

## LEGISLATIVE REVIEW COMMITTEE

Thursday, May 21, 2020

### Committee Members Present:

Commissioner Allison Wright, Committee Chair  
Commissioner Russell Edwards  
Commissioner Ovita Thornton  
Commissioner Mike Hamby  
Commissioner Mariah Parker

### Committee Members Absent:

### Staff:

Deborah Lonon, Assistant Manager  
Judd Drake, Attorney  
Sherrie Hines, Assistant Attorney  
Michael Petty, Assistant Attorney  
Chief Cleveland Spruill, Police Department  
Deputy Chief Jerry Saulters, Police Department  
Judge Ryan Hope, Municipal Court

Brad Griffin, Planning  
Doug Hansford, Building Permits & Inspection  
Sarah George, Recorder

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Committee Chair Wright called the meeting to order at 1:03 p.m.

#### A. **Approval of Minutes:**

Commissioner Thornton made a motion to approve the February 27, 2020 Minutes, and Commissioner Edwards seconded. The motion passed by unanimous vote.

#### **Commission Identified Items of Interest:**

#### B. **Review of ordinance reference loud or unruly gatherings in residential neighborhoods** (Mayor Girtz assigned to LRC on November 5, 2019)

Judd Drake explained that he had previously been in contact with Commissioner NeSmith regarding this topic, and they had reviewed a model from the City of Los Angeles. Commissioner NeSmith was concerned with loud and unruly parties and was interested in a mechanism to hold the owner accountable, especially in instances of short-term rentals. Michael Petty then worked to revise the ordinance.

Michael Petty described the proposed ordinance to the Committee. The proposed ordinance prohibits loud and unruly gatherings and defines them in accordance with violations within existing ordinances (noise ordinance, public intoxication, etc.). The current ordinance only allows the person doing the act to be charged; however, the proposed ordinance allows the person leasing the property at the time or the owner of the property to be held accountable after receiving sufficient notice of the violation.

Commissioner Wright inquired further about the provision for posting of notice. The proposed ordinance includes a section requiring an enforcement officer responding to a loud or unruly gathering to post or attach a notice on the entrance of the residence, which includes a provision that makes it unlawful to alter, tamper, or remove the notice prior to 30 days from the date of the posting. Michael Petty explained that the notice posted on the door, in addition to the copy of the notice mailed or served to the owner, would provide notification before holding someone responsible.

Commissioner Parker inquired about the provision that allows for the issuance of a citation and/or the arrest of any person committing a violation, specifically asking if arrest of an individual would only be applicable for offenses that would typically result in arrest. Michael Petty confirmed that individuals would only face arrest for offenses that would typically result in arrest. Michael Petty also explained that he would recommend modifying the proposed ordinance to incorporate the already existing language for noise violations in the noise ordinance, for consistency.

Commissioner Thornton asked Chief Spruill if changes within the proposed ordinance would have any impact on the complaints and concerns previously brought to him from her district. Chief Spruill noted he would have to look at the proposed ordinance further but later elaborated that he does not believe the proposed ordinance would have much of an impact on those concerns.

Doug Hansford explained that he does not believe Code Enforcement would have a role in enforcing loud and unruly gatherings according to the proposed ordinance. He did note, however, that Code Enforcement may be able to assist with posting of notices. Commissioner Wright inquired about the consequences of the citation. Michael Petty explained that the majority of ordinance violations are punished by up to 6 months in county jail or probation and up to \$2000 fine, and he set this proposed ordinance in accordance to other ordinance violations. The property owner could also be subject to these penalties for each violation.

Commissioner Thornton explained that her district also deals with gun shooting in addition to parties. She noted gun shooting and target practice also poses a safety issue in addition to being a noise concern. Michael Petty explained that there are some more serious State crime charges that someone could be charged with in those instances. Chief Spruill asked that residents continue to call the Police Department in those instances, and the ACCPD would consider what charges could be brought on a case-by-case basis.

Commissioner Edwards made a motion to approve the ordinance out of committee, with the suggested amendment to define a loud noise as any in violation with our existing noise ordinance, for consideration by the full Mayor & Commission. Commissioner Parker seconded. Motion passed by unanimous vote.

Deborah Lonon advised that any feedback or concerns that Chief Spruill may have with the proposed ordinance would be folded into the agenda item at the June 2 Mayor and Commission meeting.

C. **Examine opportunities for local civil rights legislation, modelled on the recent Brookhaven ordinance, and utilizing the Municipal Court and ACC Attorney's Office as support for the prospective ordinance** (Mayor Girtz assigned to LRC on March 3, 2020)

Deborah Lonon introduced the topic and explained that Judge Hope is limited in his role and cannot provide advice, as many of the cases have the potential to end up before him as Administrative Officer for the County.

Sherrie Hines prepared a confidential memo for the Committee, and she explained that it would be ideal to allow the memo to remain confidential during discussion, as it contains legal advice subject to attorney-client privilege. She explained that she had previously spoken with Commissioner Denson and reviewed a number of ordinances, including Brookhaven's and Decatur's. She also stated that it is important to note that there are other venues where people can seek redress for discriminatory actions. For example, in the context of employment

discrimination there is the EEOC, who investigates allegations of discrimination. HUD also takes complaints of discrimination with regards to housing, including things related to LGBTQ+ discrimination, in addition to race, gender and age.

Judge Hope emphasized that he cannot talk about the substance, because he would have to possibly rule on whether or not someone was in violation of it. He stated he is mainly present to talk about process and whether Municipal Court could handle a matter like this, which he believes they can. In reviewing similar ordinances in other jurisdictions, it appears to in those instances to be an Administrative Hearing matter; Municipal Court does not receive many Administrative Hearing matters, and he believes the increase caseload would be manageable. Sherrie Hines advised the Committee that Decatur's ordinance particularly places a substantial burden on the Municipal Court Judge; before one of these cases can move forward, there has to be a preliminary hearing that requires the Judge to make an affirmative finding of fact as to whether or not there is probable cause to move forward and particularly whether the ordinance is preempted by State or Federal law, as applied in that particular context.

Commissioner Parker inquired as to whether a case brought before the Municipal Court that was found to be preempted by State or Federal law would allow the complainant or other parties involved in the case to be able to go through with voluntary mediation or if the dismissal of that case would prevent that action from being taken. Sherrie Hines explained that her opinion would be that it would prevent it, as there would not be any grounds or authority to engage in any of it. This, however, does not mean they couldn't proceed with voluntary mediation with the EEOC.

Commissioner Parker asked if we would we be able to be able to provide complainants with support in accessing help from the EEOC or HUD if they filed a complaint and were not able to take any action. Sherrie Hines explained that it would be very easy to direct people to those resources and both links could be added to the website.

Mariah Parker made a motion to investigate adding the EEOC and HUD discrimination complaint forms to our website and continue considering that at the Committee's next meeting. Commissioner Thornton seconded the motion. The motion passed unanimously.

Commissioner Wright requested staff bring to the next meeting a recommendation on the most appropriate place to add the links to resources on the website that would make them accessible for the public.

Commissioner Thornton previously reviewed the sample ordinances of other jurisdictions and made note of one ordinance in particular that listed types of discrimination. Commissioner Thornton expressed interest in having the Attorney explore adding people who may have a criminal background as one area that people may be discriminated against. Sherrie Hines noted this request and will research it.

Commissioner Parker requested additional examples from other municipalities of complaints brought forward through the mechanisms outlined in the two ordinances presented. Sherrie Hines explained that she does not believe they exist yet, as the Brookhaven ordinance was passed earlier this year, and there have been no decisions made on any cases. After speaking with attorneys responsible for drafting these ordinances, Sherrie noted they are getting very few complaints pertaining to them. Most of these ordinances are only a few years old, and Sherrie advised litigation would be needed to provide case law guidance on how this will play out.

Commissioner Wright expressed interest in exploring ways to improve accessibility to the complaint process at the next meeting. Commissioner Parker agreed. Commissioner Wright

clarified that this should entail examining opportunities to educate the public on mechanisms already in place, like those regarding dress code downtown, alcohol licenses, and private parties, as well as providing steps on how to report. Deborah Lonon advised she would work with the Attorney's Office to determine which departments are most directly involved or would be engaged in this process and how the complaints they have received came to their attention in advance of the next meeting.

Commissioner Edwards requested information on enforcement of these ordinances in other jurisdictions. Sherrie Hines explained that in both Brookhaven and Decatur there have been less than five complaints. Commissioners Edwards and Parker requested more information about those existing cases. Commissioner Edwards also requested information on cases filed in Atlanta and their enforcement. He further expressed interest in obtaining information about any challenges that may have been raised and how these complaints were addressed and disposed.

Commissioner Edwards requested some specific examples of discrimination from members of the community. He explained that he believes some testimonials or narrative from the citizenry would help tailor the policy and would provide some compelling encouragement to the Committee and body as a whole to get this ordinance passed.

Commissioner Wright requested a version of the currently confidential memo that could be authorized for public release to help the Committee capture some of the details that are being weighed. Sherrie Hines advised that there is not currently a version available authorized for the public, and it would be likely very difficult to draft one; however, she will work on it.

#### **D. Schedule/Agenda Changes**

The next LRC meeting is scheduled for June 18, 2020 at 1:00 p.m. and will be held remotely via WebEx.

\*The June 18, 2020 meeting of the Legislative Review Committee was subsequently cancelled due to the rescheduling of a budget meeting.

Commissioner Parker made a motion to adjourn. Commissioner Edwards seconded the motion, and it passed by unanimous vote. The meeting adjourned at 1:58 p.m.