

MEMORANDUM

DATE: December 6, 2011
TO: Michael G. Herring, City Administrator
FROM: Chief Ray Johnson
SUBJECT: PUBLIC HEALTH & SAFETY SPECIAL COMMITTEE MEETING

The Public Health and Safety Committee met on Monday, December 5, 2011. Those in attendance included Chairperson Barry Flachsbart, Ward I, Councilmember Derek Grier, Ward II, Councilmember Randy Logan, Ward III, Councilmember Connie Fults, Ward IV, Mayor Bruce Geiger, City Administrator Michael Herring and Chief Ray Johnson. Also in attendance were Councilmember Elliot Grissom, Ward II, Councilmember Michael Casey, Ward III, Councilmember Robert Nation, Ward IV, City Attorney Rob Heggie, Mr. Gene Schenberg and Attorney Rich Huck.

The meeting was called to order at 5:00 PM, by Chairperson Barry Flachsbart.

1. **Approval of Minutes – October 17, 2011**

Councilmember Logan motioned and Councilmember Fults seconded to approve the minutes of October 10, 2011. The motion carried 4-0.

2. **Firearms Ordinance – Amendment**

The Committee reviewed legislation, prepared by City Attorney Heggie which, if approved by City Council, will amend Sections 21-103 and 21-104 of the City Code, regarding the use/discharge of firearms and projectile weapons within the City.

Chairperson Flachsbart presented some background on this issue, noting that it has been discussed at previous Public Health & Safety Committee meetings. There had been a specific complaint that a citizen was using projectile weapons to kill squirrels. At that time, the Committee did not act to amend the current City Ordinance. As a result, violations were referred to the Municipal Court. The City's Court ruled that the existing ordinance was "vague" and that a "loophole" seemed to allow the use of "projectile weapons" to protect one's property. Complaints have continued and City Council voted recently, by a 6-2 vote, to place this item on the Public Health & Safety Committee's Agenda .

Discussion ensued.

Councilmember Logan said that he is in favor of the amendment noting that property can be protected from small animals, without the use of projectile weapons, and that residents will still be able to protect their homes from invasion by "people".

Councilmember Fults asked for clarification of the current ordinance. Chief Johnson replied that projectile weapons are prohibited (including BB guns) except at a firing range and/or in excess of 150 yards from any residence. However, residents can use projectile weapons, if they are in defense of their property.

Councilmember Grier voiced concern regarding the lack of distinction regarding the protection of property and over the degree of care in utilizing weapons in the protection of property and/or life noting the right of an individual to protect themselves from harm.

Councilmember Segal reviewed the timeline of incidents that precluded this draft amendment. He noted that the Municipal Court had addressed this issue.

Councilmember Segal stated his opinion that the current ordinance is flawed , in that the current “loophole” has resulted in three separate instances, where weapons have been discharged in the City and not just at the location which resulted in the original complaint. He distributed an article regarding a St. Louis County incident where an archer hit a neighbor with an arrow, inside her home, while shooting target practice. Councilmember Segal displayed blow darts that neighbors had found in their yard that had been utilized to kill squirrels. Councilmember Segal urged closing the loophole in the ordinance that has allowed residents to shoot at small animals.

Councilmember Casey voiced his support of the amended ordinance.

Councilmember Nation voiced his opinion that the discharge of firearms within the City should not be allowed unless lives were in danger.

Mr. Gene Schenberg addressed the Committee. He distributed several handouts regarding this issue. He reviewed his actions regarding the shooting of squirrels and noted that the squirrels have severely damaged his property in the past. He also presented information from pest control professionals that noted that squirrels are territorial animals and will continue to damage property until they are removed from the area. Mr. Schenberg voiced his opinion that it is his right to take actions to protect his property and to eliminate further damage from squirrels.

Councilmember Fults expressed her primary concern to protect residents and to allow them to feel safe in their own yards.

Attorney Richard Huck addressed the Committee. He distributed copies of the Missouri State Constitution, Article I, Section 23, noting the phrase, “in defense of his home, person and property”. Attorney Huck stated his opinion that the current ordinance is in line with State Law and any change to the current City ordinance could be in violation of State law.

City Attorney Rob Heggie stated that the proposed amendments were fully within the power/authority of the City to adopt and that, if adopted, would NOT be in violation of State law. Clearly, the City can regulate the use of firearms.

Councilmember Logan motioned and Councilmember Fults seconded to move the proposed amended ordinance to City Council with a recommendation for approval.

Discussion ensued. Councilmember Grier suggested a change in the amendment to include wording that nothing in this ordinance is intended to limit any rights of a person to use deadly force under Missouri’s “Castle Doctrine”, RSMo 563.011 – 563.031.

Councilmember Logan motioned to amend his previous motion to include the statement suggested by Councilmember Grier and then forward the proposed ordinance to City Council with a recommendation for approval. Councilmember Fults seconded.

The motion was approved by a vote of 3-1, with Chairperson Flachsbart voting “NO”. This proposed ordinance amendment will be placed on the agenda for the next City Council meeting, scheduled for January 4, 2012.

3. **Proposed Ordinance Establishing Rules & Regulations for Bicycle Riding**

City Administrator Herring noted that this proposed ordinance had been discussed at the October 10, 2011 meeting of the Public Health & Safety Committee meeting. Members of the Committee suggested changes at that time. The revised ordinance was then reviewed by The Committee members.

Councilmember Fults motioned and Councilmember Logan seconded to recommend further changes to the ordinance including:

Section II. Bicycle Helmet Required – change to Bicycle Helmet Requirements.

Section 11., C. Change to “No parent, custodian or legal guardian of a person under the age of eighteen (18) shall permit said person to operate or be a passenger on a bicycle without a helmet.

Section 12. Change to “ Required Lighting and Reflectors”

Section 12., A. Change to “ A front facing lamp on the frame of the bicycle or carried by the rider....”

Chairperson Flachsbart motioned to remove any stated requirements for adults to wear helmets except when riding on public bicycle paths or public roadways. This motion failed for lack of a second.

Councilmember Fults motioned and Councilmember Logan seconded to HOLD this proposed ordinance until the next meeting of the Public Health & Safety Committee. However, the motion directed that those changes given “tentative approval”, as noted above, are to be included in the revised version of this ordinance, which the Committee will further discuss. The motion carried 4-0.

4. **Proposed Ordinance Prohibiting the Open Carry of Firearms**

Councilmember Logan motioned and Councilmember Fults seconded to hold the discussion of this proposed ordinance until the next meeting of the Public Health & Safety Committee meeting. The motion carried 4-0.

5. **Deputy Juvenile Officers – Request**

Chief Johnson reported that the request to house St. Louis County Deputy Juvenile Officers in the City Hall Police facility has been dropped. They Deputy Juvenile Officers have secured other space.

. **Adjournment**

The meeting was adjourned at 6:10 PM.