CHARLOTTE

Charlotte City Council

Community Safety Committee

Meeting Summary for November 16, 2011

COMMITTEE AGENDA TOPICS

I. Subject: **Youth Protection Ordinance**
Action: Motion was made to change age limits and curfew times (see details below) and passed 3-1, Barnes against

II. Subject: **Passenger Vehicle for Hire Ordinance**
Action: Motion was made to recommend 8-years for the black car industry to the full Council and passed unanimously

COMMITTEE INFORMATION

Present: Patrick Cannon, Patsy Kinsey, Michael Barnes, and Andy Dulin
Absent: Edwin Peacock
Time: 12:10 pm – 1:45 pm

ATTACHMENTS

1. Agenda Package

DISCUSSION HIGHLIGHTS

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

I. Youth Protection Ordinance

Mr. Campbell stated that today staff would review questions asked at the previous meeting and provide you with recommendations based on conversations with the DA's office. CMPD Captain Pete Davis reviewed the "Youth Protection Ordinance Follow-up" presentation (copy

attached).

Tracy Evans: Regarding slide 3, the Department of Juvenile Justice has the discretion as to whether or not they want to issue a petition and I think we had about 8 cases in the last year where we approached them about a petition and they declined.

Barnes: Did they decline because they know nothing is going to happen?

Davis: I would suspect so.

Barnes: Why does nothing happen?

Davis: As far as the Criminal Justice, our view of the court is to conduct a preliminary investigation and find probable cause. Once we make the arrest, it is out of our hands.

Barnes: You are doing your job, but you are telling me that it doesn't go anywhere once you've done your job. I'm trying to understand why.

Davis: It is at the discretion of the Juvenile Court counselors and one of their responsibilities is to try to do what is best for that particular juvenile. Once they make an assessment based upon talking to the juvenile and the juvenile's parents they can make a determination on how to precede with the particular juvenile arrest.

Barnes: Do you recall the recidivism rate for these types of violations? Do you know the rate and incidents of crime, the commission of crime among young people who were initially cited for these types of violations and subsequently charged for other violations?

Davis: I do not sir.

Barnes: What I'm curious about is sometimes if you can cite young people and hold them accountable on minor infractions and a lot of them learn a lesson and don't come back. If on the other hand, they realize that they can commit small violations, suffer no consequences, and mom and dad suffer no consequence then I think they are much more likely to view the justice system as something that is easy to get over on. I'm just trying to understand why it is that despite the fact that we could do something to hold people accountable who violate the curfew, we don't.

Evans: Without speculating too much, I think the issue with the DJJDP, the Department of Juvenile Justice and Delinquency Prevention. I think they have an issue with having a counselor and this type of violation unfortunately does not seem to be high priority. As far as tracking, Major Foster can answer that issue.

Foster: I can't speak to the courts, but I can say that CMPD does not track recidivism in juveniles because it's a little hard to track when you start talking about juveniles

Barnes: Regarding slide 5, will they have to pay court costs if they go to court?

Davis: Yes sir.

Barnes: And court costs are $75. So are we just tracking them? I'm trying to find solutions for our problems and not just pushing people from one tract into another. In my opinion, you are responsible for your children, not me. I'm responsible for mine. You shouldn't have to pay for mine and I shouldn't have to pay for yours, but I recognize in this society the majority of us have to take care of other people's kids. I get that, but in this case if they can't pay the $75 for the class they are not going to be able to pay court costs, and then what happens? They say I don't have the $75 and the Police say well, go to court, then what happens?

Davis: It is up to the Judge.

Cannon: The court throws it out.

Barnes: Then they come right back, same cycle, over and over again.

Cannon: I'd like to suggest that instead of having restricted times to say, "under 13", for the sake of the general public not getting it confused that we say, "12 years old and under". What happens is people take that 13 and they will see 13 to 15 and that is what they are doing now with the current Child Protection Ordinance, they are getting the years mixed up.

Barnes: You may have gone over this before with us, but why is it not under 15 in the house between 10:00 p.m. and 6:00 a.m. and 15 and over in the house after 11:00 p.m.?

Foster: It can be. These are just recommendations. We threw out some ages and times based upon other cities.

Barnes: I like the times, but I want to simplify it to say, "if you are under 15 you have got to be in the house between 10:00 p.m. and 6:00 a.m."

Foster: You can. It is your recommendation.

Dulin: I will be fine with 10:00 p.m. for 15 and under. I do think with some of these kids, 11:00 is going to be a reach for some of these parents to get those kids under control and home by then. I was thinking just to be fair, maybe we ought to make it 11:30, but 11:30 doesn't get us to where we want to be.

Cannon: We are debating the difference an hour makes which could be something major.

Kinsey: My grandson is involved with high school activities and they are sometimes not done on the weekends by 10:00. I think 11:00 on the weekends is more reasonable.

Evans: There are actually 12 exceptions to the ordinance and a lawful school activity is an exception.

Barnes: To that issue if you are 16 in this state you can drive a car by yourself. If you are under

16 you can't. I think that by tying this up and saying that if you are younger than 15 you've got to be in the house, I'm willing to go with 11:00. Maybe we should come up with one rule that if you are under 15 be in the house at 10:00 every night. If you are over 15 be in the house by 11:00. If you are out and involved in one of those exceptions, that is fine, but we should create a fairly clear rule so that people in the general public understand that my 14-year old kid has to be in the house by 10:00 every night unless I'm with him or a responsible adult or one of those exceptions applies.

Cannon: I think the logic for maybe trying to come up with a different timetable for those that are 12 and under is largely in part because what would they be doing out after that hour anyway at 12 and under?

Davis: I am with the Special Victim Division and in that division we have the juvenile crime unit. I was thinking about juvenile victimization and to me, based on my experience and my training; I can't really articulate a reason for a 10-year old to be allowed, legally, to be on the street by his or herself without appropriate adult supervision. When we came up with that we had in mind the maturity level of the juvenile, so 13 and 15-year olds would be more mature than the non-teenage years.

Dulin: Certainly by 15, if not before, the kids are going to a 9:20 movie in groups that doesn't get out until after 11:00 in some cases.

Barnes: Are you saying there are a group of 14-year olds or one 16-year old and a bunch of 14-year olds?

Dulin: Somebody has got to be driving. My older boy is good about driving the crowd and they have drivers and they are out. Eleven o'clock hits a kid pretty quick. Now, what we are trying to work on here, we are not worried about kids congregating in front of the movie house.

Barnes: Yes we are. The Arboretum has the same problem that uptown has.

Dulin: We are just trying to make sure we've got control of them. I'm alright with those hours unless you want to just say everybody at 11:00, but you are right we've got some 10-year olds running around that need to be home with their mom.

Barnes: I'm just trying to, if we can, solidify around an age. The time differences will be fine.

Cannon: What is on the board then is basically for the Committee to get comfortable with the idea of whether or not it wants to establish a different time structure than what is currently out there. What I'm hearing is that there is a suggestion to go from 10:00 p.m. to 6:00 a.m. to account for youth 15 and under. There is another idea on the table that we leave it for those 13 to 15, 11:00 p.m. to 6:00 a.m. 7 days a week. Is that Mr. Dulin's idea?

Dulin: For 13, 14 and 15, yes sir. I'm okay with both of those recommendations.

Cannon: Ms. Kinsey, do you have any real angst about either one of those ideas?

Kinsey: No, but I would love to the see the exceptions. Not now, but sometime, just send them to me.

Campbell: The exceptions were provided in an earlier agenda when we provided the original ordinance. We will provide you with another copy.

Cannon: Personally, I tend to like the suggestion coming from the Captain about juvenile victimization and getting a look at that and draw some hard lines around the idea of youth that are 12 years and under and feel like they should be in an hour earlier. I have a tendency to support what is being suggested.

Barnes: I think ultimately, because we know it is the discretion of the officer and it is not enforced in the court system, we are wasting our time anyway so let's just keep it. With all due respect to all of the work you have put into this, which I certainly appreciate and all the work that my colleagues have put into this, I really don't know that this is a useful exercise. When I first started this after what happened uptown, I was thinking we could put some teeth into an ordinance that would be enforced and would have some impact on the community. About 30 minutes ago they told us that this really moves nowhere in the court system, so what is the point?

Cannon: In this particular case regarding changing the adult age from 18 to 21 years old, what is being suggested is, is there a real reason for 15-year old to be out potentially with an 18-year old and we know that a 21-year old is that much more responsible. It is probably unlikely that you in the tiers that we have been talking about would be hanging with a 21-year old.

Barnes: Even if they are, nothing happens. The point is you've got six 12-year olds hanging out with a 17-year old and nothing is going to happen.

Cannon: The point is that when you are talking about someone who has another level of responsibility, greater than someone that may be younger in age, unless you are going to base that on experience, meaning how one grew up. I understand clearly that the courts are not able to do this because of several reasons, one is they don't have the resources. You would basically have to have state law to be changed in order for us to be able to move into the direction of raising the age limit up if we wanted to do that. We are one of two, if not three states only in the entire country that have 16 and 17 year olds classified as being able to be tried as an adult. Everywhere else they are juveniles. We'd have to change that structure in order to be able to raise and/or account for those 16 and 17 year olds if we wanted them to be a part of the included number right now with those that are 15 and under. We all know what kind of process that would take, but to the point made earlier, the resources aren't available. You've got the courts that may be split down the middle on this thing potentially and I hate to say this, but we are almost helpless for what it is that we would like to do to put teeth in something to move our agenda forward. If the Committee is comfortable doing nothing, there have been a couple recommendations already suggested with the hours, one with the guardian age and we still have more stuff to cover.

Kinsey: I'm fine with raising the guardian age to 21 years old. I have to keep telling myself this

is not about my two granddaughters who might be 16 and 18. This is about the kids that are out there causing trouble and the police aren't out there, I hope, looking for kids who is law abiding. We are really trying to respond to those who might not be as mature and causing trouble that they shouldn't.

Dulin: I can't control the courts, but I can control my little section of the City Council and the CMPD. To me, what this is about is the City having its act together and taking care of what is in front of us. I like the 12 and below, I like the 15 and below and I wouldn't have thought of this, but they thought of it and it is not a bad idea because it is trying to get people to take responsibility for themselves and their families.

Barnes: I appreciate what you are saying Mr. Dulin, but what I'm hearing from CMPD is they are not inclined to enforce the ordinance as it is because they know it is paper work for them and nothing is going to happen. In other words, why keep wasting their time? By the way, if you are going to change the ordinance it should apply to whatever happens uptown as it would Stonecrest or the Arboretum. In other words, whether or not there is massive youth uptown should not determine whether or not we are applying the ordinance. If you are hanging out in front of the theatre at night and you are under age at the Arboretum, you should be cited. If you are uptown and it is after midnight and you are under age, you should be cited. There shouldn't be this selective application, but what I'm hearing from them is, nothing really happens with this ordinance anyway.

Cannon: Are you telling us you don't enforce the teen curfew?

Foster: Are you saying we don't enforce it at all?

Cannon: You can take it anyway you like. I would like to know if you all do not enforce it.

Barnes: They gave it to you as stats Mr. Chair.

Foster: We enforce it when it is appropriate and if you want to know if we are riding around at night trying to scoop up kids in various areas of the city, no. Do we use it when there are mass events and we have large groups of kids that are congregating or someone who has called and said there are a group of kids hanging around, yes.

Cannon: Because it is a tool for you to use.

Barnes: I think you and I had this conversation off the record, my goal as a response to what we saw uptown, was to create a new level of accountability. I'm not responsible for your children, you are. I'm responsible for my children. The goal that the five us, when Mr. Peacock used to be with us, we talked about introducing a level of accountability, a level of awareness in the community, introducing into the community a higher level of expectation, greater certainty for CMPD, greater certainty for the general public, and what I'm suggesting is that if we can't fix our side or things by way of this ordinance, what is the purpose of going through this exercise? I really would like to find a way where young people are held accountable, their parents are held accountable and they move through the system in such a way that at the end of the day they

know I'm not going to let them go out after 11:00 and the kids say I'm not going to be out after 11:00. Right now, I feel like we are going to tweak that a little bit. I'm worried that we are going to get to the end of this and say well I know you've got to be with someone 21 or older and other than that, everything is the same.

Cannon: My level of frustration happens to be yours because I don't think anyone wanted to see this thing go further than what it does than me. I am really, really disheartened about it all. It is a bad situation because we all want to help children in this community not become a victim of crime or victimize anybody out there. Right now, we can't do it because state law doesn't allow it and of course they don't have the resources. We are where we are so we have a couple recommendations. Is there a motion that the Committee would like to make to move something forward to the City Council for consideration, whether it is on the change of the age or the change in the hours as it relates to those that are 12 and under and those that are 13 to 15?

Campbell: This is just a note for the record, but any actions that come up today will be on the November 28th agenda. Whatever is not out of Committee will then move over to the first of the year and the new Council.

Council member Dulin made a motion to implement a 12 and under curfew of 10:00 p.m. until 6:00 a.m. seven days a week and to continue that 13, 14 and 15 years old 11:00 p.m. until 6:00 a.m. seven days a week and further that we change "accompanied by an adult 18 years or older" to 21 years or older. Ms. Kinsey seconded the motion.

The vote was taken on the motion and recorded as follows:
YEAS: Cannon, Dulin and Kinsey
NAYS: Barnes

II. Passenger Vehicle for Hire Ordinance

Eric Campbell: I will bring attention to the November 11th memorandum that was included in your packet. Staff attempted to respond to many of the questions that came up during the last meeting and Mr. Powers will walk you through that. Mr. Powers then read through and described the "Staff Response to Questions Posed During October 19, 2011 Meeting" letter (copy attached).

Cannon: I certainly would like for you to be able to define "unique vehicles" because there can be some level of confusion when you start talking about unique vehicles and what they mean. I would like to ask if staff would work with the industry that is represented to be able to determine what those unique and/or specialty vehicles might be so that we can classify those accordingly. The one thing I don't want to see happen is when the DNC rolls around that somehow we could set limitations on certain types of vehicles that probably shouldn't be set. I know the Mayor has some concern and I just want to make sure this thing flows as fluid as possible. I think we do need to have something completed at least by February, if not before, just to make sure we know exactly what we are talking about in the way of mentioning these vehicles by definition. Would you all be willing to do that?

Barnes: I recall during the last meeting we talked about unique vehicles and you mentioned the Hummers that are turning into stretch limos. What else is there?

Powers: In regards to unique vehicles? Other unique vehicles could be something like the Bat Mobile. I think what the industry is wanting is to set a standard or parameters for the PVH Manager to not have as much discretion to be able to look at a vehicle and say this needs to be in the definition.

Cannon: One of the reasons we were led to this discussion also was because there is different costs factors for the different types of vehicles that you may purchase. There might be something that we have in the ordinance that might make it applicable here.

Barnes: I was wondering if these unique vehicles exist. The industry has a definition and I would like to hear it.

Cannon: I would like to recognize anyone from the industry.

Robert Jones, Charlotte Limousine: We've had much discussion about what we feel like a unique vehicle is based on cost. There has been a big push for hybrid vehicles. The Westin has a seven series hybrid, $100,000 car. We could not buy that kind of car in Charlotte and operate it. I don't think any of us could and make money with it in six years and that is why we feel that would be a unique vehicle. Also another item would be whether or not the vehicle has been cut off the assembly line by a manufacturer coach builder, ECB, or Crystal. There is a lot of companies that take the vehicle after it is produced at the factory, not necessarily the Bat Mobile, but there are a lot of other cars that are custom built and designed to stretch Hummers, or stretch Escalades, Chryslers, Lincoln Town Cars, something that we view as unique is when it is taken from its factory show room condition is unique.

Barnes: So price and after market alteration.

Jones: All aftermarket alteration. There are a lot of people who take a van and put leather seats in it and they think it is unique because the factory didn't do it. Price is definitely a big issue for us because we are not dealing with apples to apples.

Barnes: So you will be talking to Mr. Powers and others?

Jones: Yes sir.

Dulin: The 863 cabs is a new number to me. I thought that number was around 600+ and then I heard there were 600 and something cabs and business enough for 400 and something cabs, and we were over populated and those cabs were just sitting around without the fare. How did we come to the 863 number which is several hundred higher than I ever heard?

Officer Buckley: That is the number of taxicabs on record that are permitted through PVH.

Cannon: When was that last count taken?

Buckley: November 2010

Mujeeb Shan-Khan: That was with respect to the prior discussion based on information from the previous manager. The current manager in terms of the additional 200 vehicles, but that was based on the numbers we had from the PVH Manager's office, which is why he heard the 630 as of last year in the middle of your early review of the vehicles.

Dulin: Do we have better information now or more have registered? We have bought 220 in the worst economic times in the history of the community. I can't imagine that there are 220 more cabs running around.

Evans: There is no cap on the number of cabs so we have had a lot of applications since the discussion we had at the last meeting about trying to get into those training classes. We have had a lot of training classes, so we do have more drivers applying to have a permit. The number that we gave you is the number of all permitted cars, so this could include cars that are not in use currently because they may be in some type of condition that is not drivable, but it still has a current permit attached to it. They may have a new car that they are driving as well.

Dulin: So they are driving two cars on one permit?

Evans: Their permit is for two separate cars, yet they have a vehicle permit for each vehicle so the number that we gave you, 863 vehicles is correct, but there may be one driver with two vehicle permits.

Powers: The way the system works, you have the company permit and you have a vehicle permit and the driver's permit. A company may decide they want to have multiple cars available and may not have enough drivers to provide for the cars. You can have a larger amount of vehicles that are permitted, but they are not actually in use in the City at a certain time. They may be out of service due to repairs, they may be wrecked or things of that nature.

Dulin: What we were told when we were going through the Airport stuff was that there were 640 and there was only business for 400.

Powers: The Airport Director's Authority can set a limit on the number of cabs that can serve the Airport; however, under Chapter 22 the City has never placed a cap of the number of taxicabs or black cars that can operate within the City.

Barnes: I recall that one of our goals many, many months ago was to create some certainty and structure around our black car and taxicab policies and at the last meeting I asked several questions and I think staff has kind of responded. I want to figure out if there is a way for us to move something forward to the full Council. I think one of the issues that we faced was the different treatment between the age of taxicabs and the age of black cars and I believe we are at 6 years on taxicabs and 8 years on the black cars. One of the reasons we said it should be no more than 6 years on taxicabs is they are used more often; they sustain a greater amount of wear and tear, etc. With respect to black cars they generally cost more, the wear and tear is not as great

and generally speaking, these entrepreneurs take care of their vehicles because they are owner operators by in large. As I understand the analysis on the rational basis test, if we can provide the sort of rational that we have it would survive the rational basis test presumably, or at least we felt comfortable with that.

Shan-Khan: As you are aware, this is based on how the courts choose to view it and whether or not it serves a legitimate governmental interest. The key is what is the interest?

Barnes: Mr. Chair, is it your understanding that we would not meet much resistance with a 6-year limit on taxicabs?

Cannon: What they said in the past was they didn't have a problem, as I understood it, with 6.

Barnes: We were at 6 with the black cars and they gave us reasons for not limiting or putting a cap on 6 years for them.

Cannon: But really more tailored around what would be legal and that is looking at the character of the vehicle and/or the type of vehicle, more so away from the cost of it, if you will. I think if the Committee wanted to move it forward in that spirit that you are in a safer position legally as you talk about the character of the vehicle.

Barnes: I think if we can arrive at a reasonable definition for unique vehicles and I believe that we can, I would be comfortable moving forward with the 6-year cap on a taxi cab and an 8-year cap on black cars.

Cannon: Keep in mind, the discussion where the cab industry had some concern was what was happening with the Airport RFP and the number of years that were proposed over there and not what we were proposing here, which actually happened to be a greater number than what they were enjoying at the Airport.

Barnes: What I'm trying to be clear about is whether I am moving in the direction of some resolution by suggesting that the PVH put a 6-year cap on taxicabs, 8-year cap on black cars.

Campbell: Staff has not talked directly with the cab industry about the 6-year limit. The conversations we've had with the industry have been in the concept of the total revisions of Chapter 22, when actually the age limit was only part of it.

Buckley: The majority of them, the ones that lost the Airport contract feel if it stays at 6 they are going to be out of business within the next year. We have at least three companies struggling now just to make the 30 legal.

Cannon: Point of clarification, do you mean cabs that are independent of cab companies because you have had some cab companies to say they were fine and even moved forward with the process of the RFP when it was issued. I'm wondering if we are hearing something new today than what we heard then, because then it didn't seem to be an issue. For those that did win, I haven't heard anything from any of those companies.

Buckley: There are three companies.

Barnes: Are they saying that they like 8-year limit or 10-year limit? We need to move this forward before I turn 50. How can we move this forward today because we need to get something to the full Council?

Buckley: They want 20 years. They really want no change.

Cannon: When you say they want no change, nobody wants change.

Shan-Khan: Starting next July it is 6 years. It is 10 now and it will be 6 next July.

Barnes: So we are saying 8 there and 6 over there?

Evans: Right now it is currently 10 years for everybody and after July of next year it will be 6 for everybody. The Committee is looking at the possibility of differentiating between the industries leaving one at 6 and going to a different age or another possibility is increasing everybody to a newer age.

Kinsey: We have gone over this so long, we need to make a decision and get it to this Council. If we wait until the new Council it is going to be another year and a half.

Barnes: Motion to move forward to the Council a revision to the ordinance that says the taxicabs can be no more than 6 years old as of July 1, 2012, black cars can be no older than 8 years as of July 1, 2012. The unique vehicle definition will be worked on with the industry.

Kinsey: Seconded the motion.

(The vote was taken on the motion and was recorded as unanimous)

Dulin: We didn't discuss the idea of grandfathering cars, but if we go to 8, do we need the grandfathering? We were going to grandfather them in at 6.

Powers: Under the proposed implementation there is going to be a hard vast six years and there is not going to be a grandfather clause at all. If the vehicle is over 6 years it would have to be taken out of stock.

Dulin: The black cars wanted to grandfather because of not being able to pay the debt service off the cars they've got now.

Barnes: I'm being sensitive to that issue, I am thinking out loud whether we would say as of July 1, 2012 any vehicle that comes into service has to be 8 years or less and as of July 1, 2013 black cars have to be less than 8 years and the same with the taxis. As of July 1, 2013 all taxis have to be 6 years or younger. As of July 1, 2012 any vehicle still in service after that time has to be 8 or less or 6 or less. In other words, you have 20 months to work through cycling out vehicles that

are currently 9 years old.

Kinsey: Let me call your attention to the information we have here. The average vehicle age is 5 years, 8 months already. It is under 6 years right now. That is the average age and for the black cars 5 years, 9 months. I don't know how long the notice has been out there that the change will come next July, but I think it has been out there for a while. Cab owners should have known that already and if we just keep giving another year and another year, we will never get around to doing it.

Cannon: I do want to commend the Committee for – you all have landed just right. You see where those numbers are that were just cited by Ms. Kinsey. You couldn't have landed any better and we are trying to do all we can to make good business sense and decisions about where we go going forward, but if you want to keep pushing the envelope the floor is open.

Dulin: The grandfather helps the small 1 to 5 car organizations that hang on a little bit more by a fingernail with their debt service on these cars because none of them are paid for. I think the grandfather on the black car side is a fair discussion to have and they would like us to bump it from grandfathering a 10-year old car for that year and I don't mind having after July 1, 2013 your car has to be 8 years old. Now I'm confusing myself. July 1, 2012, which is coming up, we have an 8-year old limitation, but grandfather cars in for one more year that are at the 8 years at July 1, 2012.

Barnes: I think I mentioned that and it was shot out of the sky.

Dulin: I would like to put the grandfather clause in there and I don't know how to word it. Mr. Attorney, can you help me word it. I would like to grandfather, and I'm going to split the black car industry and where we are now and go to 9 years. Can you help me word that? I've got my dates mixed up between July 1, 2012 and July 1, 2013.

Cannon: You don't have to go to another year. You can just ask for a ramp up, if that is what you are talking about, which is what it sounds like to me.

Powers: You are saying you want to grandfather the existing fleet up to 10 years and then have it July of next year.

Dulin: It has to be 8 years after this coming July 1?

Powers: Right, any new vehicle after July 1, 8 years or less. The current existing fleet is allowed to stay in service until 10 years.

Dulin: They want 10; I don't mind splitting the difference between 8 and 10.

Cannon: You may as well give them a year to ramp up. How much difference is that going to make?

Barnes: The motion has already passed.

Cannon: He's working on an amendment to your motion.

Barnes: You had an opportunity to discuss this. We've been talking about it for an hour and you are coming up here asking to change it after it's already passed. We made a motion and voted on it, you say let's change the vote; we've already done it.

Dulin: Can you have a little bit of patience with us and talk through it a little bit? If you are done, then get up and walk out, but I would like to talk about this a little bit.

Cannon: We've exceeded our time limit for the meeting to adjourn, what could be done, and I don't know if the Committee wants to do this at all, but you could continue to have some discussion on it. If you want to continue to do that, let the motion that has been passed stand, bring it to the City Council on November 28th and Mr. Dulin can continue to try to keep the door open on the grandfather issue.

Dulin: These guys over here are the ones who are going to be crying.

Barnes: This is what they asked us to do.

Holden: Just one thing to remember that we brought up at last month's meeting is the Town Car no longer exists. All we are doing is asking if what you had originally said, give one additional year to 2013 would help the industry figure out what is the next vehicle, Ford, Cadillac, none of them have come up with a vehicle, so if we are in a limit in one year from now, there is nothing being produced that is going to help us in the future. We need a little more time and the one extra to 2013 would work.

Barnes: That is why I included it initially but my colleagues disagreed.

Cannon: Nobody disagrees. I think everybody is trying to figure it out, including the attorney.

Barnes: I suggested you go to July 1, 2013. What passed was July 1, 2012, 8 years or younger. I was saying go another year to July 2013.

Dulin: Would you accept a friendly amendment to push that to July 1, 2013 to give the black car industry an opportunity to prepare for the 8-year or younger.

Cannon: Michael, I would like to ask you if you would retract your original motion and consider that and restate another motion, please?

Powers: If we are getting into the grandfather issue I agree with Mr. Shan-Kahn here. If we are applying this only to the black car and are not applying it to the taxicabs, I think we are getting into technical issues. I understand the concern of the industry in regards to being able to select a vehicle, but I don't think that is something that is an overwhelming concern of the Council as to what vehicle they decide to purchase in the private market.

Barnes: The reason my original motion was to say that as of January 1, 2012 all taxis have to be 6 years or younger and all black cars have to be 8 years or younger, but as of January 1, 2013 they all have to cycle through their vehicles, both the taxicabs and black cars, was to cover that issue to provide the same application of the law to both black cars and taxis. That motion apparently was about to fail. I tweaked it and I took out that exception to run until July 1, 2013 and now being asked to put it back. If that is what you want to do I'm willing to do it, but not for them, it's got to be for taxicabs as well, or we get ourselves into a lawsuit.

Dulin: I think they are two different industries. I saw two different industries in Phoenix.

Cannon: I don't disagree, but we don't have the time today to hammer that piece out right now. For now the motion is as it is and it has passed.

Dulin: How do we get sued if we segregate the black car and taxis?

Cannon: I imagine you mean on the grandfathering piece, correct?

Dulin: Yes.

Powers: You have a slight protection issue here as you are classifying one different from the other. You are giving the benefit to the black car industry to be grandfathered for an extended term as compared to taxicabs, but there is not a real reason to support the differentiation between the two.

Barnes: That is why I suggested that we grandfather both taxis and black cars until July 1, 2013. As of July 1, 2012 taxis will be 6 or younger and black cars 8 or younger, but you could go through July 1, 2013 to give them an extra year and give the taxicab industry an extra year.

Cannon: Our time is up. Mr. Campbell, what are the next steps for both items we took up today.

Campbell: Both items were passed and they will be before the full Council on November 28th for action as presented.

Dulin: I feel like we didn't do very good work today. I think we ought to hammer this out a little bit and still talk about the pros and cons of adding the taxi. If we've got to do the taxi then we ought to talk about the pros and cons of that. It is too important to rush out of here.

Barnes: Mr. Dulin that is what I did and when she objected you said nothing. It could have been a 3 to 1 vote to do exactly what you just said to do, but you didn't say anything.

Cannon: Here is what is not over. What is not over is a vote by the entire body. All we have coming out of Committee right now is a recommendation. We have time between now and November 28 to continue to work at what is a concern to you and I think we can continue to work through the process with staff when we get before the full body and I think we can probably come up with something.

Barnes: Which means that the new Council will be dealing with it.

Cannon: No, it depends. If we are able to work between now and then and if we can get Peacock to the meeting and some others and we continue to work through this process, maybe there is something that can be done.

Meeting adjourned at 1:45 p.m.

Community Safety Committee

Wednesday, November 16, 2011; 12:00 – 1:30 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>Youth Protection Ordinance</u>

Staff Resources: Captain Pete Davis & Tracy Evans

City staff will review and discuss the City's youth Protection Ordinance. Staff will address questions asked during a previous Committee meeting.

<u>Attachment:</u> 1. Youth Protection Follow-up.ppt

II. <u>Passenger Vehicle for Hire Ordinance</u>

Staff Resources: Thomas Powers

The Committee will continue discussions of the Passenger Vehicle for Hire Ordinance (Chapter 22), Section 22-287 (a)(1)(3) regarding age limits of vehicles.

<u>Attachment:</u> 2. PVH Memo.doc

<u>Next Meeting</u>: TBD

Distribution:	Mayor/City Council	Curt Walton, City Manager	Leadership Team
	Mac McCarley	Stephanie Kelly	Rodney Monroe
	Tracy Evans	Mark Newbold	Captain Davis

Youth Protection Ordinance Overview Follow-up

Community Safety Committee
November 16, 2011

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CITY OF CHARLOTTE

Follow-up Topics

- Review of current ordinance
- Parenting Program
- Ways to strengthen current ordinance
- Issues associated with increasing age

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Purpose of Current Ordinance

- Protect juveniles under the age of 16 from victimization and exposure to criminal activity
- Reinforce and promote parental accountability for children's behavior
- Hold business owners accountable

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Provision of Current Ordinance

- Current times
  - Sunday - Thursday: 11:00 pm – 6:00 am
  - Saturday & Sunday: 12:01 am – 6:00 am
- Discretionary
- Current ordinance process in Juvenile Court

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CITY OF CHARLOTTE

Parenting Classes

- Parent issued citation
- Parent has option of attending parenting class in lieu of Court
- Thompson Child & Family Focus conducts classes
  - Birth – 17 years old
  - Evidence based program
    - DJJDP involved in research
    - YPO is addressed
  - Two 3-hour sessions
  - Fee - $75
  - Funding from DSS

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CITY OF CHARLOTTE

Recommendations for Strengthening Current Ordinance

- Implement tiered restricted times based on age
  - Examples:
    - Under 13 years old
      - 10:00 p.m. until 6:00 a.m.
      - 7 days a week
    - 13 to 15 years old
      - 11:00 p.m. until 6:00 a.m.
      - 7 days a week

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Comparable Cities with Tiered Times

City	Tiered Times Based on Age
Columbus, OH	• Under 13: 1 hr after sunset until 4:30 am • 13 – 17: Midnight – 4:30 am
Indianapolis, IA	• Under 15: 11 pm – 5 am • 15 – 17: 11 pm – 5 am Sat & Sun: 1 am – 5 am
Memphis, TN	• Under 16: M – T 10 pm – 6 am F – S 11 pm – 6 am • 17 – 18: M – T 11 pm – 6 am F – S 12 am – 6 am
San Jose, CA	• Under 16: 10 pm – 5 am • Under 18: 11:30 pm – 5 am

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Recommendations for Strengthening Current Ordinance

- Change "accompanied by an adult 18 years or older" to 21 years or older (Exception #2)

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Where Would Curfew Cases be Heard for 16 & 17 Year Olds?

- Adult Court system has jurisdiction over 16 & 17 year olds
- Hearings for 16 & 17 year olds held in Adult Court
  - Arrest record

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Scenarios

- Cases heard in Juvenile Court as undisciplined juveniles
- Create a curfew program within Juvenile Court
- Administrative Court in Adult Court system

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Scenario #1

- Cases heard in Juvenile Court as undisciplined juveniles (N.C.G.S. 7B)
  - Benefits
    - No adult record
    - DJJDP involvement
      - Requires State approval

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Scenario #1 Continued

- Challenges
  - Does not meet the definition in General Statute
  - Who files petitions
  - Lack of corrective action
  - Community Service
    - Potential liability issues
    - Trouble attending (transportation)

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Scenario #2

- Create a curfew program within Juvenile Court
  - Benefits
    - No adult record
    - DJJDP involvement
      - Requires State approval

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Scenario #2 Continued

- Challenges
  - Program does not exist
  - Who would oversee program
  - Resource implications
  - Low priority for court system
  - Overlap between Juvenile Court and Adult Court
  - Same issues as undisciplined - lack of corrective action and community service

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Scenario #3

- Administrative Court in Adult Court System
  - Benefits
    - No adult record (in some cases)
    - Option of community service
  - Challenges
    - DA resources
    - Civil fine payment
    - No meaningful repercussions for noncompliance
    - Timely removal of record

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Recommendations

- Implement tiered times
- Change guardian age

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Questions

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CHARLOTTE.

Memorandum

TO: Community Safety Committee

FROM: Eric D. Campbell, Assistant City Manager
Thomas E. Powers III, Assistant City Attorney
Tracey Evans, Assistant City Attorney - Police

DATE: November 11, 2011

RE: Staff Responses to Questions Posed During October 19, 2011 Meeting

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I. Equal Protection

The Fourteenth Amendment to the United States Constitution and Article I, § 19 of the North Carolina Constitution guarantee equal protection of the laws. If the City enacts any ordinance that classifies one segment of a population differently from another segment, then the City's classification must withstand judicial scrutiny.

Courts apply a strict scrutiny analysis for any classification that operates upon a suspect class, such as a race, or infringes a fundamental right, such as religion. Under a strict scrutiny analysis, a court determines whether a governmental classification is narrowly tailored to the compelling governmental interest. The burden of proof rests with the City to establish a compelling interest and a narrowly tailored remedy.

Conversely, Courts apply a rational basis analysis for any classification that does not operate upon a suspect class or infringe a fundamental right. The burden of proof rests with the challenging party to establish that the City's classification is not rationally related to the City's interest.

If the Community Safety Committee established different vehicle age limits for taxi cabs and black cars, then the PVH classification would be subject to a rational basis analysis by a Court.

II. Definition For Unique Vehicles

City Council did not refer this issue to the Community Safety Committee for discussion. However, staff will need additional time to review and/or prepare an appropriate definition for the Committee's consideration.

III. Airport RFP and Three Year Age Limit

Regarding the Airport's request-for-proposals ("RFP"), it appears that Airport staff used contractual agreements to limit the vehicle age of taxi cabs. Airport staff set the three year age limit for taxi cabs in order to promote newer and cleaner vehicles.

IV. Whether Public Hearing Requirement to Amend City Code Chapter 22

No requirement exists under the North Carolina General Statutes or the City Code that requires the City Council to conduct a public hearing to amend Chapter 22 of the City Code.

V. Limos and Shuttles Excluded From Vehicle Age Limit

Staff attempted to discern why limos and shuttles are excluded from the vehicle age requirements. However, staff could not ascertain a clear reason to explain the exclusion.

At best, an explanation was given that City Council decided to differentiate black cars from limos to permit the proliferation of the black car industry. The distinction between black cars and limos could explain why the vehicle age limit applies to one segment and not the other.

VI. Taxi Cabs and Black Cars Comparison and Explanation

For taxi cabs, the chart on page 3 illustrates that there are 863 taxi cabs with an average age of 5 years and 8 months. Nearly seventy percent (70%) of taxi cabs range in age from 3 years and 3 months to 8 years and 2 months. The top three most popular vehicles for taxi cabs are a Crown Victoria, Dodge Caravan/Dodge Grand Caravan, and the Chevrolet Venture.

Based upon the 2011 Kelley Bluebook value with each car being rated in "Excellent" condition, the following information was retrieved for the top three most popular vehicles:

- a 2006 Crown Victoria would cost $12,459;
- a 2009 Crown Victoria would cost $18,894;
- no 2011 Crown Victoria model is available because Ford discontinued the model in 2011;
- a 2006 Dodge Caravan would cost $8,755;
- a 2009 Dodge Grand Caravan would cost $15,912;
- a 2012 Dodge Grand Caravan would cost $21,830;
- a 2003 Chevrolet Venture would cost $6,544;
- a 2005 Chevrolet Venture would cost $7,647;
- no additional Chevrolet Venture models are available because Chevrolet discontinued the model after 2005.

For black cars, the chart below illustrates that there are 230 black cars with an average age of 5 years and 9 months. Nearly seventy percent (70%) of taxi cabs range in age from 3 years and 6 months to 8 years and 0 months. The top three most popular vehicles for black cars are a Lincoln Town Car, Cadillac Escalade, and Chevrolet Suburban.

Based upon the 2011 Kelley Bluebook value with each car being rated in "Excellent" condition, the following information was retrieved for the top three most popular vehicles:

- a 2006 Lincoln Town Car would cost $14,335;
- a 2009 Lincoln Town Car would cost $25,240;
- a 2012 Lincoln Town Car would cost $48,170;
- a 2006 Cadillac Escalade would cost $24,091;
- a 2009 Cadillac Escalade would cost $44,422;
- a 2012 Cadillac Escalade would cost $64,120;
- a 2006 Chevrolet Suburban would cost $17,199;
- a 2009 Chevrolet Suburban would cost $29,483;
- a 2012 Chevrolet Suburban would cost $42,865.

Overall, there are minimal differences between taxi cabs and black cars in the average vehicle age, the lowest (70%), and the highest (70%). Yet, there are significant differences between taxi cabs and black cars based upon the 2011 price of the top three most popular vehicles.

Staff could not provide the average mileage for taxi cabs and black cars because the City's contractor did not record that information during each inspection. Staff has instructed the City's contractor to retain that information going forward.

	Taxi Cabs	**Black Cars**
Population	863	230
Average Vehicle Age	5 years 8 months	5 years 9 months
Highest (70%)	8 years 2 months	8 years 0 months
Lowest (70%)	3 years 3 months	3 years 6 months
Most Popular #1	**Crown Victoria**	**Lincoln Town Car**
2011 Price (Model Year)	$12,459 (2006)	$14,335 (2006)
2011 Price (Model Year)	$18,894 (2009)	$25,240 (2009)
2011 Price (Model Year)	N/A	$48,170 (2012)
Most Popular #2	**Dodge Caravan**	**Cadillac Escalade**
2011 Price (Model Year)	$8,755 (2006)	$24,091 (2006)
2011 Price (Model Year)	$15,912 (2009)	$44,422 (2009)
2011 Price (Model Year)	$21,830 (2012)	$64,120 (2012)
Most Popular #3	**Chevrolet Venture**	**Chevrolet Suburban**
2011 Price (Model Year)	$6,544 (2003)	$17,199 (2006)
2011 Price (Model Year)	$7,647 (2005)	$29,483 (2009)
2011 Price (Model Year)	N/A	$42,865 (2012)