



Public Safety Board

April 27, 2015

3:00 p.m.

City Council Chambers

Members present: Councilor Amanda Grady Sexton (Chair), Mr. Anthony Bourque, Mr. Steve Edwards, Ms. Lisa Brown, Mr. Don Carter, Mr. Michael Russell, Councilor Stephen Shurtleff, Councilor J. Allen Bennett, Councilor Brent Todd, Ms. Carol Hargrove

City Staff Present: Deputy City Manager-Development Carlos Baia, Police Chief Brad Osgood, Deputy City Solicitor Danielle Pacik, Fire Chief Dan Andrus (Staff Liaison), Deputy Fire Chief Sean Toomey

Guests: Ms. Barbara Bell, Mr. Chris Wyman (New Hampshire Division of Fire Safety)

Not Present: Mr. Jim O'Neill, Councilor Fred Keach, Councilor Rob Werner, Mr. Jim Cotsana

Call to Order

Councilor Grady Sexton called the meeting to order at 3:02 p.m. Board members and City staff introduced themselves.

Approval of Meeting Minutes

The board reviewed the minutes of March 30, 2015. Councilor Shurtleff, moved to approve the minutes as revised. Ms. Hargove seconded the motion. The motion passed unanimously.

Referral from the City Council

Councilor Grady Sexton asked Chief Andrus to summarize the process that resulted in the referral. Chief Andrus said that Councilor Matson had requested that the Administration look into restrictions on consumer fireworks. The City Solicitors Office prepared an ordinance and report which were submitted to the City Council. On April

13, 2015, the City Council voted to refer this matter to the Public Safety Board for its recommendations.

Chief Andrus distributed a fact sheet from the National Fire Protection Association on the danger of consumer fireworks and a summary of local ordinances for the state.

Deputy Solicitor Pacik reviewed consumer versus display fireworks and reviewed the proposed ordinance.

Ms. Barbara Bell testified. She has been a resident of the City for 65 years. She has serious concern over fireworks. Neighbors were shooting off fireworks during the day and early evening. Dense housing and small lots make it difficult to contain fireworks to one property. Fireworks are going off constantly, day after day. Fireworks were landing on the streets and on other peoples' property. Many people spoke to the people setting off the fireworks. The Police were called but said that nothing could be done since it was legal. Pets hide. It is dangerous for children. She has found burned debris in her yard. There are great safety concerns. People should not have to live that way. A runner jumped when fireworks went off. Motorists could get startled. Many neighborhoods have mixed uses, i.e, music school, UNH Law School. She does not believe that it is allowed in public parks due to safety concerns. She feels Manchester, Nashua and other communities have banned fireworks and done the research. Fireworks can interfere with the public way. People need to keep them on their own property. We should not have to have these rules but sometimes they are necessary. Neighbors may be ill and need their peace. Young children can be scared. People are not able to enjoy their yards or barbecue in peace. Armed forces veterans who have come from war zones often have very debilitating issues such as PTSD. This affects many people with health issues. We should not contribute to this. Consider refugees and people who come from war torn areas. We are not setting a good example. She talked about construction on Main Street and a gas line installation on her street.

Ms. Brown asked where she lives. Ms. Bell said Perley Street. They discussed where fireworks are propelled and about an instance where the people shooting the fireworks were approached by a neighbor, and that seemed to work. Ms. Brown commented that it happens in her neighborhood too. Ms. Hargrove asked when the fireworks were going off. Ms. Bell said that it is day and night and has been going on for a couple of years.

Councilor Grady Sexton thanked Ms. Bell for her testimony and asked Mr. Wyman to testify.

Mr. Bourque asked for the state position on this matter. Mr. Wyman said that each local jurisdiction should review its demographic and geographic characteristics. Some have done a total ban, while others have limited the height of consumer fireworks. He said that people should keep in mind that the fireworks used at the Black Pond Ice Hockey tournament are all consumer fireworks. Councilor Grady Sexton asked about state

statutes. Mr. Wyman said that state law sets a minimum age and requires that fireworks be discharged on a person's own property or have the landowner's permission. There are other resources available with the criminal code. Mr. Edwards asked if there are other restrictions. Councilor Grady Sexton asked Chief Osgood to answer. Chief Osgood cited the noise ordinance and read the text of it to the board. There is also a state law on disorderly conduct, which can cover things like loud music. Councilor Todd asked if there is a decibel level or if it is at the discretion of the responding officers. Chief Osgood said that there is no set decibel level. The activity is seasonal. The responding officer has to make a determination if the fireworks are permissible or not and sometimes the evidence is destroyed.

Mr. Shurtleff asked about a legal definition of the compact area of Concord. Deputy City Solicitor Pacik responded that it is on a map. Deputy City Manager Baia said that it is very close to the urban growth boundary. Councilor Bennett said that there are many issues in the neighborhood not related to fireworks, there are domestic violence incidents going on every Friday or Saturday night. He says that he has lived in his home since 1984 and sets off fireworks in a safe and responsible manner. He sees this as a case of penalizing some for the actions of others.

Ms. Hargrove asked how we allow a double standard? It seems unfair to some people in the City. She used to live by Rundlett School. There are too many differences. Mr. Carter said that there are issues of fireworks and issues of human behavior. Defer to the National Fire Protection Association on fireworks issues and do not try to roll behavioral issues into it.

Councilor Grady Sexton asked Chief Osgood what recourse is available to Ms. Bell. Chief Osgood said that, if it is early evening at the time of contact, that they will advise the person that there has been a complaint and counsel them on needed corrective action. If it is 2:45 in the morning, it is likely that the people will be cited. Citations would also be issued for repetitive calls.

Mr. Edwards asked if the existing nuisance and noise ordinances worked, and if a fireworks ordinance would enhance this. Chief Osgood replied that the existing ordinances work and officers use the best discretion possible. He said there are 64 patrol officers and that the key is to educate people that their behavior is disturbing to others.

Mr. Carter asked Chiefs Osgood and Andrus about their experience. Chief Andrus said that the Fire Department has had very little problem with fireworks over several years. Chief Osgood said that the Police Department receives 2-3 calls per day during busy times. Mr. Russell said that he did not see the need for more ordinances if the existing ones work. Chief Osgood said that the existing ordinances work.

Councilor Todd commented that other communities handle this through the permitting process. Mr. Wyman said that permitting allows local officials to know what is going on

and permit requirements can be tailored to community expectations. Mr. Carter asked Mr. Wyman if he was in favor of a complete ban. Mr. Wyman said that communities need to be able to do what they need to do. Councilor Todd said that he envisions some kind of permitting system working in the City. He asked Chief Andrus about any public education programs. Chief Andrus said that the community had an excellent safety record with regard to fireworks. They also have an active juvenile fire setter intervention program. Ms. Hargrove asked if it would assist if we tightened the rules. Chief Osgood said that if there is no permitting system and people are using fireworks inappropriately, that it is simple to enforce. Citations require witnesses and evidence.

Ms. Brown commented that she does not like fireworks personally, but that the Police Department does not need to be burdened with this with heroin and other problems.

Ms. Bell said that her main concern is public safety. She shared an ordinance that she sent to City Solicitor Kennedy last summer, disallowing use between midnight and 8:00 a.m. Fireworks cannot travel any place except the property where they are detonated.

Councilor Shurtleff asked if the board should recommend to the City Council what has been presented already?

Mr. Russell said that there is no need to put in another ordinance, that there are tools already in the toolbox. Mr. Shurtleff made a motion to make no recommendation to the City Council and for the Police Department to continue to enforce state laws and City ordinances. Mr. Russell seconded the motion. After some discussion, this motion was withdrawn and Councilor Shurtleff made a motion to recommend that the City Council take no further action on the report. Councilor Bennett seconded this motion. The motion passed unanimously.

Councilor Todd commented that setting time limits does not help with the problem. Mr. Bourque commented that he is not sure that this was the correct ordinance to pass. He is not sure that we have really addressed the issue. He does not feel comfortable with not doing anything. Activities should not negatively impact another person. Mr. Russell asked if there is still a bike unit? Chief Osgood said that there is, and that it is out at night. Councilor Todd said that people will continue to suffer from unwanted noise.

Councilor Shurtleff commented that the compact area is where the houses are close together. This was the biggest complaint of people testifying in favor of more restrictions. He said that he was willing to serve on a subcommittee with the police and fire chiefs to continue to work on this issue, particularly as it relates to permitting processes. Mr. Edwards, Mr. Russell, Ms. Hargrove, and Councilor Todd also volunteered to serve on this subcommittee.

Next Meeting

The next meeting to review this matter will be scheduled at the call of the Chair.

Adjournment

The Board adjourned at 4:25 p.m.