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LEGAL AND LEGISLATIVE COMMITTEE

June 2, 1998

5:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Pierce, Chairman, with Councilpersons Hurley, Rutherford, Eaves, Lively, Crockett, Hakeem, Swafford, and Taylor being present. City Attorneys Randall Nelson and Mike McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Beverly Pasley, Don Young, Ken Hays, Mayor Kinsey, Donna Kelley, Chief Dotson, Chief Coppinger, Adm. Boney, Scott Wilson, and Steve Leach.

MAYOR KINSEY--UPDATE ON PAY PLAN

Mayor Kinsey stated he knew the committee was pressed for time, but he wanted to give an update on the Pay Plan; that it had gotten to this point. He stated we would have three separate Pay Plans--Police, Fire, and General Government Employees. He stated that the Fire and Police are finalized and would be effective July 1st; that the General Government target date is in September and will be retroactive. He stated that he had a complete Fire and Police Plan and thanked everyone involved in this because a lot of time had been spent. He explained that the Police Plan goal was to pay comparable salaries with all cities throughout the southeast; that we were now at or above the average of other cities in the region; that the starting pay for the Police Dept. would be 19.4% higher to attract the caliber of employees that we are demanding; that there would be a 10% increase throughout the Police Dept., which would leave room for growth; that this would cost \$1.2 million annually for the Police Dept. He explained that there would be nine steps in the Police Dept., and they would phase in the top sergeant pay; that no one would be placed above Step 7 at this point. He explained that the Pension Pay is pegged to the highest earnings, and we will phase this in over time, and no one would miss a beat, and we would keep our pension payment in line.

He stated he was real pleased with the Fire Dept. Pay Plan, and it was a win-win situation; that we had eliminated pay supplements; that the increase would be 9%; that we were paying our firefighters at or above the market and the pay would be right and the best in the State. He stated the cost for this would be \$700,000, which meant we were looking at \$2 million dollars for both the Fire and Police Departments. He stated they were scheduled to present this at the next Tuesday Budget Committee meeting.

Mayor Kinsey stated we were at the very top of the Southeastern Fire and Police Pension Benefits; that we had the best policemen and fire-fighters, and we would be paying them what they deserve.

Chairman Pierce stated that the Council needed an explanation on the captains in the Fire Department. Mayor Kinsey responded that the survey average reflects 75 captains citywide and in comparison we do not have as many captains. Chief Coppinger added that we are allowing captains to be equitable with the rest of the State. Mayor Kinsey explained that the actual pay is highest in the State. He added that some individuals are not happy with this, but it was an outstanding effort to make this fair and equitable. He stated he was very comfortable with the \$2 million dollar increase and doing this in one year and that was their proposal.

CELLULAR TOWER ORDINANCE

Chairman Pierce stated that we would now move to the Cell Tower. He stated we were revisiting this issue as a result of the tower on Brainerd Rd. He called on Ms. Pasley.

Ms. Pasley stated that the Staff had had an opportunity to revisit the Ordinance, and it was basically intact; that they had revisited the issue regarding setbacks on commercial locations and had come up with some language and input from the Industry; that regarding towers defined as being on arteries and collector streets that they would be 50 ft. as opposed to 25 ft. as it originally was; that residential zone setbacks would remain the same and if there was any variance needed, they would have to go before the Board of Appeals.

Ms. Pasley stated that the overall intent is to make sure we have good setbacks and that we do require co-location with a minimum of three companies co-locating per tower. She explained that the landscaping would be commensurate with our Landscaping Ordinance and there was a clause for the removal of towers when they are no longer in use.

Ms. Pasley also explained that there would be an Administrative Staff who will review each application that comes in and determine if the Industry meets the intent of the Ordinance; that we would work hand-in-glove with the Industry. She stated that we could not write an

Ordinance that would cover every instance, but she thought this was the best one for the City of Chattanooga at this time. She explained there were no major changes; that they thought this was acceptable and would work, and they were asking for the Council's support.

Councilman Eaves stated he would like to hear from the Industry.

Attorney Joe Conner stated they had looked at this and as Ms. Pasley had said, they could live with it and work with it; that they had talked to several others, and it was acceptable to go forward with it this evening.

Councilman Swafford stated that he thought we had gone above and beyond where we can go to make this strong; that he thought it was a little stronger than the Federal regulations. Ms. Pasley agreed that our Ordinance is more stringent than some around the country.

Attorney Conner stated there were some provisions that they did not agree with and some they thought were a little vague.

Attorney Wooden stated that it was a strong and tough Ordinance, but they would give it a try.

Councilwoman Rutherford asked when the citizens had a time for their input.

Chairman Pierce stated he was not sure they had input; that this was mandated by the Federal government.

Councilwoman Rutherford stated that citizens have had no input, and they had a right to this.

Attorney Nelson noted that this was a zoning issue and any citizen who wanted to speak would have been welcome.

Councilwoman Rutherford stated there would be citizens at tonight's meeting who wanted to address this.

Chairman Pierce asked about the removal of towers, and Attorney McMahan explained a Bonding Company could be used to get them removed.

Bob Mitchell spoke next. He stated he was involved with towers beyond the political scenario; that three neighborhood associations would show up tonight. He stated there was one Ordinance for everything and different types of towers are included in this Ordinance, and all we were dealing with now were the cellular phone towers. He mentioned

that towers could be 100 watts or less, etc.; that 100 watts would be insignificant and not something that would make him worry about his health. He stated that this Ordinance says they can add anything they want, and this is a technical error.

Chairman Pierce agreed that we were only dealing with cellular towers and phones, but there could be amendments down the road.

Mr. Mitchell stated this could cover 100,000 watts, and he did not want this Ordinance passed.

Attorney McMahan explained that this was a Zoning Ordinance--that the kind of towers Mr. Mitchell was speaking of were tightly regulated by the FCC. Mr. Mitchell inquired as to why they were included in this Ordinance. Attorney McMahan explained that this just addressed the zone that they could go in; that the Federal Government dealt with the standards, and this Ordinance addressed the zone they could go in subject to their meeting the Ordinance standards.

Councilman Crockett mentioned the Bonding Co. and taking the towers down. He asked if we were speaking of, in our Ordinance, when they are no longer used for cellular service. He agreed this should be clarified. Attorney McMahan stated that that change could be made rather quickly.

Mr. Mitchell stated that he would like to look at this. Councilman Crockett stated that the issue we were talking about was cellular phones.

Ms. Pat Rogers asked if the 50 ft. setback would be on the back of property; that if that were possible it would suit a lot of people better. Ms. Pasley responded that it could or could not be; that if it gets close to a residential zone, we are back to a Special Permit and the Board of Appeals.

On motion of Councilman Lively, seconded by Councilman Swafford, this Ordinance will be recommended to the full Council. Councilwoman Rutherford was opposed to this.

Ms. Pasley stated this would have to be taken back before Planning for ratification.

Councilwoman Hurley noted that this had gone before Planning, where there is a public forum, mentioning that there had been an opportunity for citizen input.

Ms. Rogers stated that citizens don't always understand all the implications.

AMENDMENT TO CODE RELATIVE TO DEFINITION OF A SIGN

Councilman Lively stated that this had been withdrawn.

The meeting adjourned at 5:15 P.M.