

Allegheny County Council

*County of Allegheny
436 Grant Street
Pittsburgh, PA 15219
Phone (412) 350-6495
Fax (412) 350-6499*



Committee Meeting Minutes

Thursday, September 27, 2007

4:00 PM

Conference Room 1

Committee on Public Safety

*Jim Burn, Chair; John DeFazio, Matt Drozd, Vince Gastgeb, William E. Lestitian,
Chuck Martoni, and William Robinson - Members*

I. Call to Order

Summary: *The meeting was called to order at 4:10 PM*

Invited Guests:

Jim Flynn, County Manager or Designee

Summary: *Invited guests in attendance: George Janocsko, Assistant County Solicitor, for Mr. Flynn.*

Recognized attendees: Susan Nirella, Chris Aspiotis, Liz Huston, David Huston, and George Brzezinski - Registered Speakers.

Council staff in attendance: John Mascio, Jennifer Liptak, and Jim Karatassos.

II. Roll Call

Roll Call: Present: Matt Drozd, Vince Gastgeb, Jim Burn, and Council Member Michael Finnerty
Absent: John DeFazio, William Lestitian, Chuck Martoni, and William Robinson

III. Agenda Items**Ordinances****3281-07**

An Ordinance of the County of Allegheny, Commonwealth of Pennsylvania, amending and supplementing the Allegheny County Code of Ordinances, Division 2, entitled "County Government Operations," by the addition of a new Chapter 275, entitled "Residence Requirements; Registered Sex Offenders," in order to augment the provisions of Pennsylvania's Megan's Law and better provide for the safety of the County's residents.

Sponsors: Vince Gastgeb, Jim Burn, Joan Cleary, Matt Drozd, Michael Finnerty, Bob Macey, Chuck Martoni, Susan Caldwell, Jan Rea and William Russell Robinson

Summary: *Mr. Gastgeb provided the committee with a summary of the bill. He said that the main function of the legislation would be to restrict where individuals who are required to register under Pennsylvania's Megan's Law may live in relation to day care facilities, community centers, schools, common use parks, and similar facilities. The general rule established by the ordinance would be that no registered individual would be permitted to live within 2,500 feet of such a facility. The bill creates a summary offense (punishable by up to 90 days in prison and/or a fine of up to \$1,000) for each day that a registered offender resides in a prohibited area after a period of notice of the improper residence (individuals are given 45 days to move after receiving a written notice).*

He said that if the County does not implement this legislation he fears that other municipalities will draft their own and there would be a hodge podge of legislation which could be confusing. He said that he had asked the Chair if concerned citizens would be able to provide public comment on the bill. The Chair agreed to allow public comment.

Public comment began with Susan Nirella from Scott Township, who spoke in favor of the bill. Next was Christine Aspiotis, Elizabeth Huston, David Huston, George Brzezinski, and Paul Lauterbach, all of whom spoke in favor of the bill.

Mr. Gastgeb read an e-mail from Holly Packey from Mt. Lebanon, also a concerned citizen, who wanted her comments to be read into the record. The e-mail read as follows:

My family lives in Mt. Lebanon, 2 blocks away from a convicted sex offender. This particular sex offender also lives only 3 blocks and a little over 1,400 feet from our elementary school, just two blocks away from the Montessori school and 3 blocks away from a pre-school, all of which have playgrounds as well.

The intersection that he lives at is highly traveled by many of the children on their walks to and from the school each day. Mt. Lebanon is a walking district and all of our parents are very nervous about this man living in such close proximity to our schools, playgrounds and daycares.

His presence is very threatening to our children and parents. He should not be allowed to be that close to these children on a daily basis. I know that he has to live somewhere and that he has served his time but statistics have shown that sexual predators are the least likely to be reformed and he has placed himself in prime position of temptation potentially allowing him to act again.

A distance ordinance would take Mr. Evans and others just like him away from the daily hustle and bustle of our children's lives which is constantly putting them at risk and has the parents in a constant state of fear and anxiety. Mr. Evans has committed the crimes but unfortunately we as parents are the ones who are in prison.

Please pass this ordinance allowing us as parents and a community - if even for a moment - to breathe a sigh of relief knowing that we may keep these predators a little further away from our children.

*Holly J. Packey
Concerned Parent of Mt. Lebanon*

The Chair asked if the County Solicitor's Office had any comments on the bill. Mr. Janocsko said that there were some legal issues that needed to be addressed in the legislation and that they are not advocating a specific position on the bill. He said the first observation was whether the bill would pass constitutional muster. He said that the Law Department can not guarantee that. He said if the restrictions in the bill are viewed as punitive rather than safety, it may face a constitutional attach. He said that the legislation may exceed the authority that is granted under the Home Rule Charter. He said the County may not impose sanctions that are punitive.

He said another issue is whether the bill deprives the fundamental constitutional right to live where you want and to travel. He said that if the bill contains language or restrictions that do not advance government interest or are overly broad, it could be subject to constitutional attack. He said some of these types of bills have been preempted by Megan's Law. He said that the legislation should be well grounded in

specific facts, not speculation. He said it should be narrowly tailored so that it advances the interest of the government. He said the way the bill is currently written it presents serious constitutional issues.

Discussion took place between the Chair and Mr. Janocsko regard what would happen if the bill was challenged.

Mr. Drozd asked if Council could pass a resolution urging the courts to make some of these restrictions as part of the sentencing. Mr. Janocsko said that he did not think a Council resolution would have any affect on a judge's sentencing.

Mr. Finnerty asked why this would be against the Home Rule Charter. Mr. Janocsko said because Home Rule Charters are not to permitted to be punitive or impose sanctions. Mr. Finnerty asked if the state could pass something similar to this. Mr. Janocsko said yes, and maybe that should be the way to proceed.

Mr. Gastgeb said that the preemption on the smoking ban ordinance by the Clean Air Act was much clearer than a Megan's Law preemption would be on this legislation. Mr. Janocsko agreed but still warned that preemption was possible.

Mr. Gastgeb said that he believes that the bill can better withstand legal scrutiny by making a few changes. He said that his goal would be to have one more committee meetings to entertain amendments, and then release the bill and place it on the October 23, 2007 Regular Meeting agenda for final action.

The Chair agreed to schedule one more committee meeting prior to the October 23rd Regular Meeting so that this bill can be further discussed.

Action: **Held in Committee**

IV. Adjournment

Summary: *The meeting adjourned at 5:15 PM*