

## **PUBLIC AFFAIRS COMMITTEE MINUTES**

**AUGUST 20, 2008**

The meeting was called to order by Chairperson Sellers at 6:00 p.m.

MEMBERS PRESENT: Leah Sellers, John Marshall, Deborah Groat

OTHERS PRESENT: Tony Bowersmith, Rob Shilling, \_\_\_\_\_McGuire, Dale Madison, Police Chief Golden, Ryan Horns, Jeff Donahue, Dave Phillips, Andy Pocock, Carolyn Towner

AGENDA:

- Ordinance 20-08 – Background checks for workers and operators of fairs, carnivals or concessions.

Ms. Sellers explained the purpose of this meeting is to further review this ordinance. When introduced, it was passed quickly in order to be able to address possible concerns with the 2008 fair. The Committee will take another look at this ordinance to make sure that it addresses all possible concerns.

Prosecutor Phillips gave some history behind this ordinance. The Sheriff originally brought up this issue. They were looking for a solution to get background checks on carnival workers. They attempted to work it out informally, but it didn't come to fruition. In researching options, he noted there was pending legislation before the State, which died in Committee. Since the Union County Fairgrounds is annexed within the City, City Council would have the authority to pass an ordinance governing licensure there. He drafted legislation and met with City Administration to review it. The City made some substantial changes in order to restrict it in terms of just a disclosure statute.

Mr. Phillips said Kissell did cooperate. There were 37 background checks. They looked for warrants. There were seven warrants, some of which were outside the pick-up radius, so those were not executed. The Sheriff's office executed some warrants. Of particular note, there was a Tier III sex offender that was located there. His case was researched. Mr. Phillips complimented the Chief of Police for making that happen in such a short time frame. He also thanked Kissell for their cooperation. Mr. Phillips said when this individual was found at the fairgrounds,

he was asked to leave the fairgrounds and he did. To the extent that there was a Tier III sex offender on the fairgrounds that was a child rapist, Mr. Phillips felt the ordinance was an outstanding success.

Chief Golden said just the fact that a Tier III sex offender was identified, had we discovered nothing else at all, would have made it worth the time and effort spent on this legislation. Several warrants were discovered, some of those outside the pick up radius. This means that depending on the seriousness of the charge, a department or court may elect not to go clear across Ohio to bring somebody back for a driver's license violation or speeding ticket. There was at least one felony warrant. The man had an ID card to work here, but never showed up. Two or three misdemeanor warrants was served on one individual. Chief Golden said that Kissell Company was very cooperative, as well Mr. John Stevens and Kim Butcher from the Fairboard.

Mr. Phillips explained how the process works for operators at fairs, carnivals and concessions to obtain a license to work within the City. Individuals must make application and pay a small fee, which was waived for this year's fair. Information must be provided on who's going to be working. Mr. Phillips encouraged City Council to look at least as far as sex offenders, to prohibit employing sex offenders. It is believed that the individual's employment with the Kissell Company was terminated.

Mr. Pocock, from the Greater Ohio Showman Association, said as a rule of thumb, most amusement companies will immediately terminate an individual as soon as they find out about them.

Ms. Sellers said as far as expanding the ordinance to protect more people, we don't want to be over inclusive, and we want to let business take care of itself. Why did Kissell hire this individual in the first place? Why didn't they do their own background check on him? Why did it take the City of Marysville to, in an emergency session, pass this legislation and essentially pull teeth to get it so that we could find that out. Why in this instance didn't the business police itself?

Mr. Pocock said he wished someone from Kissell's was at the meeting to answer that question. Each business owner is entitled to do whatever they feel is necessary to guarantee the safety of the public. In this case, Kissell did not take that step. Greater Showman Association (GSA) recommends background checks. There are free web sites at no cost to the employer that should be used.

Ms. Sellers referred to the legislation that was passed earlier requiring registration for sex offenders.

Chief Golden said the State has a website Electronic Sex Offender Registration and Notification (ESORN). It's a public website. Anyone can check that. There is also a nationwide website.

Mr. Phillips noted the 1,000 foot buffer essentially splits the fairgrounds. That 1,000 foot buffer encompasses a good portion of the area that the workers stay in. Had someone been there, they would have been in violation of the law for setting up a temporary residence there. Mr. Phillips said it's a good thing that City Council took this action to protect the citizens of Marysville.

Mr. Marshall asked if there is a law that requires a business to run a background check on perspective employees. Response was no.

Mr. Phillips said what Kissell did in hiring this individual was legal. However, if you are the employer and your business is to deal with kids, you are taking someone who's been judicially determined to likely re-offend and putting him in contact with kids. As an employer, you wouldn't want to take that risk. It's well known that sex offenders and pedophiles tend to gravitate to positions where they have access to children. People working for fairs come to a community for a week at a time and then leave. It's difficult for law enforcement to track these people down.

Mr. Marshall said he would like to see this legislation expanded to not just include carnival workers. Need to be determined what events will be included in this legislation.

Mr. Phillips said you have to keep in mind when expanding the legislation, that there are going to be administrative costs involved.

Ms. Towner questioned the definitions. The definition of Amusement Ride, most of it came out of the ORC, but not all sections were included. It's not consistent with the ORC. Trade Shows were not included. She asked where the definition of "employee" came from. Mr. Phillips said that was defined so people couldn't just say "well, he's just helping out." That is encompassed in the Illinois legislation as well. Ms. Towner said she felt the term "volunteer" should be included, festivals should be included. She asked if inflatables are included in this.

People go around to some events with inflatables. Mr. Phillips said that's a legislative decision that needs to be made.

Mr. Marshall asked if the Illinois legislation had been challenged. Mr. Phillips is not aware of any challenges, but he really didn't have time to check on the Illinois cases. The Ohio legislation is different than this. Illinois requires the company to pay for the background check when hiring an individual. There are prohibitions against hiring certain types of individuals. He feels this is constitutional. The burden on the person coming in is relatively minimal. It's a small fee and the list. It's not an overwhelming burden, given the public interest that the statute serves. Council has already found public interest in terms of sex offenders and where you can live. Overall, the statute has been upheld.

Mr. Marshall requested a copy of the Illinois Statute for the Committee to review.

Technical feasibility of the Statute. Fees which were waived for this year were \$25 for the duration of any fair or carnival or \$10 for one day. Those fees were recommended by the Administration. Those fees do not cover the cost and it wasn't meant to cover the cost. It's just a licensing fee.

Ms. Sellers asked if these fees would hurt the fair or its vendors. It's her understanding that this information has been provided in the past. It was just not provided this year. A Fairboard Member said they can get a name and address, but by law, cannot ask the employer for social security numbers. Only the Police Department can get that information. The Fairboard will have to amend contracts for the vendors. That would be their involvement. It was stated the legislation would not alter the Fairboard's ability to put on a good fair. Mr. Madison stated as a father of three, he would like to know the people are who they say they are and are in good standing with the law.

The legislation does not place additional burden on the Fairboard as far as administering this legislation. This is an issue between Kissell Company and law enforcement.

An unidentified person asked what happens when someone walks in and Kissell hires them at the fair. Chief Golden said that Kissell and Mr. Stevens had people that did come in, and at that time, they were directed to Chief Golden and the appropriate checks were done.

Ms. Groat asked Mr. Pocock if this a common licensing request from other communities. He said not to his knowledge. Dark County has been requiring the information from Kissell Company for several years, and they have complied without any major incidents, but didn't think they had to pay a fee. In conversation on the midway with other owners, they expressed concern for the fees increasing in the future. He said \$25 is very reasonable and two weeks is sufficient time to get this information together.

Everyone seemed to be on board with the intent of this legislation. They just want it to include more people. Mr. Phillips had no objection to the legislation being more inclusive, but where and how do you draw the line.

Carol Towner feels the entire ORC definition should be used. Festivals should be included. Shouldn't just be directed to fairs. Inflatables should be included, such as at a church festival.

Mr. Pocock said the definition of novelty has changed recently. Any Fair Board that sells anything imprinted with the name of their fair on it are considered novelty vendors and technically should have submitted this year.

Break up information into areas, types of event, types of employees. Ms. Towner said definitions should be good definitions. Employee should not include paid and unpaid people. Make a definition for volunteer.

Ms. Towner questioned the definition of "operator" that's included in the resolution. She's not sure that applies to the amusement industry. She doesn't think there are any state agencies out there working as operators. Definitions and language are very important. Define Trade Show. She suggested using "person" instead of "operator" in some of the legislation language.

In determining what events should be included in the legislation, need to consider length of event, one day, one evening or one week event. Where does residency come in? Mr. Phillips said people can physically come to a location, such as a concession, but they cannot establish a permanent or temporary domicile. Those terms are not defined in this Statute. Most carnival workers travel with the carnival and most stay on the fairgrounds in trailers, etc. The law with the Third District's interpretation is, that is establishing a temporary residence. They are required to register within three days of establishing that residence. Technically, that duty begins when they establish that residence. They can't enforce until after the three days.

Mr. Phillips compared a two-hour church event with inflatables to a 7 or 8 day event. When determining what events should be included, you should consider the risk there during those two hours versus someone establishing a residence and being with those kids 7/8 days. Ms. Sellers feels events should be considered wherever children are involved, no matter how long the event is. However, can City afford to do this administratively.

Ms. Groat said she is more comfortable with an event at a church or school. Representatives from both establishments closely oversee their own events, which are for a very limited amount of time.

Ms. Sellers suggested distinguishing a line for an investment in our community as opposed to someone coming in that doesn't have a long-term investment in our community.

Mr. Pocock grew up in the amusement business and they put on many school and church festivals. It was not unusual for him to take a trailer to a church festival a couple of days in advance of a 3-day carnival, so he was essentially on the grounds for 5 days. He doesn't feel exposure is any less at a little church or school event than it is at a county fair.

Unidentified person asked if this legislation just covered people who lived outside the county. An example was if a ride company was in Marysville, would it include them too. Response was yes.

Group discussed the types of people who would be coming to the community that would be interacting with children. Mr. Phillips sees the risk increasing when length of event is not just the one time, but the repeated interaction between the person that's here and the child. That's the type of situation we should limit. We can limit the people who gravitate there for access to children in an attempt to groom them.

Chief Golden said they could do background checks for one-day events if they were given enough notice. Would need to know what to look for as far as background checks, sex offenders, felony warrants or other things. In a lot of instances, schools and churches that put on events, the employees already have record checks. If that's the case, they can supply that information to law enforcement.

Ms. Groat does not want this legislation to act as a net for prosecution purposes, such as warrants for traffic offenders. This is to be a vehicle for protecting citizens from sex offenders and felons who would be preying on primarily children. Chief Golden understands and agrees with what she is saying. However, if a serious misdemeanor warrant pops up, law enforcement legally can't just disregard any knowledge of that. He's not talking about a parking ticket, but if there is a DUI where a vehicular homicide is still within the realm of being a misdemeanor, if law enforcement knows about it, they can't ignore it. It's not what they're looking for. Ms. Groat said she would not expect law enforcement to ignore it, but would ask that the legislation be written specifically for the intention we have, which is not as a prosecution tool, but for the protection of our community. Chief Golden agreed.

Unidentified individual said he didn't see anywhere in the legislation that says, if an individual is a sex offender or they have a felony warrant, they can't work there. Mr. Phillips said that's correct. The first draft of the legislation included that, but Administration asked that it be removed. He would like to see registered sex offenders be excluded from working in a situation like that.

If the Fairboard finds a sex offender on the grounds, they can ask them to leave. If they refuse to leave or come back, they can be arrested for criminal trespassing.

Mr. Donahue asked if results of background checks are public record. Mr. Phillips said a summary can be given, but not individual records. This same goes for media and individual citizen requests. The records are exempt from public record.

Mr. Pocock said some of the people they feel should be looked at are restroom attendants, gate employees, parking attendants, trash removal, food vendors, professional or volunteer 4-H Advisors. They are background checked and some of the 4-H Advisors are grandfathered in. Food suppliers who deliver the food to the vendors daily, ice vendor, maintenance workers, entertainers, fairboard members, commercial vendors, those who bring in the displays, etc.

There will be another meeting to discuss this issue further. Mr. Phillips will get copies of the Illinois legislation for the committee members.

Mr. Phillips said he submitted the letter he sent to Mr. Gore and the Marysville legislation to the Richwood Fairboard, Mayor, Police Chief and City Solicitor. However, he never heard back from them. Mr. Pocock said Richwood had contacted their amusement company to provide the information. They are cooperating.

Mr. Pocock would like to see background checks be good for a year. He feels this way, if he worked multiple events in Union County, he would only have to pay the \$25.00 fee once each year.

Mr. Marshall said we need to keep a certain scope in mind to set up a safeguard for the community. Keep temporary residency in mind. He suggested an event scheduled over more than two calendar days. Chief Golden agreed on that timing. As far as background checks being good for a year, we can look at that, but we're really looking for registered sex offenders, and that would show up easily with ESORN checks.

Ms. Towner mentioned a new hire report. Every time you hire an employee, you have to report to the state. It's for finding deadbeat dads. She suggested the Police could check that list. It was agreed that list is more information on deadbeat dads than sexual predators.

Ms. Groat said these are great ideas for industry consideration. She said if industry would police itself very aggressively and voluntarily offer that information, it would keep other communities from becoming pro-active in the type of legislation Marysville feels is necessary. She encouraged the industry to take that on, but added the City should consider getting the list and having personal police officers check through it.

Ms. Towner said their company goes many places, and feels it might be easier for the City to check with a state agency.

Regarding the background check timeframe, Chief Golden said that would have to be put in the legislation. Mr. Marshall expressed concern for doing a background check once a year. Someone on the list could go out and get in trouble during that timeframe. New hires would be subject to a background check.

Ms. Groat said she would be comfortable with a list for each event.

Chief Golden is trusting the ride owners to provide the accurate information without each individual having to come to the Police Station.

The intent of this legislation is to target activities where children are potentially alone and vulnerable to attack.

Mr. Pocock noted the existing legislation points out that “amusement rides and/or concessions at carnivals or fairs may be operated by transient workers...” When reviewing this legislation, City should be aware of all transient workers, not just in the amusement industry. Considering exposure of children, he noted transient workers who come in to build a playground at a school or paint the curbs on City streets.

Mr. Marshall believes the schools have a policy to do background checks on people they deal with.

Next meeting to discuss this subject was scheduled for Wednesday, October 15, 2008 at 6:00 p.m. in Council Chambers.

Ms. Towner asked that if language is drafted prior to the October meeting, could it be sent so the Board can review it prior to the meeting.

- Nucor Steel public awareness effort for manufacturing

There was no one at the meeting to represent this issue. Since this issue was not directly related to or benefited the community, the Committee agreed not to pursue.

- Citizen recognition

Ms. Sellers said Public Affairs Committee discussed this issue last year. It was discussed about enacting a non-political process for recognizing citizens. She spoke with other organizations that did citizen recognition awards in the community, and they were all in support of it. Anyone who has contributed to Marysville should be recognized, even if they are being recognized by someone else. Mr. Dostanko drafted a program (draft proposal handed out). The recognition could go to a citizen or an organization or group.

Ms. Groat expressed concern that you can have an outstanding accomplishment in one quarter, but the next quarter you might not. If you have to name one every quarter, even tho’ there isn’t an individual who stands out, she feels it would lessen the program having to recognize someone. Mr. Marshall said the only time you would award an individual is if you have a nomination for an outstanding accomplishment. They would not have to present the award every quarter.

The Selection Group needs to be paired down. It was suggested that the Mayor or Administrative designee, HR Manager and all three Public Affairs Committee members (as Council representative). It was discussed whether to have Public Affairs Committee have one vote or 3 votes, one from each member.

The Selection Group will meet every quarter only if there are nominations.

Committee agreed to remove the Ward designation.

A proposal will be drafted and presented to Council in the near future.

The meeting adjourned at 8:15 p.m.