

Burns Randy

From: Crownover Shirley
Sent: Thursday, March 09, 2000 10:43 AM
To: O'Neal Carol; Moore Carolyn; Burns Randy; Nelson Randall; Couey Cindy
Subject: LEGAL AND LEGISLATIVE COMMITTEE - 3-7-00

LEGAL AND LEGISLATIVE COMMITTEE
March 7, 2000
5:15 P.M.

The Meeting of the Legal and Legislative Committee was called to order by Councilman Eaves, Chairman, with Councilmen Hakeem, Taylor, Hurley, Rutherford, and Franklin present. City Attorney Randall Nelson and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Steve Leach, Adm. Marcellis, Phillip Lynn, Adm. Boney, and Adm. Mitchell.

SPORTS AUTHORITY BOARD MEMBERS

Chairman Eaves called on Attorney Nelson to address the committee. Attorney Nelson stated that the first thing he wanted to do was to pass out a "Cheat Sheet" on the powers of the Board members that Councilwoman Rutherford had asked for. (This is made a part of the minute material).

Councilwoman Hurley asked about the lease arrangement. Attorney Nelson explained that it would be leased to the Lookouts with a buy-out option at the end of the lease—that this was a mechanism to alleviate the tax burden. Councilwoman Hurley verified that Attorney Nelson needed each Councilperson's appointment by next Tuesday. It was suggested that each Councilperson tell the Council Clerk their choice, also. Attorney Nelson explained that there could be more expansive duties.

Councilman Taylor inquired as to the meeting times—if they met monthly? Attorney Nelson stated that they would meet annually and as needed; that in the beginning there would be more Special Meetings, and he anticipated meetings toward the end of this month.

Upon questioning by Chairman Eaves, Attorney Nelson explained that the Council agreed last week to have 11 members with each Councilman appointing one member and Mayor Kinsey appointing two. He noted that the appointments could not be City employees or elected officials.

CHARTER AMENDMENTS

Attorney Nelson explained that in order to get a Charter amendment on the August ballot that first reading would have to be no later than May 9th and second and third readings on May 16th. He stated that he was aware that the General Pension Fund had some changes and there might also be some from the Fire and Police Pension. He also noted that a second division of City Court had to be created by Charter; another thing was the parking provision in the Charter, with Attorney Nelson explaining that the City is precluded from building parking lots, and we need to examine the whole question; that if you build a parking facility, it must be funded by revenue bonds—that we would need to strike this reference and get a cheaper financing through general obligation bonds.

Councilman Hakeem asked if the timeline had been given to the Pension Boards. Attorney Nelson reiterated that it would have to be adopted on first reading no later than May 9th. Adm. Boney stated that the General Pension Fund had been informed. Councilman Hakeem stated he would not want to wait until it is time to meet with them to tell them.

Attorney Nelson stated that the Council might want to go through the Charter and see if there are any changes they wanted to make; that we might need a work session for this. Adm. Boney added that we were facing the parking provision because of the parking garage at the Conference Center. Attorney Nelson questioned if a work session was warranted. Chairman Eaves stated that he would leave it up to the Council as to how many work sessions they wanted, if any. He added that we might be able to set up a series of Legal and Legislative meetings to look into this.

Councilman Hakeem suggested that all Charter amendments being proposed to the Council be submitted by the first week in April, and the Council can make a cursory review and come back two weeks later with the intent of whether it is to be approved or not.

Attorney Nelson indicated that he could go through the Charter and make suggestions if the Council wanted him to.

Chairman Eaves stated that we would have a Legal and Legislative Committee meeting near the first of April (April 4th) and two weeks later on April 18th and further meetings if needed could be arranged.

Attorney Nelson stated that timing was not all that critical as amendments could be put on the November Ballot which would give us more time to study any problems. He stated, also, that the November Ballot might be shorter than the August Ballot.

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TELECOMMUNICATION COSTS

Attorney Nelson stated that he might need to talk to the Councilmembers in private about part of this regarding the case with BellSouth on telecommunications; that the Court had said the cost had to be related to the amount of damages suffered from cutting into streets rather than the 5% number; that a lot of people charging the 5% does not make it right, and we have to “pin” the cost to something.

Adm. Marcellis mentioned articles about this from various cities. Attorney Nelson mentioned that Cincinnati did a Study on what it costs the City when streets are cut into. Adm. Marcellis explained that costs are for damage to the pavement itself and also for the disruption to traffic; that Administration can do an inspection. Attorney Nelson added that we needed to take a look at what the charges are on a fee basis and what it relates to. He explained that the key to the opinion was that the Court said the City was only allowed revenues for damages. At this point he read from various cases.

Councilwoman Hurley noted that it was not a question of charging a fee but how it is calculated.

Attorney Nelson explained that the problem in this case is our having to act in a government capacity rather than in a proprietary capacity. He noted that we were faced with the problem in the late 1800's when the City Commission granted a perpetual charter in that we had to treat people equally and would have to grant the right to everyone and were looking for a way to exact a fee—that we would get the telecommunication industry, as well as all other industries tearing up our streets such as the Water Co., Gas Co., and plumbers; that we had to make the figure reasonable. Attorney Nelson noted that DMG had done a similar study in the past or we could rely on the Public Works Department for this study; that at the present we did not have enough information to know what the costs would be. He asked for a motion to approve this concept. **On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford, this concept was approved.**

ANTI-LITTER SIGNS

Chairman Eaves stated he had talked to Dave Buckner about this; that Mr. Smith was with us tonight and needed an Anti-Litter Sign put up. Adm. Marcellis asked Mr. Smith to give them the location. Councilwoman Rutherford added that John VanWinkle said he was not doing this.

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ANNEXED AREA AROUND SODDY DAISY

Attorney Nelson showed maps of the annexed area around Soddy Daisy. He explained that this involved 175 to 180 people right on the border of District 3 and District 1. He stated that he needed to know which District to put these citizens in. He recommended putting them in District 1 because District 3 is the second largest and District 1 is the first or second smallest in population.

Councilwoman Rutherford asked if they did not live closer to District 1? Attorney Nelson responded that District 1 was huge geographically. He stated that his second reason for recommending that these citizens be put in District 1 was that the Census Tracts and most of this falls within District 1. He stated that he felt it was most appropriate for these 175 to 180 citizens to go to District 1.

The meeting adjourned at 5:45 P.M.