in addition to the Building Inspector such as the Health Department, the DPW, and the Police Department; with all those people, there are many options for a variety of personnel who can handle this problem; and they also set the levels of what the fines are for the tickets. **Councilor Tobey** understood Ms. Lowe to say they should put in Chapter 13, Sec. 6 of the Code of Ordinances, which **Ms. Lowe** confirmed. **Councilor Theken** agreed. **Ms. Lowe** reiterated her belief that as an option, by doing this, it would be much easier to use. **Councilor Tobey** inquired if a penalty was already in place for that section. Ms. Lowe replied they could do it this way. The standard violation of any ordinance under the Code of Ordinances is up to \$300; but that means the City would pursue non-payment through the courts, as with other non-payment for civil fines. Here the City Council decides on what the penalty should be; and when the ticket is written, for whatever the fine is (sometimes \$50 for a first offense, sometimes its \$300 per day). **Councilor Verga** wondered if an out-of-town person is ticketed, what is there to prevent them from tearing it up and not paying it. **Ms. Lowe** stated they would take the violator to court, just like a traffic ticket. **Mr. Cole** and **Councilor Mulcahey** commented that the event coordinator for permitted events would be the person who would get the ticket, as they are the responsible person on site. On inquiry by Councilor Verga about unpermitted groups and their ordinance infraction regarding ticketing, **Councilor Tobey** commented it constitutes a violation of these standards; and if an individual chooses not to cooperate; at that point he assumed they're disturbing the peace and further action may be taken. **Ms. Lowe** stated whoever was the enforcement officer takes the non-payer to court as recourse. **Councilor Theken** pointed out those permitted events will have responsible persons and have to comply. If they don't there is recourse. If they are unpermitted, there is now more than a verbal warning available to the police to enforce compliance. **Councilor Mulcahey** thought the person who has the sound equipment, who would be responsible for making the noise, would be the person who gets the ticket. **Dr. Wolfe** noted most times the gazebo is used for announcing at events which carries the sound further. At either end of Hough Avenue the neighborhood is more impacted. He asked where the decibels would be measured to determine if someone is breaking the sound limit of the ordinance. He also expressed concern with Hough Avenue being blocked off during some events; most recently over the weekend and asked if that was because Lt. Aiello of the Police Department had approved the plan for the event organizers to do so. **Councilor Theken** responded the sound carries depending on the placement of the event within the park boundaries. She also pointed out the traffic is well controlled by the police for permitted events; traffic being a matter of public safety, it is within their purview and discretion to open and close roads as necessary for those reasons. Mr. Cole also made note that at the same time there was a Girl Scout event in Stage Fort Park at the same time there was the Reid's Ride event. He received no complaints whatsoever from that group who were there the entire day saying they couldn't access the park. The road closure was temporary, which Councilor Theken also believed to be the case. **Councilor Theken** assured that the police had a presence at Stage Fort Park that weekend and is well controlled for traffic. **Councilor Tobey** wondered how it was that on Chapter 22, Article V, Section 22-150 ("Loading and Unloading on City Streets") that the penalties are allowed to go as high as \$500. **Ms. Lowe** stated it is intended for multiple and continuing offenses. State law says for ordinance violations, there is a maximum of \$300 per day; and that is at the court's discretion. **Councilor Verga** reminded that the events do come to P&D Committee for permitting, and urged those present that if they had an issue with an event, when they see that permit come up again on the P&D agenda to be pro-active and send emails to the Councilors on the Committee and also attend the meeting to convey their comments. **Councilor Theken** agreed and pointed out how the P&D Committee had resolved issues with the St. Peter's Fiesta Committee during the permitting process over the last two years, and with other events as well. They make sure all aspects have been put in place with the appropriate sign-offs for the event to be run smoothly and within the City's ordinances, rules and regulations. **Councilor Tobey** asked about how they might express the penalties for ticketing. **Ms. Lowe** pointed out it can be a sliding scale: one price for a first offense, another for a second offense and yet another for a third offense. **Councilor Theken** commented \$100 should be the minimum penalty. **Councilor Tobey** asked that that if they advertise for public hearing with the penalty at \$300 per offense, does the have the capacity to reduce the amount. **Councilor Theken** believed they could. **Councilor Mulcahey** suggested they impose a penalty of "up to \$300." **Councilor Theken** felt they could leave it to the discretion of the enforcing personnel of up to \$300 which they believed would be enough to gain a person's attention. The Committee agreed to a minimum penalty of \$100

and a maximum penalty of \$300. **Dr. and Mrs. Wolfe** thanked the Committee for taking action on the matter; and that this was a satisfactory collaboration.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to Amend Sec. 1-15 – “Penalty for violation of certain specified sections of Code” by inserting “Chapter 13, §13-5 “Prohibited Sound” and §13-6 “Maximum permissible sound levels-Enumerated”; Penalty: “For violation of §13-5 and §13-6, a minimum of \$100 per violation, not to exceed \$300 per violation. Enforcing persons: Police Officers, Building Inspector, DPW personnel, Health Agents and Health Inspectors”; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

B) CC2011-049 (Mulcahey) Set speed limit re: Taylor Street (Cont'd from 10/03/11)

C) CC2011-050 (Mulcahey) Set speed limit re: Friend Street (Cont'd from 10/03/11)

Councilor Mulcahey stated that she was in receipt of the JAMAR speed results for both Taylor Street and Friend Streets. She spoke with Larry Ingersoll of the Traffic Commission and determined that the speeds recorded were within reason; and therefore, to assure that vehicles would travel in a more cautious manner on these two crowded residential streets, she discussed with Mr. Cole that signs be erected saying “Slow Children”. **Mr. Cole** stated the DPW will work with Councilor Mulcahey to place the “Slow Children” signage on both Taylor and Friend Streets.

CC2011-049 Set speed limit re: Taylor Street and CC2011-049 Set speed limit re: Friend Street is considered closed.

3. *Report of the activities of the Archives Committee*

The O&A Committee accepted and filed the report submitted by Sarah Dunlap and Jane Walsh, Co-Chairs of the Archives Committee dated October 17, 2011.

This matter is closed.

4. *CC2011-051 (Verga) Review “island” at the entrance of Beechbrook Cemetery*

Councilor Theken stated this matter doesn't need to be referred to the Traffic Commission and that in speaking with **Councilor Verga** and Virginia Bergman, 512 Essex Avenue who used to live nearby the entrance to Beechbrook Cemetery had prompted the Councilor to seek a resolution in the matter of traffic directional signage at the entrance to the cemetery, **Councilor Theken** asked that the Councilor and Ms. Bergman meet with the DPW Director to work out the placement directional signage on City property and look into the possibility of painting on the roadway at the entrance to delineate the entrance and exit around the existing island.

This matter is considered closed.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:42 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Sec. 1-15– Penalty for violation of certain specified sections of Code submitted by Linda T. Lowe, City Clerk.**