



OFFICE OF THE CITY CLERK

PUBLIC SAFETY COMMITTEE

May 17, 2010

The Public Safety Committee of the City of Mesa met in the lower level meeting room of the Council Chambers, 57 East 1st Street, on May 17, 2010 at 3:33 p.m.

COMMITTEE PRESENT

Dennis Kavanaugh, Chairman
Dina Higgins
Scott Somers

COMMITTEE ABSENT

None

STAFF PRESENT

Trisha Sorensen
Christine Stutz

Chairman Kavanaugh announced that because the Arizona League of Cities and Towns is presently developing a model ordinance regarding fireworks, item 3 has been deleted from the agenda.

1. Items from citizens present.

There were no items from citizens present.

2. Hear a presentation, discuss and make a recommendation on a convenience store ordinance which incorporates principles of Crime Prevention through Environmental Design (CPTED).

Chairman Kavanaugh stated that the Committee first discussed CPTED principles more than one year ago, and he noted that Police Chief Frank Milstead and Assistant Chief John Meza were present to address the issue.

Chief Meza thanked the business owners for their participation in the public meeting and for their assistance. He displayed a PowerPoint presentation (**see Attachment 1**), and he noted that CPTED information was first presented to the Committee in June of 2009 and again on March 18, 2010. Chief Meza reported that the ordinance would establish a registration program for convenience stores and provide requirements relating to surveillance camera systems, video recording and storage systems, alarm systems, drop safes, security signs, height markers, store visibility, safety training programs, and trespass affidavits. He added that although the primary objective of the ordinance is to prevent crime, the surveillance cameras will also assist in the apprehension of suspects. Chief Meza referred to the data that summarized calls for service at Mesa convenience stores in 2009 (see page 4 of Attachment 1).

Chief Meza noted that the stakeholders provided input on the draft of the Convenience Store Ordinance (**see Attachment 2**). He continued the PowerPoint presentation by reviewing stakeholder concerns and suggestions (see pages 5 through 9 of Attachment 1). Chief Meza

outlined the following stakeholder concerns regarding Article I that address violations and penalties: a preference that violations be considered as “civil” rather than “criminal;” that CPTED conditions be “recommended” for crime prevention rather than “required;” that the fines are excessive; and that the requirements create a financial hardship in the current state of the economy.

In response to a question from Committeemember Higgins, Chief Meza advised that he would review an option for a security plan later in his presentation.

Chief Mesa continued the presentation by addressing issues related to Article II. He advised that the proposal has been changed so that no fee is required for registration, although stakeholders were concerned that there could be a fee in the future. He added that stakeholders requested that an “on-line” registration be made available, and they noted that the pertinent information is already on file with the Secretary of State’s Office.

Addressing items in Article III, Chief Meza stated that stakeholders were more concerned regarding the cost to comply with the storage requirements and suggested that the storage capacity be changed from 30 days to 15 days and that the time allowed to supply a recording to the Police should be one week rather than 24 hours. He advised that stakeholders were also concerned that drop safes would result in a backlog of customers and that the clerk’s distraction would create a greater potential for shoplifting opportunity.

Responding to a question from Committeemember Higgins, Chief Meza stated that only a few of the stakeholders expressed concern regarding the drop safes. He noted that the stakeholders believed that complying with the signage requirements would be too costly and requested that the City provide the necessary security and height marker signs. Chief Meza said that another concern of the stakeholders related to “store visibility” in that the ordinance requirements would reduce the inventory space within the store. He explained that this requirement limits the location of inventory and signs, which is generally a problem with locations that were not originally constructed to serve as convenience stores. He said that “store visibility” also relates to the Police being able to see the inside of the store and clerks being able to view the outside of the store. He added that stakeholders expressed support for the safety training section and requested that training on “how to be a good witness” be added to the proposal.

Chief Meza reported that the stakeholders supported the Trespass Enforcement Program. He advised that in response to requests from the stakeholders, the “Bollards and Fences” sections were removed and the wording changed to reflect that address numbers are to be “maintained” rather than “installed and maintained.” Chief Meza explained that the requirement for bollards was removed because of the expense and fencing was removed because that issue is addressed by Planning and Zoning.

Chairman Kavanaugh noted that the Committee has a different draft of the ordinance than the one to which Chief Meza is referring. (Staff distributed to the Committee copies of the draft ordinance dated April 29, 2010, which is Attachment 2 to this document.)

In response to a question from Committeemember Somers, Crime Prevention Officer Patty Gallagher explained that the stakeholders interpreted the word “installed” to mean that address numbers would have to be purchased and affixed to the building. She said that eliminating the reference to “installed” allows eight-inch numbers to be painted on the building.

Chief Meza reported that additional stakeholder concerns related to the fact that the ordinance penalized all stores when only a few stores created the problems; that the Police Department did not pick up evidence promptly after a crime was reported; and that it would be possible to repeal the ordinance at a future date if the ordinance was found to be ineffective.

Chief Meza reviewed the changes made to the ordinance after the March 18th presentation to the Committee as reflected in the April 29th draft ordinance:

VIOLATIONS; PENALTY

- (a) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits a civil offense. A first offense shall result in a warning which allows the registrant to correct the violation within fourteen (14) calendar days. If the violation is not corrected within the allotted time, each day thereafter is a continuing violation and shall constitute a separate offense.

Chief Meza advised that the change (see page 4 of Attachment 2) provides for a warning with 14 days to make the correction.

SECURITY SIGNS; HEIGHT MARKERS

- (b) For convenience stores located in a strip mall and not having more than two (2) exterior walls, one (1) of the above-mentioned metal 'NO TRESPASSING' signs shall be affixed to the back door side of the building and one (1) current Mesa Police Department provided Trespass Enforcement Program sticker shall be affixed to the glass front door next to or below the entrance door handle.

Chief Meza explained that the above sentence was added (see page 11 of Attachment 2) to paragraph (b) in order to assist stores that are located in strip malls.

Committeemember Somers advised that height markers can be obtained on line at a cost of approximately \$8 each.

EMPLOYEE SAFETY TRAINING; TELEPHONE ACCESS

- (G) Training on how to be a good witness.

Chief Meza said that the training was added at the suggestion of the stakeholders (see page 13 of Attachment 2). He said that the Police Department offers the training, or the store could provide their own training subject to approval by the Police Department.

GENERAL PROVISIONS

- (i) Eight (8) inch tall address numbers must be maintained on each street facing side of building or on a stand-alone sign for emergency address identification.

Chief Meza noted that the above item (see page 14 of Attachment 2) changes "must be installed and maintained" to "must be maintained."

Responding to concerns expressed by Committeemember Higgins, Assistant City Attorney Christine Stutz advised that not having address numbers would be a violation of the ordinance. She added that staff would review the language.

Chief Milstead suggested that the wording state that the store must maintain installed address numbers.

Chief Meza advised that a warning would be issued if address numbers were not present. He noted that the purpose of this requirement is to enable easy identification of the location by emergency response vehicles.

Chief Meza stated that the proposed ordinance has evolved over time in an effort to achieve a balance of good crime prevention with CPTED philosophies while taking into consideration the concerns of the business owners. He reviewed the following options for moving forward:

- Move forward with the proposed Convenience Store Ordinance.
- Revisit the issue of security plans for businesses that have a high incidence of shoplifting or beer runs or those that are not complying with recommendations.
- Move forward with security plans for “rebuilt” or “new builds” and determine the length of time allowed for these stores to comply.

Chief Milstead agreed with the comments of Chief Meza and stated that further “watering down” of the ordinance would make the effort ineffective. He expressed concern regarding the staffing levels required to respond to locations with a high number of incidents. Chief Milstead said that there is some validity to the assertion that stores located in high-crime areas will have a greater number of incidents, and he suggested that businesses be allowed to comply with the ordinance over a period of time. He noted that the Police Department’s staffing level is down 105 positions from last year, and he added that the department needs the cooperation of the stakeholders.

Further discussion ensued relative to the fact that grants or a loan program could assist independent business owners with the costs of complying with the ordinance; that applying for and receiving grant funding is typically a year-long process; that independent convenience stores typically generate fewer calls for service than the chain stores; and that independents could join together to purchase equipment in bulk as a means of obtaining a lower price.

Chairman Kavanaugh stated that the City would allow a reasonable amount of time for establishments to comply with the ordinance, and he suggested that the City could implement a revolving loan program to assist the stakeholders with compliance. He said that if the ordinance is effective, the Police Department will have fewer calls for service. Chairman Kavanaugh noted that a reduction in criminal activity at convenience stores should also improve the profits, reduce losses, and reduce insurance premium costs.

In response to a question from Committeemember Higgins regarding the grandfathering of older stores, Officer Gallagher agreed that the department could be flexible in enforcing the ordinance.

Chief Milstead said that the proposed ordinance, which should be palatable to the majority of convenience stores, provides the Police Department with a tool. He added that after the

ordinance has been in effect for some time, additional requirements could be proposed if needed.

It was moved by Committeemember Somers, seconded by Committeemember Higgins, that the proposed convenience store ordinance be moved forward for Council consideration, amended to include provisions that direct the Police Department to work with Economic Development to develop a grant or revolving loan program to assist non-chain stores with implementation costs; and that allows the ordinance to be phased in over a period of time.

Chairman Kavanaugh noted that an ordinance is typically effective 30 days following adoption, but a delayed date for enforcement can be included as part of the ordinance.

Ms. Stutz concurred that a delayed date for compliance could be included as part of the ordinance, such as 90 days rather than 30 days. She added that new construction could be required to comply immediately while existing establishments could have a delayed compliance date.

Committeemember Higgins stated that she wanted to be sure that the wording was changed on page 14 (see paragraph i on page 14 of Attachment 2) to reflect the suggestion by Chief Milstead that requires stores to "maintain installed address numbers."

Chief Milstead stated that the Police Department was not opposed to allowing convenience stores an extended amount of time to comply with the ordinance if that is the desire of the Committee.

Additional discussion ensued relative to the fact that obtaining grant funding would take a year to eighteen months.

Chairman Kavanaugh noted that Committeemember Somers is recommending that the second option (see page 11 of Attachment 1) regarding Security Plans be included in the proposed ordinance.

Chief Meza explained that the premise of option 2 is that the Security Plan option would replace the ordinance and would apply to only those convenience stores that the Police Department classifies as "high theft" stores.

Chairman Kavanaugh stated that the Committee would prefer that Security Plans be available to those locations that apply to the Police Department for the option based on their inability to comply with the ordinance for reasons such as an economic hardship or physical impossibility of complying with the ordinance requirements.

Ms. Stutz clarified that the intent of the Committee is to provide stores with an option to apply for a waiver or a variance based on certain criteria. She stated that staff could incorporate this type of language into the ordinance.

Chairman Kavanaugh added that language could also be included that states that the waiver or variance would be reviewed periodically by the Police Department.

Committeemember Somers said that the Police Department could require a store location to implement a Security Plan when the store has failed to meet the conditions of the ordinance.

Ms. Stutz summarized that the Committee would like the ordinance to enable the Police Department to direct a store to implement a Security Plan at the end of the penalty phase for non-compliance with the ordinance, and that the ordinance would enable a store to apply to the Police Department for a Security Plan in lieu of complying with the provisions of the ordinance.

Committeemember Somers concurred with the summary presented by Ms. Stutz and offered an amendment to his motion to include that language.

Committeemember Higgins seconded the motion as amended.

Chairman Kavanaugh called for the vote.

Carried unanimously.

Chairman Kavanaugh requested that staff craft an ordinance that includes the language proposed by the Committee for presentation to the Council at a future Study Session. He thanked City staff and the stakeholders for their input in the process.

3. Hear a presentation, discuss and make a recommendation on whether to pursue a proposed fireworks ordinance – DELETED.
4. Adjourn.

Without objection, the Public Safety Committee meeting adjourned at 4:16 p.m.

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Public Safety Committee meeting of the City of Mesa, Arizona, held on the 17th day of May 2010. I further certify that the meeting was duly called and held and that a quorum was present.

LINDA CROCKER, CITY CLERK

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Attachments: 2