

# **Allegheny County Council**

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## **Meeting Minutes**

**Thursday, August 20, 2020**

**4:00 PM**

**Conference Room 1**

## **Committee on Public Safety**

*Liv Bennett, Chair; Sam DeMarco, Bethany Hallam, Cindy Kirk, Paul Klein, Bob Macey  
and Bob Palmosina, Members*

## I. Call to Order

*The meeting was called to order at 4:00.*

### Invited Guests:

#### David Harris, Professor, University of Pittsburgh School of Law

*Professor Harris was present from the University of Pittsburgh School of Law.*

*Mr. Barker and Mr. Varhola were present from the Office of County Council.*

## II. Roll Call

**Members Present:** 1 - Robert Palmosina

**Members Absent:** 0

**Members Phone:** 6 - Sam DeMarco ,Bethany Hallam,Cindy Kirk,Paul Klein,Bob Macey andOlivia Bennett

**Members Non-Members:** 5 - Tom Baker,Paul Zavarella,Nick Futules, Tom Duerr andAnita Prizio

## III. Approval of Minutes

[11568-20](#)

Motion to approve the minutes of the July 9, 2020 meeting of the Committee on Public Safety.

**A motion was made by Macey, seconded by Hallam, that this matter be Passed.  
The motion carried by a unanimous vote.**

## IV. Agenda Items

### Ordinances

[11409-20](#)

An Ordinance amending and supplementing the Allegheny County Code of Ordinances, Division 7, entitled "Land Use," through the creation of a new Chapter 775, entitled "Offenses Against Property," in order to protect the property rights, health, safety and well-being of individuals within the County.

**Sponsors:** Council Member Catena

*The Chair noted that the primary sponsor of the bill was unable to be present, but expressed a desire to proceed in his absence, as the bill is relatively straightforward.*

*At the request of the Chair, the clerk read the title of the bill and the Chair summarized the function of the bill, noting that it allows for the use of distinctive paint markers for property lines, and would provide for trespassing offenses based on the placement of those markers.*

*Ms. Kirk noted that the Commonwealth had already passed a purple paint law last year, but that it did not apply to Allegheny or Philadelphia Counties, and that a number of individuals in her district had approached her regarding the possibility of enacting something along these lines.*

*Mr. Macey questioned what the learning curve may be for the public understanding the*

meaning of the purple paint markers. Ms. Kirk suggested that the primary population that would be affected would be hunters and trail walkers, who already have some degree of familiarity with purple paint markers and are relatively easily identified populations for information distribution purposes. Ms. Kirk also noted that the provision is already in effect in all other Pennsylvania counties other than Philadelphia.

Mr. Macey expressed a desire to have some additional information regarding how the program works in other jurisdictions.

In response to a question from Ms. Hallam, the Clerk discussed the nature of summary offenses and enforcement thereof, and Ms. Kirk described the mechanics of how the provision applies in other jurisdictions.

Mr. Futules suggested that signs could be used at intervals in addition to the paint markers to clarify the property owner's intent.

**A motion was made by Macey, seconded by Kirk, that this matter be Affirmatively Recommended. The motion carried by the following vote:**

**Members Absent:** 1 - Palmosina

**Members Yes Phone:** 5 - DeMarco , Kirk, Klein, Macey and Bennett

**Members No Phone:** 1 - Hallam

**Members** 5 - Baker, Zavarella, Futules, Duerr and Prizio  
**Non-Member:**

#### **Discussion Topic:**

#### **Professor Harris will discuss police oversight.**

*At the request of the Chair, Professor Harris gave a brief prepared presentation regarding civilian oversight generally within the United States, noting that there appears to be a consensus in the public that some form of civilian oversight is desirable in addition to the internal review procedures that police forces have in place. Professor Harris indicated that police agencies are government entities, and as such, are properly subject to the public's right of oversight. Professor Harris stressed the need for any civilian oversight agency to be independent in order to inspire public trust in its process and findings. Professor Harris noted that Commonwealth law does limit the ability of counties to impose civilian review upon municipalities located therein, but suggested that it would be wise to establish a structure in anticipation of that statutory landscape changing, as the General Assembly is considering multiple bills that would allow for such countywide oversight and it would in his opinion be wise to be proactive, rather than reactive. Professor Harris suggested that offering an incentive to participation might be a way of fostering voluntary opt ins unless/until the statutory landscape changes. Professor Harris briefly summarized the models for civilian oversight, comparing and contrasting the complaint-driven model from the auditing/policy-driven model, and noting that a variety of different approaches can work, provided that the necessary independence of the civilian oversight entity is present.*

*In response to questions from Mr. DeMarco, Professor Harris noted that municipal officials, while civilians who do have political accountability for their police forces' actions, do not necessarily have in depth expertise in policing issues, may not have the investigative or other capability that a review board does, and are not independent from political considerations that may influence their objectivity. Professor Harris indicated*

*that the governance structure of the Pittsburgh code or charter may or may not allow for municipalities to opt into their review process, but stressed that municipal departments outside of the City of Pittsburgh will certainly be much smaller and likely will have different policing practices and needs than the City's Bureau of Police.*

*In response to questions from Ms. Hallam, Professor Harris indicated that he does not regard it as necessary that board members be elected, because his experience is that independence from the agency being overseen is the key issue, and he has no reason to doubt that appointees could be selected that adequately ensure such independence. Professor Harris noted that whether participation is incentivized or non-participation is disincentivized, the ultimate effect is essentially the same from a mechanical standpoint.*

*In response to questions from Ms. Kirk, Professor Harris noted that existing local civilian review boards can be effective, provided that they maintain the requisite independence. Professor Harris also indicated that an ombudsman might actually enhance a civilian police review board's function, provided that the board itself retains independence from the agencies being reviewed.*

*In response to comments from Mr. Klein suggesting that the intent is neither disrespectful nor inappropriate nor intended to control any police department but, rather, to create a structure to have it in place rather than creating something on the fly when and if it becomes necessary, Professor Harris agreed that the County does not have jurisdiction to control any other municipality's police department and that there is wisdom in a proactive approach.*

*In response to questions from Mr. Macey, Professor Harris discussed the difference between review on the one hand, and determining fault and imposing sanctions on the other, noting that the City's board actually gets to the point of remedial recommendations comparatively rarely, and also indicating that the ordinance as drafted does provide procedural protections for participants on both sides. Professor Harris noted that the evidentiary impact in future court proceedings is limited under the Garrity Rule, insofar as police officers' testimony while required to provide it to a review board are generally not admissible at trial. Professor Harris also noted that it is comparatively rare for an issue to come up before a police review board that rises to the level of a criminal or even civil violation, and that having a structure in place for review carries more of a benefit than the evidentiary concern entails a detriment.*

*In response to questions from Mr. Baker, Professor Harris indicated that funding for a board would be the province of Council, as the County's budgetary entity, and clarified his previous comments regarding providing incentives and disincentives to encourage municipal participation.*

*In response to a question from Mr. Zavarella, Professor Harris indicated that there may well be wisdom to having legal representation if a given officer finds himself or herself before a review board, but that it would be highly unlikely that they would be in either criminal or civil jeopardy as a result of the types of complaints that are typically made to these sorts of review entities.*

*In response to a question from Mr. Duerr, Professor Harris noted that creating the board is a fundamentally important step to take, and that the board must have enough power to do its job, but that opting in will likely become something that municipalities become more willing to do over time as their residents increasingly desire this type of oversight.*

## V. Adjournment

*The meeting was adjourned at 5:04.*