

## LEGAL AND LEGISLATIVE COMMITTEE

MARCH 29, 2011

4:05 P.M.

Councilman Benson, Chairman of the Safety Committee, turned his meeting over to Councilman Murphy, Chairman of the Legal and Legislative Committee. He called the meeting to order with Councilpersons Ladd, Rico, Benson, Scott, Robinson, Russell, Berz, and McGary present. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Mark Keil, Karen Hundt, Chief Parker, Chief Dodd, Chief Kennedy, Larry Zehnder, Daisy Madison, and Richard Beeland. Dave Crockett, Ken Fritz and Mayor Littlefield joined the meeting later.

### COOLIDGE PARK ORDINANCE

Councilman Benson acknowledged that a lot of work had been done on Coolidge Park and that he would go ahead and postpone the Safety Committee, awaiting a report from Chief Dodd.

**On motion of Councilman Gilbert, seconded by Councilwoman Scott, the minutes of the previous meeting were approved as published.**

Chairman Murphy noted that we had revised the Coolidge Park Ordinance concerning adult supervision. The timeframe will be from 6:00 p.m. until 6:00 a.m. Young people are allowed unsupervised until 6:00 p.m. He stated that Adm. Zehnder and Chief Dodd were prepared to address this. His first question to Chief Dodd was if this was an adequate tool and a reasonable step to take?

Chief Dodd responded that it was a good tool and would help them in Coolidge Park; that it had been tweaked some since last week and "yes" it was a good tool.

Councilwoman Robinson asked about events that are traditionally held during this time such as school proms where young people are dressed in prom gowns and tuxedos. She wanted to know if this would be allowed?

Chairman Murphy stated that he thought "officer discretion" came into play here. Chief Dodd agreed that "officer discretion" will be applied; that we can't handle every situation; that we can't arrest the young people either; there will be times when we do make exceptions. He noted that when we have movies in the park, a parent will need to be present during the movies.

Councilwoman Robinson stated that she had suggested lighting under the bridge controlled by "remote". She asked if anything had been done concerning this? Chief Dodd responded that

we have a study completed, which has been shared with Parks and Recreation Public Works, and the Mayor. There will be new lighting under the bridge. She asked if we would be able to quickly get the lighting on? Mr. Zehnder mentioned two areas—that one area needs additional lighting; other areas will have quick on-off, and if we need additional lighting, we could have it there. Councilwoman Robinson noted that this additional lighting could be used when there are no disturbances such as big events to help people find their way out; that there are some parking lots with dark streets.

Chief Dodd mentioned the edge of Coolidge Park and the RiverPark, mentioning that Flash Mobs show up to watch fights. Councilwoman Robinson added that we all know that so many kids are naïve and not intentional trouble makers—that there are just a few rotten apples. She showed appreciation to Chief Dodd for him being on the front edge and rounding up and taking thugs off the street. Chief Dodd thanked her but stated that he would have to give the credit to the officers doing the job.

Councilwoman Scott stated that she like the inclusion of (b) in this Ordinance that requires responsibility on the part of minors and parents as well. She asked concerning the wording in the Ordinance if we had any history of it being used elsewhere and if it were a safe constitutional issue. Secondly, she asked about the guardian being the legal parent, stating that she would like more information on a 21 year old having custody.

Chairman Murphy asked to first address the constitutional right to assemble.

Attorney McMahan explained that any Ordinance in this area would seek to regulate the right to assemble and could be subject to being challenged; that we have language that is commonly used and language that we think the Courts would find reasonable if challenged and are using “officer discretion”; that this will get people out of the park, and they will not put a juvenile in jail for this but would be given back to parents, noting that oftentimes the parents are unfit, which in this case, they would be sent somewhere else. He agreed that the language could be subject to challenge.

Councilwoman Scott asked if this had worked satisfactorily in other cities or was something we are the originator of? Attorney McMahan responded that we are the originator of the language.

Attorney Fritz spoke to the current curfew ordinance, mentioning that the chaperone is lawful if he or she is over 21 years of age. Councilwoman Scott asked how this differed? Attorney Fritz stated that this would allow someone who is a chaperone such as a church group or cub scout leader. Councilwoman Scott verified that a minister of a church group would satisfy.

Chairman Murphy noted that the language is very specific to place and history and is well-documented.

Councilman Benson stated that he thought this was good and recommended two abstracts on curfew laws, noting that curfew laws are very extensive in other cities and ours is only two pages and needs to be updated. Detention laws in other places are more stringent and comprehensive than ours to start out with. He talked about Coolidge Park and using “police discretion”, noting that teachers have the same authority over young people as their parents when they are in their care; that if a school group is taking pictures in Coolidge Park, the teacher is responsible. Also, he stated, he liked the idea of having an adult-person in there, such as grandparents and foster grandparents, which could be of no kin to the child, stating, again, that he was glad an adult was in there; that sometimes these people are more responsive than parents.

Chairman Murphy stated that we would be talking about the curfew ordinance shortly in committee and would look at it and examine it.

Councilman McGary stated he did not think any major cities had curfew laws perhaps relating to parks. He first wanted to ask a question about “discretion” and how officers were trained to properly execute discretion versus profiling? Chief Dodd responded that they always did this—that they had been accredited for ten years; that they were professionals and knew how to deal with the public; that they had no problems with this; that they dealt with criminals and with kids; that finding out how old someone was was not a big issue. Councilman McGary asked if a young person wearing baggy pants and braids would not be targeted? Chief Dodd stated that if a fight is announced, probably 80% will go to watch—that it is human nature, and we have the flash mob mentality. Councilman McGary asked about the penalty for offenders. Attorney McMahan mentioned a separate penalty, noting that the City Code calls for \$50.00; this is the State constitutional limit, and it is all written. Councilman McGary asked if the parents would pay the \$50.00 fine? Attorney McMahan responded that the parent would be cited to court, and we can’t send juveniles to city court; if they are delinquent, they can be put in a facility; that juveniles would not be paying the \$50.00 fine.

Chief Dodd stated that the aim is the safety of the Park, itself; that if a young person is not with a parent, there may be a reason, in which case the rules would be explained. He noted, however, that an eight year old is an immediate problem and an emergency—anyone under 12 years of age can’t be taken to Juvenile Detention.

Councilman McGary asked if police personnel would enforce this? He was talking about overtime hours at the recreation center. Chief Dodd responded “yes and no”—that officers are there regardless; that 101 were arrested this weekend, including eight or nine gang members, and this was without overtime. Councilman McGary asked for figures on overtime. Chief Dodd mentioned \$1400 on weekends—that it would be less than \$20,000.

Councilman Gilbert stated that the police do a great job, and he appreciated this and would not add to the issue; however he did have some concerns. He noted that people were getting stabbed from all areas; that there were several parks but two incidents happened in one park and everything goes public and now we are making an ordinance. He reiterated that things are happening in other places, several areas, and there are kids looking at fights, hundreds of kids.

Chief Dodd agreed that there were several locations around town, mentioning a parking lot in Councilwoman Berz' area where they stepped up enforcement and business owners put up signs; that without signs being up, they could not do anything on private property; that there were no laws against loitering.

Councilman Gilbert stated that it was parks without signs that he had a problem and issue with—neighborhood parks; that if we are going to do something like this, we should not just do it in one place but in all parks; that even our kids are concerned about curfew; that it is difficult to enforce and ties up police with babysitting kids; that before he would pass anything of this nature, it cannot be just for Coolidge Park because others are getting killed, and it is because this park is downtown. He went on to say that he understood that this park brings in more money and tourists into the city, but we need to look at the value of life; that others have been killed, and we have put no emphasis on it. He asked if in this particular incident at Coolidge Park was there even a gun? Chief Dodd responded that it was a “real” gun. Councilman Gilbert stated that automatics are noted in this city. Chief Dodd indicated that they had gotten 200+ semi-automatics off the streets.

Chief Dodd went on to say that there is a misconception—that shootings are down in the city and not up; that we had 20 last year and 13 this year in high profiles; that it is not playground fist fights and anyone can get killed—that we are down 7 and not up. He emphasized that the Mayor and Police Dept. are not denying we have a gang problem.

Councilman Gilbert stated that he appreciated this, and the police were doing a great job, but his point was that there are automatics on the streets and no emphasis is being put on automatics, and he urged emphasis; that kids were getting guns from adults, and we need to tag the gun to the crime; that we are relax on certain things; that it is grown adults providing the guns, and it boils down to money, and he felt if we were going to do something like this, it should not be just in Coolidge Park—that it would have more “bite” if it were everywhere; that kids need to feel some kind of fear; that we need to fine parents and make them more conscious; that we need to look at the whole picture for Chattanooga.

Chairman Murphy asked Adm. Zehnder to speak to the issue of the closing of neighborhood parks.

Adm. Zehnder stated that he thought we needed to be cautious; that there are 60 some neighborhood parks and neighborhood parks do accommodate youth in the neighborhoods; to say that a kid can't use a neighborhood park would be over-anxious and would be putting laws in place that are not needed; that if another park becomes a problem, we could add it to this ordinance. He again urged caution about neighborhood parks; that having signs up at all parks with juveniles is over-kill, and he thought we should address the issue as needed; that presently parks are open "sunrise to sunset". Chairman Murphy noted that Coolidge Park is open until 11:00 p.m.

Councilman Rico stated that he thought we were getting away from the issue; that we are trying to be pro-active about Coolidge Park because something might blow up. He stated that he went to a conference on profiling, and we need to exercise common sense; that as far as profiling, police are trained; that Coolidge Park is a park of choice for flash mobs, and we need to concentrate on this now.

Councilman Benson stated that he thought it was premature to look at other parks; that Mayor Littlefield can give information. He noted that he, as Chairman of the Safety Committee, the Chairman of the Safety Committee at the County, the two Mayors and District Attorneys and a couple of others had been meeting on this, and we need to look at the curfew situation; that we need to address Coolidge Park before this weekend; that we need to do something at Coolidge Park and also look at the whole picture; that Coolidge Park is the "heartbeat" of the problem; that this is not the final thing; that we will be looking at the curfew ordinance.

Mayor Littlefield agreed that parties had been meeting and that we were moving to deal with the gang issue, and there are a lot of coordinating efforts underway. He stated that he had talked to Judge Bailey, and she had suggested taking action to do as we are doing and to create a center; that it would not be a detention center; that we had been working on this issue for months. He stated that he would recommend that the Council adopt this pared down Ordinance tonight; that it addresses the current problem and does not over-react; that we are working with Juvenile Court so that in the future, no one will be killed in an altercation; that we have had two incidents at Coolidge Park—a year apart; that guns have been fired, and it is incumbent to act; that if anyone has a suggestion as to how to get all other guns off the street, we are open—that there are so many guns flowing, and it is something we can't effectively do; that we need to get people more responsible and make it more of a necessity for parents to watch over their children.

Councilwoman Berz stated that she applauded the Coolidge Park Ordinance and hoped that it sets up a model for the rest of the community; that for several years there had been violence in Brainerd and the North Brainerd area, and it bothered her that it took Coolidge Park to get this much attention; that all are equally important; that we need to send the message to people that there needs to be care about all our kids in all of our areas. She mentioned a global curfew

and a global place to take kids; that we are forming a model and violence hurts all—that it is not economics but human, and we care about all.

Chief Dodd stated that they did this 365 days a year and worked hard all over the city; that they were out there every day; that Coolidge Park did not change their approach; that kids are out past curfew, and we need to look at truancy as well; that they can tell when kids are out of school; that if we can get this center, they would not have to babysit.

Councilman Gilbert stated that he agreed with the Chief; that truancy needs to be included. He stated in reference to signage—curfew is 11:00 p.m. and kids that are in parks after 11:00 p.m. don't need to be there.

Adm. Zehnder noted that neighborhood parks close at dark; that they remind folks of the curfew thing; that after dark they are trespassing and can be arrested. Councilman Gilbert stated that he had not seen any such sign. Again, Adm. Zehnder stated that the time was from sunrise to sunset. Councilman Gilbert stated that there are places where kids go and meet. Adm. Zehnder stated that if Councilman Gilbert knew of these areas, they would put up a sign that says "sunrise to sunset".

#### **NIGHTCLUB ORDINANCE**

Chairman Murphy stated that some wanted to talk about the renaming of the Permit itself.

Brian Shultz stated that they had talked about "Late Night Entertainment Facility"; that there will be a draft next month, and it will be at Planning in May; that they were working on this.

Councilman Gilbert and Councilman Benson questioned "Late Night Entertainment", and Councilman Gilbert asked why not "After Hours".

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Councilwoman Ladd stated that Public Works had no answer to the funding of **Resolution 7(f)**, which was in the amount of \$48,500; that there were questions where this money was coming from and Public Works was unaware of this and that Dave Crockett wished to address this matter, briefly in two minutes.

Mr. Crockett explained that the funds were in the Budget for public relations; that the purpose relates directly to his budget; that his personnel staff was paid for by a grant, and it was their intent to make partners with the Chamber and merchants and to educate as they went along. He mentioned the amount of water that was created, stating that this would provide a model; that it is a special design for education and partnerships; that it is for development of a design.

Councilwoman Ladd asked him where the money was coming from?

Councilman Benson congratulated Mr. Crockett for speaking so briefly. He stated that we had two ex-Councilmen in the audience—Mr. Crockett and John Franklin, Jr.

Councilwoman Scott asked is this or is it not water quality funds?

Mr. Crockett explained that \$150,000 was allocated for public relations out of stormwater funds; that the Council turned down a contract with a Public Relations firm but the funds remained; that he was working with the Chamber and merchants; that this was taking one-third of this money and would be a model for the City.

The meeting adjourned at 5:00 P.M.