CHARLOTTE

Charlotte City Council

Community Safety Committee

Meeting Summary for May 5, 2011

COMMITTEE AGENDA TOPICS

I. Subject: **Noise Ordinance**
Action: Motion made to forward the revised Noise Ordinance to the full Council (passed unanimously)

II. Subject: **Airport Taxi Service Request for Proposals (RFP)**
Action: Motion made to forward staff's recommendation to the full Council (passed unanimously)

COMMITTEE INFORMATION

Present: Patrick Cannon, Patsy Kinsey, and Edwin Peacock
Time: 3:05 pm – 4:30 pm

ATTACHMENTS

1. Agenda Package
2. Second Draft of Noise Ordinance
3. Memo – Jerry Orr
4. ITOOA Handout

DISCUSSION HIGHLIGHTS

Chairman Cannon called the meeting to order and asked everyone in the room to introduce themselves.

I. Noise Ordinance

Chairman Cannon said the first item on our agenda has to do with the Noise Ordinance where the Committee will continue to discuss the revised proposal to the Noise Ordinance. Staff will address Committee questions regarding the Noise Ordinance and there is no recommendation

that has to come out today. Just for information, we did have an opportunity to go out and listen to what the decibel levels would be like at 85 decibels, all the way down to 65 decibels. It was a good demonstration and one that I think helped to shape where we are trying to go and get a level of understanding about what the neighbors are going through and/or could be going through in the future. We will talk more about that process and how that went over, but I would like to yield to our staff resource, Assistant City Manager Eric Campbell.

Eric Campbell stated that during our last conversation on the Noise Ordinance, the Committee raised some questions and the staff went back and took a look at some of the areas; primarily, in the area of fines and penalties, mobile noise, and industrial noise from utility work. Mr. Hagemann is going to walk you through some of those areas and a couple of other things that has been included since our last discussion.

Deputy City Attorney Bob Hagemann pointed out the document titled "Noise Ordinance Open Issues and Changes" handout (copy attached). This is the combination of the issues that the Committee discussed at the last meeting as well as a couple of things we brought forward to bring to your attention. Regarding number 1, the Committee asked last time if we had taken a look at other cities civil penalty amounts for violations of the ordinance. Keep in mind that under the current proposal we have a dual system of civil penalties. We have civil penalties at the front end before an establishment goes through the noise mitigation program and then we have civil penalties at the back end if they are put into the category of "Chronic Noise Producer" and are unsuccessful. That is the unique approach in this ordinance and we did not find anything comparable to that backend citation in other City ordinances. One small correction on the chart, in the first line under Charlotte, we are $100 across the board for any violation of the Noise Ordinance with one exception. The front-end loader is actually $200, but for everything else, under the current draft it's $100. A number of the other cities have progressive penalties based on the number of violations within a period of time. Some have a little bit more discretion in that the amount does not exceed a fixed amount. The biggest one we found in this group was Dallas - up to $1,000 per day starting with the first violation.

Moving to number 2, the staff proposal for a business put into the "Chronic Noise Producer" program and failed because they refused to participate, agree to participate but don't do so in good faith, are unwilling to agree to a mitigation plan, or they agreed to a plan and then failed to follow the plan, then under the current proposal, they would be subject to civil penalties of $1,000 per violation. After the second violation, they would lose their right to have amplification up to 12 months, a full calendar year. At the last meeting, Chairman Cannon raised the possibility of 18 months, as opposed to 12 months, and then the prohibition would run with the land so the business just can't shut down and a new one open up the next day and start cranking the noise again. We captured that and are prepared to include that in the final version of the ordinance if the Committee is ready to recommend it. Council member Barnes put on the table penalties higher than the $1,000 that the staff proposed. He proposed $1,500 for the first offense, $3,500 for the second offense and $5,000 for subsequent offenses.

Cannon: Is there anything you would like to weigh in on relative to staff's proposal versus some of the other things that have been placed in there? For justification on the 18 months, I had suggested the 18 month prohibition largely in part to ensure that we would have a full one-year

suspension that would be in place, given you will have a season where the outside amplification is not taking place to the extent that it normally would in the summer or spring months.

Kinsey: I think the staff proposal is reasonable. If you want to go to 18 months, I'm okay with that, but I think a prohibition might be a little more effective in stepping up the fine.

Peacock: I see the difference between the staff proposal and Council member Barnes' proposal. You say $1,000 and you don't say first offense, Councilmember Barnes' says first offense. My fear of putting in a fine at this deep of a level is that a business comes into town, opens up a bar, neighbor calls, first offense and here is a $1,000 fine. That is not what would happen, so walk us through from the first phone call to our Police Officer.

Hagemann: The Police would respond and attempt to resolve the situation as they usually do with voluntary compliance. They would have the discretion, if they could not achieve voluntary compliance, to use other enforcement tools and that would include the imposition of a civil penalty of $100. Technically, it could also include criminal prosecution as a misdemeanor. At some point, when the Police conclude that the business is a "Chronic Noise Producer" and the problem is not being solved through those conversations, and perhaps enforcement actions, this proposal would allow the Police Department to label that business a "Chronic Noise Producer." The process has an appeals option for the business to appeal to the Manager's Office or a designee of the Manager to challenge that determination. If it is upheld or if there is no appeal, then Code Enforcement would step in. Walter Abernathy's group would step in and work with the business and the affected neighbors to try to assess the problem and see if, collectively, a solution could be tailored. It could be a combination of things. It could be a stricter decibel limit. For example, if the business directly abuts residential property the 85 db(A) at the business property line, by definition is 85 db(A) at the receiving residential property line. That may not be acceptable, so there may be a lowering of the decibel limit. There may be a tightening up on the hours that are otherwise in the ordinance. There may be some physical, structural, or operational changes. There are a whole range of possibilities to try to solve the problem that is unique to that location. As long as the business is cooperating through that process, this proposal would give them a bit of a safe harbor from enforcement and invite the business to participate to help solve the problem. If a solution is found through the noise mitigation plan, and as long as the business operates in compliance with that plan, they are good to go. If they refuse to participate or participate in bad faith, refuse to work toward a solution or agree to a solution and then begin violating what they agreed to, they can then be labeled as non-cooperative by Walter's group. That decision is also appealable to the Manager or the Manager's designee. Once they come into that non-compliance zone, we set them up at that point with aggressive enforcement if they continue to violate the ordinance. It's at that point that the heightened civil penalty, the staff's proposal is $1,000, would kick in. As I indicated, if they had one violation it would be $1,000 and with the next violation then they have the 12 month prohibition, or 18 months as the Chairman suggested, and that would run with the land and essentially at that point the conclusion is that this is the wrong thing at the wrong location.

Peacock: One follow-up question to the Police Officers in the room, what is your reaction to the way you all are viewing what we are talking about here?

Stahnke: If we get to the point where we are dealing with a business and we have cited them or brought criminal charges against the owner and they still continue to be a problem, it is good to have another avenue to route them to. That gives the business owner the opportunity to address the issue and show that they are willing to be compliant and if they are not, then of course they can be labeled non-compliant. At that point, they are choosing their own fate of future enforcement and increased fines. That increased fine is a little bit more of a penalty to face and of course if they feel like they can afford $1,000 a pop, great, but they are going to reach quickly that point where they are told you can't have your outside entertainment at all, and that will affect their business in the long run. The changes, in my opinion, are positive.

Cannon: Before this even gets to the penalty stage, there are enough escalators in place to hopefully get the institute to comply with reducing any noise they may be causing that neighbors would have some level of concern about. I would like to ask the Committee if we could include, and my suggestion is for the second violation, $1,000 and an 18 month prohibition upon the second violation and the prohibition run with the land.

Peacock: No objections, Mr. Chairman.

Hagemann: Regarding number 3, in response to the input from some citizens and the interest from Committee members, I had conversations with reps from the Police Department, particularly Nick Pellicone, and the information I was given is that they do use the current Noise Ordinance and do issue citations for loud stereos in automobiles. They feel like the tools that we have, in terms of the ordinance, are adequate and effective for writing citations. The issue is one of enforcement because they are mobile. I'm told most of the citations are issued downtown by officers on bikes. The sense is that the ordinance is adequate for dealing with the problem, it is the challenge of enforcement.

Kinsey: I don't know how you would enforce it. You've got to catch them and by the time you call it in, they are gone. I have gotten some complaints and perhaps Ms. Carter has as well, of people playing their car stereos in their yard late at night.

Cannon: Unless something else comes, we will consider that to be closed. If it does come up again, we can address it down the road if need be.

Hagemann: City Utility work is a new issue that staff is bringing forward. (see handout for detail and proposed language)

Kinsey: I put this under the category of emergency.

Peacock: No objection to fixing this.

Cannon: I think both of you are right and this is for public good. I think the three of us agree with that and we can check this off.

Hagemann: On to number 5, the Committee discussed this briefly at the last meeting. The current draft says the ordinance would be effective upon adoption and we realized that we need

to gear up a piece of this, particularly the large outdoor music venue permitting process. Obviously, we can't have the Council adopt it and expect permits to be issued the very next day so what we propose is a 60-day window for those affected businesses, and it is just a handful of them, to be able to come in and work with our staff and get permitted before that provision kicks in. Regarding number 6, it's really a clarification of something that was always our intent. You recall that we discussed this previously; the outdoor music provision sets a decibel limit of 85 decibels until 9:00 p.m. week nights and 11:00 p.m. Friday and Saturday, and then it drops down to 60 decibels until 2:00 a.m. In addition to exceeding that decibel limit, there also has to be a determination that it is actually causing harm and that it is unreasonably loud and disturbing to the quiet enjoyment and use of residential property. In thinking through the example I gave before where some of your constituents have identified where their property directly abuts the business, you may have a case where the business is operating under 85 decibels and therefore is not in violation of that provision, but it is still causing a problem. What we would propose to do, and this was always our intent, is to add a sentence to clarify that it is not a requirement to be put into the noise mitigation program that you actually have been cited or be in violation of the ordinance, that you may literally be within the terms of the decibel limit, but still be a problem based on where you are in relation with your neighbors and you can still go into the mitigation program. I just didn't want to add language to the ordinance that shows up in front of Council without having highlighted that to the Committee ahead of time.

Cannon: For the entities that have been problematic and choose to remain to be problematic, it is probably fair to say that they could be driven completely out of business at the end of the day if they are not careful in what they do, in terms of amplified noise. It would be my hope that Code Enforcement, CMPD, and the Attorney's Office take this issue very serious and that we listen to the complaints that come in and answer accordingly those calls that we get from our citizens regarding what it is they are going through. I don't think anybody in this community is here to play around. I think we are sending a pretty strong message right now and we want to make sure that it is enforced as best it can be.

Peacock: I recommend the Committee move forward on this ordinance as written with the edit that you just made earlier Mr. Chairman of the staff's proposal, the language before that about chronic noise offender, and the 18 month prohibition for the second violation. Mr. Chairman, I will make the motion and if I get a second I would like for you to remind the audience as well as for the record, the process of what occurs after a Committee votes and how it goes back to the full Council and then before the public.

Cannon: Your motion would include the prohibition to run with the land?

Peacock: Yes, of course.

Kinsey: I'll second it. May I ask some questions? I'm sorry I wasn't here for the last meeting to get these questions in. On Page 2, Section 15-64 (1), does this apply to demonstrators or street preachers? If we are registering the level of decibels at the property line rather than at the place it is generated, then I'm wondering why we don't register it at the place it is generated. There is one area that I am constantly contacted about and unfortunately they are breaking the law by starting at 7:00 a.m. on a Saturday morning, but you can hear it clearly across Wendover Road.

Why do we not monitor it at the location where it is generated?

Hagemann: We do. Let me explain how this section works with the proposed changes. Number one would only effectively deal with noise on residential property affecting other residential property, neighbor-to-neighbor and back yard parties, that kind of thing. The protest and the amplified noise associated with that is actually on the next page under what would become number three, it is currently six. You see a number of changes there and it sets a decibel limit of 75 db(A) measured 10 feet from the source. When protesters are out with amplification or bull horns, the Police take the measurement 10-feet away from the source and if it is 75 db(A), currently the break is 9:00 p.m. They can go 75 db(A) until 9:00 p.m. and under the current ordinance they can go all night long at 65 db(A). The draft would propose to change that and say you can only have amplified noise in the right-of-way between 8:00 a.m. and 9:00 p.m. through the work week and until 11:00 p.m. Friday and Saturday. We've got a couple other tweaks in here because we've had some experience with speakers high up in the air so we've put a provision in that you can't have it more than 10 feet off the ground and that is because we take the measurement 10 feet away.

Kinsey: Page 4 Section 15-65 (c), the special permits apply to what group?

Hagemann: Currently, we have a mechanism for excess amplified noise. Again, the current ordinance measures at the noise receiving property and it is 55 db(A) and then it drops down to 50 db(A). There is a mechanism in this section where you can get a permit for excess noise up to 70 db(A) for a certain number of hours per year, either 10 or 20, based on the size of your building. What we proposed with this draft is to do away with that permitting completely for commercial establishments. We've given them something new which is the 85 db(A) subject to tailoring for unique situations and we are taking the burden off the Police Department to even have to process or issue permits at all. What this would remain applicable to is residential.

(The vote was taken on the motion and passed unanimously)

Cannon: After this we will look for a recommendation that will go to the full Council. We haven't determined yet, but I don't think we plan to have a Workshop on this.

Campbell: We need Committee direction Mr. Chairman. We can talk about it. First, I'd like to clarify if the vote that was just taken was a referral to the full Council?

Peacock: That is correct.

Campbell: We have several challenges due to it coming at the end of the month because we don't have a regular Dinner Briefing at this point. The earliest we could do a Dinner Briefing would probably be the Workshop in June, which is June 6. That would be the earliest we could get the Workshop dinner and then it would be the Committee's discretion as how fast you want it to come before the full Council.

Cannon: It can go to the full Council at a Workshop or the Committee can make a recommendation and attach it on to one of our Business meetings and we would take action

there.

Campbell: The Committee did hold a Public Comment session, so you can take that into consideration as you decide to move forward.

Kinsey: I don't want to rush it and I want other Council members to have the opportunity to learn about it, but the sooner we can get this ordinance passed the better. We are talking about a six-month trial period and a lot of these Committees don't meet during the summer months.

Peacock: I think we should bring it to the full Council on the next available Business agenda. Is that going to start the Public Hearing?

Campbell: Once it is on the agenda anyone can sign up to speak to it. It wouldn't be an established Public Hearing, but they could sign up to speak to it. So hearing that we don't need the work session, we'll just bring it to the full Council.

Cannon: With that being said let me thank everyone on both sides of this issue. This has been a big undertaking and we landed, I think or we are about to land, in a good place. We will soon find out after about six months.

Kinsey: I don't want us to lose sight of the fact that this is just a small portion of the entire ordinance. There is a lot of other good stuff in it.

Cannon: This will conclude the item on the Noise Ordinance.

II. Airport Taxi Service Request for Proposals (RFP)

Mr. Campbell stated that the City Manager has made three recommendations to the full Council to award contracts for Taxi Cab Service at the Airport. Council referred the City Manager's recommendation to the Committee for review. The staff has provided the Committee with the three proposals that were originally recommended, as well as the additional six that were also considered. These were hand delivered to all of the Committee members for review. Aviation Director Jerry Orr will walk through some of the questions that were asked during the Council discussion and any additional questions the Committee may have regarding the RFP and contract.

Orr: We attempted to list out what we thought the questions were that we need to address. I'm going to try to walk through those and help you get a grasp of what they are about. Before I do that, you might ask why we did this in the first place. I get to hear from everybody that flies in and out of the Airport, whether I want to or not, and for a long time we have gotten a lot of complaints from customers that the cab service is not up to where they think it should be. As you know over more than two years, we've taken a very in depth look at the cab service at the Airport and made some recommendations to you. We want all of the cab operators to step up their game at the Airport. We think this is a reasonable request. We want the companies to step up their activity, we want them to be more active, more effective and to take a stronger role in managing the operations. We've put together an RFP, which we put out in September after a lot

of in depth discussions with companies, customers, our own staff and taxi drivers themselves.

(Referencing "Recently Asked Questions about the Airport Taxi RFP" handout attached)

1) What was the selection process?
   Orr: It was based on a RFP and you have copies of that RFP. The RFP set out the parameters under which we would judge the quality of each submittal. We had 9 proposals and the proposals that stood out above the rest, in terms of meeting the parameters of the RFP, we (the Selection Committee) interviewed those companies to take a more in depth look at them. After the interview process and after reviewing all the proposals the recommended companies were a unanimous decision.

Cannon: In terms of the CRVA representative, just for the record, and I could be wrong, would that be for the purpose of the idea that they are involved in a level of tourism and visitors coming to Charlotte.

Orr: That is their function and that is why you pay them a great deal of money, to bring conventions here, which supports our hotel industry and is a major source of clients for the taxi industry.

2) Did the Hospitality and Tourism Alliance (HTA) influence the selection process?
   Orr: No. Crown and Yellow are members and there are other companies, such as King and City Cab that are not members and of the companies that weren't recommended, some are members and some aren't. So, there is clearly no correlation between HTA and the selection.

Cannon: Did HTA contact anyone on the Selection Committee to your knowledge?

Orr: They didn't contact me and to my knowledge they didn't contact anybody else, but I really don't know that.

Cannon: I just wanted to circle around to understand about having influence in the selection process that go into those entities and the people that you named that were part of that selection process. Were any of those people contacted by any one of HTA to try to influence the decision?

Orr: Not that I'm aware of.

Cannon: With that specific question, would you please follow up on with the Selection Committee and get us a response back to that please?

Orr: Certainly.

3) Does City Cab have taxis?
   Orr: The answer is yes and they have had taxis for some time. I understand they have in the range of 30 vehicles. If you doubt that, go down to the intersection of South Tryon Street and Third Street and see if you don't see a City Cab sitting there.

4) Does City Cab have the capacity to handle an Airport Operating Agreement?
   Orr: We believe they do. You will note that we recommended that they not receive as many permits, at least initially, as the other two companies we recommended because they are a smaller company. I would say to you that as we talked to the drivers and we listened to the driver's opinions, many of them seem to object to having to work for a company and City Cab is a company made up of drivers. The drivers own the company. These people did exactly what we suggested they might want to do, they formed their own company and they put together a very compelling plan. They participated in the competitive process. It was a good plan and the way the company is put together the drivers are the stockholders so if they need more money they've got a lot of stockholders to raise that money.

Cannon: I guess some of which I might add, as I understand it, some would have been operating at the Airport in some capacity in terms of some of the drivers that are affiliated with this company, their representative may have been purely off the street.

Lahbabi: Their proposal indicated that 10 of the 30 drivers were currently at the Airport.

Cannon: And you are satisfied relative to the financial stability to adhere to this RFP?

Orr: Absolutely. Yes sir.

Cannon: I did look at their RFP and they have put together something that is not bad and I do need to say for the record in between your questions that you are answering for us, that Council member Barnes did send me an e-mail and wanted it to be noted that he is for moving the process forward with the recommendation that has come from City staff. I just wanted you all to know that he wanted to make sure that I put that out wherever we might end up.

5) Are 105 taxi permits sufficient for customer demand?
   Orr: Yes. Remember that what we are discussing is 105 full time permits plus 51 initial peek time permits. We have the capability to issue additional permits of either kind at any time should the market show our numbers are not correct or should the taxi service get remarkably better as a result of this proposed new system and generate more business; therefore, more demand for more cabs. It is very easy to increase the number of permits.

Cannon: I believe I read that if you did find yourself short, there is nothing to preclude the Airport from being able to reach out or call out to dispatch other cars to come in and meet that demand.

Orr: Certainly, and each of the companies that we interviewed assured us that all of them have more cabs than the number of permits we indicated we would issue to them. All of them indicated that having more cabs on a short notice would not be a problem. We did a considerable amount of analysis to get to the 105 permits.

6) Are Drivers going to be put out of work?
   Orr: No, not based on these numbers. Remember that this is a competitive RFP, which means companies are competing for the business. We do this all the time. We just did a

retail RFP within the last year. All those retail shops in the terminal employ close to 1,000 people and the company that did manage all those shops was not the company we selected. We had a new company come in and probably 90% of the employees of the former company are now working for the new company. We do our janitorial contract the same way and I make the same general statement about that. The company changed and the workers had to reapply with the new company for their job, but most of them continue right on.

Cannon: Are you suggesting to the Committee that based upon what happened in the retail scenario that the potential for the same thing where drivers who ultimately wouldn't be making the cut here, would somehow have a chance to be employed by one of the three or all three of these companies?

Orr: One of the three. Each of those three companies are going to be seeking out the best drivers with the best cars in order to fulfill their contract. It is a market principle that the successful companies are going to want the better drivers and better cars. The drivers with the better cars are going to want to work for the successful companies.

Cannon: Are you in a position to tell the Committee what kind of room within those company's organization that they might have to employ the good and experienced drivers?

Orr: That is very subjective, but I would say the chances for the driver who is willing to procure the car and meet the standards at the Airport has the best chance of being employed by one of these companies.

Cannon: I only ask that question because I know the one thing we would love to do is measure with those who want an opportunity to be able to do that.

Orr: Keep in mind that there are 600 drivers permitted by the City of Charlotte and only 150 would be permitted at the Airport, so there are going to be some left out.

Cannon: What I'm hearing you say is the number would not be as extensive as has been alleged.

Orr: Clearly there is not going to be 144 jobs lost. That is totally disingenuous. There are 600 drivers that are driving cabs now in the City and I anticipate that if this went into effect tomorrow, I would suggest there would be 600 drivers driving cabs in the City tomorrow. Roughly 150 of them will be serving the Airport as they are today. I could only guess that how many of the existing ones would be continuing tomorrow, but we have turnover and they come and go all the time.

7) Are the taxi drivers going to have to pay more to the Airport?
Orr: The answer is no. The permit fee that is charged to the company has been $1,250 since 1989. We originally intended to raise that to $3,000 in an attempt to recover all our costs associated with operating the system. As we had conversations in putting together the RFP, and even after we issued the first RFP, we decided to lower the permit fee to $500 for each of the 105 permits, and nothing for the peek time permits. In addition to that we would charge a $1.00 per trip charge to the company. We think that is a much more equitable user fee

system because the cab that gets the trip pays the $1.00. If you get a lot of trips you pay more than someone who doesn't get as many trips.

8) Are the drivers going to have to pay more to their companies?
Orr: We don't believe that they are, but what the drivers pay to their company is whatever the relationship is between the driver and the company. The companies are individual companies operating in the market place, permitted by the City and what they charge the people that work for them or with them is a matter between those two parties. I don't think we have the authority to dictate that.

Cannon: I understand and that sort of came up under our bigger umbrella in our last meeting on the PVH ordinance. I think a level of concern happens to be on pass thru expenses.

Orr: It certainly does. Keep in mind as I have said a number of times, I prefer to deal with one company and one of the big reasons we went with three companies is that it does provide competition, not to much competition from our perspective, but particularly competition that should be beneficial in the market place for the owner/operator. We expect that at least ¾ of the cabs and drivers at the Airport are owner/operators.

Cannon: I think we are glad you brought back multiples. We also want to make sure that the demand is being captured, even though we realize that you can dispatch, it still makes good sense to do what you are talking about and having competition out there among people to some extent. I just hope if this thing moves forward that any of these existing companies that may be awarded this, in the future, would certainly open their doors up for opportunities and not allow what some folks have been saying to me would be a gouging situation in their mind.

Lahbabi: Mr. Cannon, I know that you all talked a lot about the fees and issues that some of the changes the drivers have asked for at the last Council Workshop. Whatever changes you decided to make would automatically be effective through the operating agreement. In other words, if you implemented a medallion system or franchise fee cap, it would not affect the Airport contracts. The company has to abide by that so I just wanted to make it clear that if you so chose the Airport Operating Agreement could move forward while you were deciding what you wanted to do with the PVH Ordinance.

Cannon: There is very little in common between the two. Thank you for that clarification.

9) Are the drivers going to make more money?
Orr: We think the drivers are going to make more money. We think the drivers are going to have to wait less time for a fare, it is going to be much more efficiently managed and drivers make money by driving a car, not sitting an hour or two waiting for a fare. The whole thrust of this is efficiency in our scheduling, in our call up so that the driver works fewer hours and makes more money. We base this on a driver working 10 hours.

10) Why select 3 companies instead of 12? Doesn't that mean less competition?
Orr: I don't think 3 companies mean less competition than 12 and I will relate that somewhat to other big companies around the country and things I know about like airlines. We've gone

from a lot of airlines to a couple of big airlines. If you have too many participants in a market driven economy then there is not enough business to go around and nobody can make money. When the supply and demand are appropriately matched is when everybody does the best. That is what we are trying to do with this – match the demand with the supply.

Cannon: Was there ever a time when we had a company that wanted to participate in the RFP, but was told that they could not participate in the RFP, based upon not meeting the eligibility requirements?

Orr: Not by me.

Lahbabi: In the RFP there were some initial eligibility criteria and there were several pieces to the initial criteria. One statement was the proposer had to be a business and be currently, actively engaged in providing taxi service.

Cannon: Would that be one of any of the entities that would have been bidding on the RFP? City Cab was a company that was pulled together pretty quick and wasn't operating as an individual company doing business for a long period of time or were they?

Lahbabi: They actually had been. They received an operating certificate back in July and a proposal was due in October. I think there was some confusion about whether a non-profit association was eligible to propose or not, the question that came through to us was could a non-profit organization that does not, itself, provide taxi service propose? We just quoted back the language from the RFP that the proposer has to be an entity currently providing taxi service. The question stated that they were not an entity currently providing taxi service. Essentially, the point was if you are already providing taxi service somewhere, be it in the City of Charlotte, Gastonia, Hickory or wherever, the reason we put something in the RFP saying you have to have an operating certificate today or be able to get one is so that if there were, and we have very large national companies that do service in Orlando that provides comprehensive ground transportation, one of them had been interest in proposing. They were currently involved in providing taxi service, but the second sentence they would have to show that they could get certified by the City of Charlotte. I think what they are confusing was if they could get the certificate within 15 days, would they be eligible.

Cannon: Obviously, they would be if they could do it within 15 days of the selection.

Lahbabi: No, because there are two separate points that have to be met. The first sentence says they have to be an entity currently involved in providing taxi service. Instead of saying you have to have been engaged in providing taxi service for 5 years, we just said you have to be engaged in taxi service. As it happened, there was a company that had only been providing it for a couple of months.

Cannon: Did you ever convey to anyone that may have been interested in the proposal that they could have actually been a part of the proposal?

Leila: During the actual RFP process or prior to the RFP being executed?

Cannon: It would have been around December 2010, so whatever timeframe that was.

Orr: That was 3 months after the RFP.

Lahbabi: Yes, I think the Selection Committee had already made their decision in December 2010.

Cannon: Did you find at some point that an entity that had an interest could have actually participated?

Leila: No, they had passed the due date if I am understanding your question correctly. The competitive process had already closed, interviews had been held and the Selection Committee had made their determination to bring before you at a later time.

Orr: You can't make a proposal after the proposal date is closed.

Cannon: No, but I think if you wanted to participate in it prior to it going out and you are being told that you probably don't qualify for it because you don't meet the eligibility requirements, of course not.

Orr: In December you wouldn't qualify.

Cannon: Exactly, I'm agreeing with you, but if before the RFP goes out and someone had an interest in participating and they are told they don't meet the eligibility requirements, but find out later they could have then I'm concerned.

Orr: I understand your question. What we would have told them is you have to be a company at the time you submit the proposal.

Lahbabi: That is in writing in the addendum as well.

Cannon: You would have had to be a company?

Orr: At the time you submit the proposal.

Cannon: Are you familiar with the company that I may be referring to?

Lahbabi: I'm not.

Cannon: Was there an entity out there called Taxi Cab Owners and Operators Association? You remember Amber Harrison?

Leila: I did respond to an e-mail from Amber Harrison in the RFP process and that is actually in your notebook in the addendum. That is the answer that I described to you. That was not before the RFP went out, that was during the RFP process. She didn't name the company and I didn't

know who she was talking about or representing, but she asked if a company that does not provide taxi service propose and we quoted back that section of the RFP that the proposer has to be actively engaged in providing taxi service.

Cannon: Okay, a recommendation is to be provided to the Council on June 13. The Committee needs to determine if it wants to move forward with a recommendation which would have been to approve the RFP to the three entities that were named. Do you need more information? Do you need more time to go through the documents at hand or is the Committee ready to make a recommendation to the full Council?

Kinsey: I move that we send this to the full Council with the three.

Peacock: Second.

Cannon: This would be for City Cab, Crown Cab and Taxi USA.

The motion passed unanimously.

Cannon: For the record, Mr. Barnes' position would have been the same as what Ms. Kinsey is recommending.

Campbell: The original motion that referred the item into Committee noted a report back on June 13, so it will be on that date it will come back to the full Council.

Cannon: Tell me again where we are on the pathway with PVH.

Campbell: Our regular scheduled meeting is May 18 and the PVH Ordinance will appear on that agenda.

Cannon: Even though this recommendation is just what it is, a recommendation, I still plan to inquire between now and the time the decision has to be made on this because I still need to get some answers to some questions. I'm not completely satisfied based upon some things I've heard today and I want to make sure. I'm inclined to be supportive, which is why I joined the vote, but I want to make sure that I stay all the way in or that I need to pull back some. I want to make sure that I'm doing that to be fair to everyone involved in this process.

Lahbabi: Mr. Chair, we also prepared written responses to the questions that Mr. Orr just went over for the Committee as well as the rest of the Council. We will give those out to you all (copy attached).

Meeting adjourned at 4:30 p.m.

Community Safety Committee
Thursday, May 5, 2011; 3:00 – 4:30 pm
Room 280

Committee Members: Patrick Cannon, Chair
Patsy Kinsey, Vice Chair
Michael Barnes
Andy Dulin
Edwin Peacock

Staff Resource: Eric D. Campbell

AGENDA

I. <u>Noise Ordinance</u>

Staff Resources: Mac McCarley & Bob Hagemann

The Committee will continue to discuss the revised proposal to the current Noise Ordinance. Staff will address Committee questions regarding community noise issues. No decisions are requested at this meeting.

II. <u>Airport Taxi Service Request for Proposals (RFP)</u>

Staff Resource: Jerry Orr

During the March 28, 2011 business meeting, City Council approved a referral to the Community Safety Committee to review the Airport RFP process and to provide a recommendation to the City Council at the June 13, 2011 business meeting.

<u>Attachment:</u> 1. Taxi Service RFP Documents.pdf

<u>Next Scheduled Meeting</u>: Wednesday, May 18 at noon in Room 280

Distribution: Mayor/City Council, Mac McCarley, Jon Hannan, Curt Walton, City Manager, Stephanie Kelly, Jerry Orr, Leadership Team, Rodney Monroe, Leila Lahbabi

Community Safety Committee
Noise Ordinance – Open Issues
May 5, 2011

1) Civil Penalties/Prohibition on Amplification for Non-Cooperative Businesses

Staff Proposal - $1,000 and 12 month prohibition upon second violation

Chairman Cannon – 18 month prohibition upon second violation

CM Barnes - $1,500 first offense, $3,500 second offense, $5,000 subsequent offenses

Penalties	1st Offense	2nd Offense	3rd Offense
Raleigh	$100.00	$300.00	
Minneapolis	$100.00	$300.00	2x previous not to exceed $2,000
Chicago	$300.00	$500.00	$1,000.00
Pittsburgh	Maximum not to exceed $300.00		
Austin	Maximum not to exceed $500.00		
Dallas	Maximum not to exceed $1,000		

2) Car Stereos

- CMPD believes that existing tools are adequate
- the challenge is enforcement

3) City Utility Work – see attached proposal

4) Effective Date

- Large Outdoor Music Facility Permits section effective 60 days after adoption
- Rest of Ordinance effective upon adoption

Second Draft – 4/8/11

ORDINANCE NUMBER:_____ AMENDING CHAPTER 15

AN ORDINANCE AMENDING CHAPTER 15 OF THE CHARLOTTE CITY CODE ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS"

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Charlotte, North Carolina, that:

Section 1. Article II of Chapter 15 of the Charlotte City Code is amended as follows:

"**Sec. 15-61. - Loud, disturbing noises prohibited generally.**

It shall be unlawful for any person to create or assist in creating any unreasonably loud and disturbing noise in the city.

Sec. 15-62. - Measurement.

For the purpose of determining db(A)s as referred to in this article, the noise shall be measured on the A-weighting scale on a sound level meter of standard design and quality having characteristics established by the American National Standards Institute.

Sec. 15-63. - Sounds impacting residential life.

(a) It shall be unlawful to carry on the following activities in any residentially zoned area of the city or within 300 feet of any residentially occupied structure in any zone of the city:

(1) The operation of a front-end loader for refuse collection between the hours of 9:00 p.m. and 7:00 a.m.

(2) The operation of construction machinery between the hours of 9:00 p.m. and 7:00 a.m.

(3) The operation of garage machinery between the hours of 9:00 p.m. and 7:00 a.m.

(4) The operation of lawn mowers and other domestic tools out-of-doors between the hours of 9:00 p.m. and 7:00 a.m.

(b) Any mechanical noise other than that regulated in subsection (a) which registers more than ~~60~~ 70 db(A) at the nearest complainant's property line ~~will be probable cause for~~ is a violation.

(c) This section shall not apply to ~~operations which are carried on in such a manner or in such a location as not to create sounds exceeding 60 db(A) and shall not apply to~~ emergency operations designed to protect the public health and safety.

Sec. 15-64. - Amplified sound.

(a) It shall be unlawful to:

(1) Operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) between ~~9:00 a.m. and 9:00 p.m.~~ 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday or 50 db(A) ~~between 9:00 p.m. and 9:00 a.m.~~at any other time, as measured anywhere within the boundary line of the nearest residentially occupied property~~, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department~~.

(2) As to multifamily structures including apartments, condominiums, or other residential arrangements where boundary lines cannot readily be determined, operate or allow the operation of any sound amplification equipment so as to create sounds registering 55 db(A) between ~~9:00 a.m. and 9:00 p.m.~~ 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday or 50 db(A) ~~between 9:00 p.m. and 9:00 a.m.~~at any other time, as measured from any point within the interior of another residential unit in the same complex or within the boundary line of the nearest residentially occupied property~~, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department~~.

~~(3) As to places of public entertainment having a capacity of 1,000 or more persons, operate or allow the operation of any sound amplification equipment so as to create sounds registering more than 65 db(A) between 9:00 a.m. and 9:00 p.m. or 50 db(A) between 9:00 p.m. and 9:00 a.m., as measured anywhere within the boundary line of the nearest residentially occupied property, except in accordance with a permit obtained from the Charlotte-Mecklenburg Police Department.~~

~~(4) Operate or allow the operation of any sound amplification equipment for advertising purposes or otherwise to attract customers so as to cast sounds which are unreasonably loud and disturbing or which register more than 60 db(A) at or on the boundary of the nearest public right-of-way or park.~~

~~(5) Operate or allow the operation for personal use of any sound amplification equipment on the public right-of-way, including streets or sidewalks, or in the public parks so as to produce sounds registering more than 60 db(A) 50 feet or more from any electromechanical speaker between the hours of 9:00 a.m. and 9:00 p.m. or 50 db(A) 50 feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.~~

~~(6)~~(3) Operate or allow the operation ~~for personal use~~ of any sound amplification equipment in the public right-of-way, including streets or sidewalks, or in the public City controlled parks: (i) without having actual on-site possession of a permit issued by the Charlotte-Mecklenburg Police Department; ~~or~~ (ii) so as to produce sounds registering more than 75 db(A) ten feet or more from any electromechanical speaker between the hours of ~~9:00 a.m. and 9:00 p.m.~~ 8:00 a.m. and 9:00 p.m. Sunday through Thursday or between 8:00 a.m. and 11:00 p.m. on Friday or Saturday ~~or 65 db(A) ten feet or more from any electromechanical speaker between the hours of 9:00 p.m. and 9:00 a.m.~~; or (iii) at times other than those specified in (ii). Sound amplification equipment operated pursuant to this subsection may not be located more than ten feet off the ground. In addition to the person operating or allowing the operation of sound amplification equipment in violation of this subsection, the person to whom the permit was issued must be present at the location and during the times permitted and shall be liable for any and all violations.

An application for a permit pursuant to this subsection shall: (i) be submitted to the Charlotte-Mecklenburg Police Department at least ~~24 hours~~ one business day but no more than seven calendar days before the permit time requested; and (ii) specify the proposed location of the sound amplification equipment and the date and time that the sound amplification will begin and end. Permits shall be issued on a first come, first served basis. A permit shall not be issued for a location that is within 100 feet of another location for which a permit has been issued for the same time or in or within 100 feet of the area permitted for a public assembly pursuant to Article XI of this Chapter unless issued to the holder of the public assembly permit.

The use of mobile sound amplification equipment (*e.g.*, a car radio, unless the vehicle is parked) shall be exempt from the permitting requirement of this subsection and the prohibition of (iii) in the first paragraph of this subpart, however sounds produced during the times otherwise prohibited in (iii) in the first paragraph of this subpart may not register more than 60 db(A) ten feet or more from the equipment. Sound amplification produced in conjunction with a ~~city festival or parade~~ public assembly permit shall be exempt from this entire subsection.

(b) The limitations on the operation of sound amplification equipment in subsection (a) of this section shall not apply to the operation of horns, sirens, or other emergency warning devices actually being used in emergency circumstances, or to the operation of sound amplification equipment regulated pursuant to Sec. 15-65.1 or in accordance with a permit issued pursuant to Sec. 15-65 or Sec. 15-65.2.

Sec. 15-65. - Permits for additional amplification.

(a) *Application.* ~~The~~ An application for a permit for additional amplification on private property under this section ~~15-64~~ shall be submitted to the Charlotte-Mecklenburg Police Department at least ~~15 working~~10 business days in advance of the planned use ~~except in an emergency~~. The application shall designate and provide contact information for an individual person who shall be in control of the sound amplification equipment and ensure that its use complies with the terms of the permit. Activities regulated under Sec. 15-64(a)(3) and Sec. 15-65.1 shall not be eligible for an additional amplification permit under this section.

(b) *Notice of tentative approval.* Upon tentative approval, the applicant for a permit shall be responsible for ~~mailing or otherwise delivering to~~ giving written notice of the name, nature, date, and time period of the event, and the name of and contact information for the permit holder to the occupants of each property within ~~a 1,000-foot radius~~ 1,000 feet of the ~~facility~~ property for which the permit has been granted~~, as shown on the tax maps of the county, a notice stating the date and hours of the event~~. The notice shall be hand delivered to each occupant or, if the occupant is unavailable, affixed to the front door of the building or business or residential unit at least 72 hours in advance of the event. The permit shall not be actually granted and issued until the applicant submits an affidavit to the Charlotte-Mecklenburg Police Department that such notices have actually been ~~mailed or otherwise~~ so delivered.

(c) *Limits on hours.* ~~No permit shall be issued which shall have the effect of allowing more than 20 hours of excess amplification per year at any place of public entertainment having a capacity of 1,000 or more persons or ten hours of excess amplification at any other location. Permits shall be tentatively approved and subsequently granted by the Charlotte-Mecklenburg Police Department in the order of receipt unless permits for 20 or more hours have previously been issued for the same or other locations within a 1,000-foot radius of the facility in the same calendar year, in which event the applicant shall elect whether to limit his request so as to keep the year's accumulated hours of excess amplification in that location below 20 hours or select another location.~~ Permits for additional amplification at a property, or adjacent properties under common ownership, shall be limited to 15 hours in a calendar year. Permits issued pursuant to this section may allow additional amplification only between 8:00 a.m. and 9:00 p.m. Sunday through Thursday and between 8:00 a.m. and 11:00 p.m. on Friday or Saturday.

(d) ~~*Prohibited in residentially occupied boundaries*~~*Sound limits.* In no event shall a permit be granted which allows the creation of sounds registering more than 70 db(A) anywhere within the boundary line of the nearest residentially occupied property.

(e) *Denial; issuance of exceptional permit.* If an applicant has been denied a permit under this section and believes the denial is illegal by virtue of applicable state or federal law, he shall promptly submit a copy of the denied permit application together with a short statement of the reasons he believes he is entitled to a permit to the city manager or his designee. The city manager or his designee shall have the discretion to grant an exceptional permit waiving locational, time, and/or db(A) requirements, upon his determination that the applicant has made a

substantial showing of legal entitlement. Any such exceptional permit shall be promptly reported to the city council.

(f) It shall be unlawful to violate the restrictions or requirements of this section or the terms of a permit issued pursuant to this section.

Sec. 15-65.1 – Outdoor Amplification and Music at Commercial Establishments.

(a) Except in accordance with a permit issued pursuant to Sec. 15-65.2, it shall be unlawful for any commercial establishment (including but not limited to a restaurant, bar, or nightclub) to operate or allow the operation of sound amplification equipment out of doors or directed out of doors or to allow live acoustic music out of doors or directed out of doors other than during the times listed below or so as to create sounds registering in excess of:

(a) 85 db(A) Sunday through Thursday between 8:00 a.m. and 9:00 p.m.;
(b) 60 db(A) Sunday through Thursday between 9:00 p.m. and 2:00 a.m. the following day;
(c) 85 db(A) Friday or Saturday between 8:00 a.m. and 11:00 p.m.; or
(d) 60 db(A) between 11:00 p.m. and 2:00 a.m. the following day.

An establishment may be cited for violating this section only if the enforcing authority determines that the sound being produced is, using a reasonable person standard and taking into consideration the day of week and time of day, unreasonably loud and disturbing to the quiet enjoyment and use of residentially occupied property. For purposes of this section, hotels, motels, other short-term accommodations shall be considered residentially occupied property.

(b) The decibel limits prescribed in this section shall be measured at the property line of the commercial property at which the sound is being generated.

(c) An establishment that has been determined to be Non-Cooperative pursuant to Sec. 15-65.3(e) shall be subject enhanced civil penalties pursuant to Sec. 15-68(5) and, after two violations of this Section within one year after having been determined to be Non-Cooperative shall not operate or allow the operation of sound amplification equipment out of doors or directed out of doors or allow live acoustic music out of doors or directed out of doors for a period of one year after the second violation.

Sec. 15-65.2. – Permits for Large Outdoor Music Facilities.

(a) For purposes of this section, a "Large Outdoor Music Facility" means a facility with a capacity of 1,000 or more persons and that that offers musical entertainment at least five times a year.

(b) A Large Outdoor Music Facility may, but is not required to, submit an application for a Large Outdoor Music Facility permit to Neighborhood & Business Services (N&BS). After consulting with the applicant and investigating the design and layout of the facility, its proximity to residentially zoned property, and the nature of any intervening property, N&BS shall issue a permit that contains restrictions and requirements designed to strike an appropriate balance between the legitimate use and operation of the facility and the noise impacts on residential life. These restrictions and requirements may include, but are not limited to, restrictions on days of week or hours of operation, number of events, operational rules and restrictions, self monitoring and reporting requirements, and design or structural requirements. Permits issued pursuant to this section shall be for a term of not more than one year and shall expire on December 31. In the event that Neighborhood & Business Services (N&BS) determines that the facility's approved zoning plan adequately regulates the use and operation of the facility in terms of its potential noise impact on residential life, N&BS may incorporate the zoning plan into a permit.

(c) A facility that has been issued a permit pursuant to this section shall not be subject to the provisions of Sec. 15-65.1.

(d) It shall be unlawful for a Large Outdoor Music Facility to violate the terms of a permit issued pursuant to this section.

Sec. 15-65.3. – Chronic Commercial and Industrial Noise.

(a) The purpose of this section is to establish a collaborative process through which the City and a business that has been identified as a chronic source of objectionable noise (*i.e.*, "Chronic Noise Producer") will develop and implement a noise mitigation plan intended to bring the noise to acceptable levels. A Chronic Noise Producer is an establishment that, because of the sound generated by or at the business, is an annoyance to adjacent or nearby residences, lodgings, schools, businesses, or other places where people may congregate with a reasonable expectation of undisturbed activity.

(b) The Chief of Police (or designee) may designate a commercial or industrial business as a "chronic noise producer". In making such a designation, the Chief of Police shall take into consideration the following factors:

i. the number and frequency of valid noise complaints;
ii. the proximity and physical relationship between the business and complaining locations;
iii. the severity of sound events, including observed or measured;
iv. the times and days of the week of sound events;
v. the business' history of efforts and cooperation to alleviate the problem; and
vi. the history and context of the location, including whether the sound producing activity predates the occupation of the complaining locations and whether the sound producing location is located in what is generally recognized as an entertainment area.

Upon designation, the Chief of Police shall inform the business that it has been designated a chronic noise producer and refer the business to Neighborhood & Business Services (N&BS) along with the information that established the basis for the designation.

(c) Upon receiving a Chronic Noise Producer referral, N&BS shall schedule a mandatory initial meeting with the business that it has been designated a Chronic Noise Producer. At the initial meeting, N&BS and the business shall review the information that formed the basis for the designation and any evidence or information concerning the complained of noise provided by the business. At the conclusion of the initial meeting, N&BS shall determine whether a mitigation plan is warranted. If N&BS determines that a mitigation plan is not warranted, it shall notify the business and CMPD of that determination and no further action shall be taken under this Section.

(d) If N&BS determines that a mitigation plan is warranted, N&BS and the business shall together develop and sign a noise mitigation plan. The plan may include, among other things:

i. restrictions on days of week or hours of noise producing activity;
ii. placement, orientation, and operation of sound producing activity or equipment;
iii. structural changes including but not limited to sound attenuation and baffling;
iv. self monitoring and reporting requirements;
v. a schedule for implementation; and
vi. a schedule for review for possible revision or termination of the plan.

(e) In the event that a business designated as a Chronic Noise Producer: (i) fails or refuses to participate in good faith in the development of a noise mitigation plan; (ii) refuses to agree to a noise mitigation plan; or (iii) fails to implement or comply with an agreed to noise mitigation plan, N&BS may designate the business as Non-Cooperative and shall notify the business and CMPD of that determination. Should a business designated as Non-Cooperative cure the basis for the designation, N&BS shall remove the designation and notify the business and CMPD of that determination.

(f) In the event that a noise enforcement action is taken against a business that has been designated a Chronic Noise Producer, evidence regarding the business' participation in the development and implementation of and compliance with the noise mitigation plan shall be relevant to any prosecution or administrative or judicial review or appeal of the enforcement action. Specifically, the business' participation and compliance shall be a mitigating factor and may, but is not required to be a justification for dismissing the enforcement action. A business that has been designated by N&BS as Non-Cooperative shall not be entitled to the benefits of this subsection unless the designation has been removed.

(g) Appeals. A business that has been designated a Chronic Noise Producer or Non-Cooperative may appeal such designation within 10 days after receiving notice of such designation. Appeals shall be heard by the city manager or the city manager's designee who shall not be an employee of CMPD or N&BS. The appellant shall have the right to present evidence at said hearing. A ruling on appeal is subject to review in the superior court of Mecklenburg County by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the clerk of superior court within 30 days after notice of the decision has been sent to the appellant.

Sec. 15-66. - Animals.

It shall be unlawful for any person to own, keep or have in his possession, or harbor, any dog, other animal or bird which, by frequent or habitually howling, yelping, barking or otherwise, causes loud noises and produces seriously annoying disturbance to any person or to the neighborhood.

Sec. 15-67. - Motor vehicles.

It shall be unlawful to operate or allow the operation of any motor vehicle in the city:

(1) Which has had its muffler-exhaust and/or other noise-control equipment removed, altered or maintained in such disrepair as to create unreasonably loud and disturbing noises.

(2) By engaging in jackrabbit starts, spinning tires, racing engines, or other operations which create unreasonably loud and disturbing noises.

(3) Off the boundaries of a public street for racing or other operations which create unreasonably loud and disturbing noises.

Sec. 15-68. - Enforcement and penalties.

Where there is a violation of any section of this article, the city, at its discretion, may take one or more of the following enforcement actions:

(1) The violator may be assessed a $100.00 civil penalty. For purposes of this subsection, a violation committed after a civil penalty has been assessed shall constitute a separate violation ~~A police officer or animal control officer may issue a notice of violation as provided in section 2-24 of this Code subjecting the violator to a civil penalty of $100.00,, which penalty may provide for a delinquency charge of $10.00 upon nonpayment, and which penalty and delinquency charge may be recovered by the city in a civil action.~~

(2) The violator may be charged with a misdemeanor and be subject to any penalty prescribed by section 2-21.

(3) A civil action seeking ~~a penalty of $500.00 per day of violation plus~~ an injunction and order of abatement may be directed toward any person creating or allowing the creation of any unlawful noise, including the owner or person otherwise having legal or actual control of the premises from which it emanates.

(4) A police officer may issue a notice of violation, as provided in section 2-24 of this Code, subjecting the violator of section 15-63(a)(1) to a civil penalty of $200.00~~, which penalty may provide for a delinquency charge of $10.00 upon nonpayment and which penalty and delinquency charge may be recovered by the city in a civil action~~. For the purposes of this subsection, the term "violator" means either the operator of the front-end loader; the employer of the operator; or the company, partnership, corporation or other person or entity which owns, possesses or controls the front-end loader utilized by the operator.

(5) The violator may be assessed a $1,000.00 civil penalty for any violation of Sec. 15-65.1 that occurs within one year after the commercial establishment has been determined to be "Non-Cooperative" pursuant to Sec. 15-65.3(e). After two such violations, the prohibition on sound amplification and live acoustic music established in Sec. 15-65.1(c) shall apply."

Section 2. This ordinance shall be effective upon adoption.

Approved as to form

_____

City Attorney

Sec. 15-63 (prohibits construction machinery between 9 p.m. and 7 a.m. in residentially zoned area or within 300 of residentially occupied structure):

(c) This section shall not apply to ~~operations which are carried on in such a manner or in such a location as not to create sounds exceeding 60 db(A) and shall not apply to~~ ; (i) emergency operations designed to protect the public health and safety; and (ii) work by City crews or City contractors in a right-of-way or utility easement when the department responsible for the work has determined that undertaking the work between the hours of 7:00 a.m. to 9:00 p.m. would: (a) unreasonably impact the flow of traffic; (b) unreasonably disrupt the provision of a utility service; or (c) if within a State right-of-way, be prohibited by the NCDOT. Prior to making a determination pursuant to (c)(ii)(a), the responsible department shall consult with the Charlotte Department of Transportation.

Charlotte·Douglas®
INTERNATIONAL AIRPORT

MEMO

TO: Community Safety Committee

FROM: T.J. Orr, Aviation Director

DATE: May 5, 2011

RE: Recently Asked Questions about the Airport Taxi RFP

1. Q: What was the selection process?

A: I served on the Selection Committee along with three other people I requested from relevant areas of the taxi service community. Major Tim Danchess is part of CMPD and is responsible for the service area that includes the Airport. He also had experience working on other RFPs for the city. Drew Riolo is an attorney as well as a US Airways pilot who also serves as Chairman of the Airport Advisory Committee. Tim Newman is CEO of Charlotte Regional Visitors Authority, the group charged with bringing groups, events, and conventions to Charlotte. He is also a board member of the National Travel Association and has a strong interest in ensuring visitors have a good taxi experience.

Section VII of the RFP established selection criteria to guide the process. We received and evaluated proposals from nine taxi companies. After analysis and discussion of the proposals according to the selection criteria, we narrowed down the group and conducted interviews with five companies. Based on our interviews with those five companies and the strength of their proposals, the Selection Committee agreed on three companies to recommend to you. As you know, based on new information about the PVH Unit's background checks, it was subsequently determined that one of those original three companies (Kashmary Enterprises d/b/a King Cab) should not be recommended. The Selection Committee's next choice (City Cab) is now being recommended.

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2. Q: Did the Hospitality and Tourism Alliance (HTA) influence the selection process?

A: No. The accusation made by Checker and Universal that only HTA supporters are being recommended for contracts is not supported by the facts. Membership in HTA was never discussed during any part of the selection process. It wasn't until after the Selection Committee had already made their decision and the unsuccessful companies' allegations about HTA were reported in the media that I asked staff to find out who was or was not a member of HTA.

My understanding is as follows: Crown and Yellow, who were recommended, are members. King, who was initially going to be recommended, is not a member. City Cab, who is now being recommended, is not a member. Universal, who was not recommended, is a member. AA Prestige, who was not recommended, is a member. As you can see, there is no correlation between membership and recommendation.

3. Q: Does City Cab have taxis?

A: Yes. You heard misstatements about City Cab in a previous Council meeting. City Cab has a valid Company Operating Certificate issued by the PVH Unit and has 28 taxis plus 2 handicapped accessible vehicles currently serving the city. At the time of proposal, City Cab simply did not have any taxis that were three years old or newer in their fleet. In fact, none of the companies had a sufficient number of cars that would meet the three year age requirement to provide a full Airport fleet at the time of proposal, but each indicated they could do so if selected. If approved for an Airport Operating Agreement, City Cab, like Taxi USA and Crown, will be required to provide taxis that comply with Airport standards.

4. Q: Does City Cab have the capacity for Airport Operating Agreements?

A: Yes. We believe they can definitely handle the 15 Standard Permits and 3 Peak Time Permits for which they are being recommended. Their proposal was one of the best.

We started talking to drivers and companies in about 2008 about our need to improve service at the Airport and our intention to undergo a competitive process and reduce the number of companies. We had multiple discussions with associations representing drivers as well as individual drivers that a competitive process would be coming. City Cab listened- not only to what the Airport's plans and goals were but also to drivers' needs. City Cab is a company formed by drivers, all of whom have a stake in the company as shareholders. Council has

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heard many taxi drivers complain about the companies they independently contract with and say they want to be free of them. The drivers who formed City Cab did what other drivers are saying they want to do. The difference is that City Cab listened and took action, forming their company in advance of the RFP issuance. City Cab participated in the competitive process and has earned their recommendation. City Cab's proposal reflects their understanding of our goals and indicates they can meet our desire to offer Airport customers first-class taxi service.

5. Q: Are 105 taxi permits sufficient for customer demand?

A: Yes, 105 Standard Permits, in conjunction with the 51 Peak Time Permits for a total of 156 permits, will be sufficient. The Airport Planner, Ground Transportation Manager, and their staff examined dispatcher logs showing every on-demand trip dispatched at the Airport over a sample period. They analyzed the data and did extensive trip modeling and discovered that about 95 taxis could do every trip needed on most days. That means that only about 66% of the current permitted taxis are typically required at the Airport. On the other hand, the data also showed that there are occasional peak times where even 144 permitted taxis is not quite enough to serve our customers.

Staff therefore designed a system where we can meet customer demand and keep the taxis running more efficiently by using Standard Permits for the bulk of the business and Peak Time Permits for those occasions where we need extra service. Airport Ground Transportation will be able to anticipate most of the times that additional taxis would be needed since the peaks normally mirror business travel and events to ensure customer demand is met.

6. Q: Are drivers going to be put out of work?

A: No, not based on the numbers. While there will be a reduction in the number of full time permits, with the addition of peak time permits there will actually be a net increase in the number of drivers permitted to serve the Airport. Most Airport drivers are independent contractors who contract with taxi companies. The companies and drivers are both free to decide with whom to contract at the Airport and throughout the city. The possibility of change in a workforce is a necessary byproduct of competitive business processes. New companies go through their own competitive hiring processes to establish their best workforce. Contracts recently approved by Council include the Airport retail concession and janitorial services. In both cases, the City went through a competitive process and hundreds of workers had to re-interview for the chance to work for the newly selected company. In both of those instances, we have been told that approximately 90% of the workers were retained.

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7. Q: Are the taxi drivers going to have to pay more to the Airport?

A: No. Our original intent was to raise the existing permit fee, which has remained $1,250 since 1989, to $3,000 in order to recover the Airport's costs in taxi operations. However, during the proposal process we learned that the taxi companies pass on the permit fees directly to the drivers. We therefore chose to actually *lower* the permit fee to $500 for Standard Permits and $0 for Peak Time Permits, and implement a $1 trip. This fee structure is more equitable as it places the most cost on those drivers making the most money at the Airport.

8. Q: Are the drivers going to have to pay more to their companies?

A: Currently taxi companies set their own franchise fees based on their particular expenses and operational costs, which vary based on the level of management, service, and technology that they provide, as well as what the market will bear. The City does not currently interfere with the profits that any company can make. However, should it decide to regulate the taxi industry by capping franchise fees as has been requested by some of the drivers, this would not change the Airport Operating Agreements in any way. Any taxi company with an Airport Operating Agreement has to abide by the ordinances in the City Code.

9. Q: Are the drivers going to make more money?

A: Yes, under the new, more efficient system, drivers will actually be driving more and waiting less due to the fact that adjusting the permit numbers will better balancing supply and demand. The drivers who operate vehicles with Standard Permits should be able to make more money in ten hours a day than they previously did in sixteen, and they'll still retain the right to work street business.

10. Q: Why select 3 companies instead of 12? Doesn't that mean less competition?

A: No. The RFP *was* the competition for the companies to bring their best ideas forth on how to improve the current service level of Airport taxis. We want to partner with those companies who are dedicated to providing a positive customer experience and are willing to back up that dedication with real changes to their fleets and how they operate. The Selection Committee chose those companies they believed were most willing and able to do this. We want the best, not the status quo.

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