

LEGAL AND LEGISLATIVE COMMITTEE

January 8, 2002

3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, Chairman, with Councilmen Benson, Robinson and Pierce being present. Councilmen Page and Taylor joined the meeting later. City Attorney Randall Nelson and Shirley Crowover, Assistant Clerk to the Council, were also present.

Others present included Jerry Pace, Peggy Kilpatrick, Chief Dotson, Shelley Parker and Moses Freeman. Mike Compton joined the meeting later.

AMEND CITY CODE—BEER ESTABLISHMENT EMPLOYEES

Chairman Littlefield called on Shelley Parker and Chief Dotson to go over this Ordinance.

Chief Dotson explained that this had to do with I.D. Cards and pertained to amending the City Code, Part II, Section 5-83; that it was in relation to beer cards of employees and that he would let Mr. Parker explain this to the committee.

Mr. Parker explained that this was a revised version; that people in the ID Unit were spending one full day a week making I.D. Cards, and it was a waste of time; that they were going to replace these cards with a notification requirement; that within three days of employment of any person who will dispense, serve or sell beer or other beverages of like alcoholic content for consumption on the premises, the permit holder must notify the Beer Inspector in writing of the employee's full name, current address, date of birth, race and Social Security number, and it was being added that the permit holder must send to the Beer Inspector a copy of the employee's driver license or other form of identification with a photograph of the employee. Mr. Parker stated that this would simplify their lives and save a little bit of money.

Chairman Littlefield asked if employees were ever asked to show their cards. Mr. Parker responded that to be honest, he did not know if anyone ever looked at them. He noted that this was for beer for consumption on premises.

Attorney Nelson questioned if a person's Social Security number should be made a part of the public record. Mr. Parker responded that they would not release it; that they needed this to do a background check; that if any problems arose, they would contact the City Attorney's office about the right of privacy.

Chief Dotson added that with the high increase of identify theft, they needed the proper person registered.

On motion of Councilman Benson, seconded by Councilwoman Robinson, this will be recommended to the full Council for approval.

ADOPTION OF NEW CITY CODE

Chairman Littlefield asked Attorney Nelson to address the Ordinance on the Agenda pertaining to adopting and enacting a new Code for the City and providing for repeal of certain ordinances not included therein and providing a penalty for the violation thereof. Attorney Nelson explained that this was an update of previous codes and that he would like to put this off for a week to change the penalty provisions to bring them into line with a Supreme Court ruling; that we can fine \$50.00 or up to \$500.00 if we can justify additional expenses to the City. He stated that he needed to get the Councilmembers copies of the Code itself and that he would like to delay this one week. He mentioned the Zoning Ordinance to bring the Zoning Code up to date, noting that the Planning Commission passed this effective November 27th to pass on first reading. He explained that a Council committee would need to go through the Charter section by section, and it would take some time. He explained that when the government changed form in 1990 that the City Attorney's office put in changes that they felt were appropriate that have never been adopted officially—that it was their interpretation, and they thought it had gone pretty well. He stated that they needed to make an official decision, and the Charter needed to be gone through section by section in conjunction with the Mayor's office. He stated that this needed to be done by May and on the August ballot. He stated that he would rather than we not make any substantial changes, other than the required changes to incorporate the new government terminology, until November.

Councilman Taylor asked if this was being delayed to deal with the penalty piece. Attorney Nelson verified that there were changes he needed to make in the interim.; that we have to justify anything over \$50.00 even though we can go up to \$500.00. He stated that he wanted to incorporate the language into the penalty clause.

Councilman Pierce asked if we had the authority to fine \$50.00 a day in the Charter. Attorney Nelson responded that he thought we had this authority; that he was sure we had the right; that periodic charges could be on an hourly basis.

Chairman Littlefield stated that Ordinance (b) would be postponed for one week and the Zoning Ordinance would also be on the agenda for first reading next week.

On motion of Councilman Taylor, seconded by Councilwoman Robinson, this will be recommended to the full Council.

REZONING CASES FOR JANUARY 8, 2002

Chairman Littlefield called on Mr. Pace to go over rezoning cases on tonight's agenda.

Mr. Pace began with **Ordinances (h) and (i)** for Pro Properties, which is off of I-75 and the exit at Hickory Valley Rd. Mr. Pace explained that the applicant wanted a storage building inside, which they thought was the Cadillac of mini-storage buildings. He stated that this was approved at the Planning Commission but one condition was incorrect concerning the split block facing the residential neighborhood and Hickory Valley Rd., and they had gotten a phone call from the applicant and had checked the exact wording. He explained that the applicant did not feel like split block was necessary, and they would scratch this.

Chairman Littlefield verified that this item would be excluded. Attorney Nelson stated that they could sit down after this meeting and rewrite this.

Mr. Pace mentioned that there was also a concern of the Staff about signage from the freeway; that billboards abound in this zone.

Councilman Benson stated that the community was getting upset about signage; that there was no need for one from the freeway; that he thought there would be a problem if they wanted to put up more billboards. Chairman Littlefield noted that this provision just excludes off-premises advertising.

The next rezoning was **Ordinance (k)** for Southeast U. S. Retail Fund. Mr. Pace explained that Winn-Dixie was requesting to lift conditions contained in Ordinance No. 10028 concerning no curb cuts; that they wanted another entrance into Winn-Dixie; that Planning recommended approval with entrance only.

Councilman Benson stated that there was a split vote at the Planning Commission meeting and that this was a hotly debated issue, and they wanted it to come back to the Traffic Engineer for approval, and he had said "no".

Mr. Pace stated that this would be coming up tonight and that the Traffic Engineer was opposed to lifting the condition.

Councilman Taylor questioned if the Traffic Engineer had expressed how dangerous it would be and the Planning Commission still voted for approval.

Chairman Littlefield asked for a motion on the first case subject to changes concerning the brick and off-premises advertising. **On motion of Councilman Page seconded by Councilman Taylor, this will be recommended to the full Council for approval.**

Mr. Pace reminded members that there were two cases involved here; that one was for rezoning for a storage building and the other was to amend conditions and both were recommended for approval subject to minor adjustments.

Chairman Littlefield noted that the case on East Brainerd Rd. was a little more complicated and was recommended for approval subject to approval by the Traffic Engineer.

Councilman Benson moved that the Traffic Engineer's recommendation be upheld. This was seconded by Councilman Pierce.

Councilman Page asked if there was a history at this location that would support the Traffic Engineer's perception and recommendation.

Councilman Benson responded that there was empirical evidence, and it was obvious that there would be rear-enders and there was already adequate egress and ingress. He added that we might want to get John Van Winkle to come to the Council Meeting tonight.

Chairman Littlefield noted that there was a long battle to get this rezoned in the first place, and the entrance was moved to Hurricane Creek to make everything line up and to solve the traffic problem and lifting this condition would just create the problem all over again, and he did not think it would fly.

Mr. Pace noted that Hurricane Creek and Morris Lane were close together.

Chairman Littlefield noted that the reason for the 10 ft. restriction was to keep this from coming up.

Councilman Taylor asked who was bringing this forth. Mr. Pace responded that it was the applicant, Winn-Dixie.

Chairman Littlefield added that this was a technical issue and not a policy issue.

Ordinance (o) was to rezone an area within the Bushtown Neighborhood. Mr. Pace explained that this would implement a part of this Plan to downzone a portion and that Planning recommended this downzoning.

Councilman Pierce asked if there was any opposition to this. Mr. Pace said that one person was opposed, but he slept through the presentation; that it was Colman Hochman. He added that he might be at the Council Meeting tonight; that his property was grandfathered in, and he could remain there. Councilman Pierce verified that his zoning would stay the same and there would be no problem in downzoning this. **Councilman Pierce moved that this be recommended for approval to the full Council. This was seconded by Councilman Taylor.**

The next case discussed was at H/W 153 and Boy Scout Rd. Mr. Pace stated that the Planning Staff made the recommendation to deny but the Planning Commission felt that since there was commercial across the street that this should be approved. Mr. Pace stated that the applicant has an old billboard, and he thought that was why he made application for C-2.

Councilman Page stated that there was a case for an Extended Stay in his district that was coming up tonight also and that this one looked fine to him.

Mr. Pace explained that this case, **Ordinance (j)**, was to rezone a tract of land at Boy Scout Rd. and Dayton Pike.

Councilman Page went on to say that the Extended Care looked like there would be no changes and was a non-issue, but the problem he had with this case was one of fairness to other applicants; that we had asked others to hold off rezoning, and he asked Mr. Pace if he could give a good reason why this should be an exception.

Mr. Pace responded that this was a residential zone and the Extended Stay was rezoning from commercial to commercial. He added that the Staff had been consistent.

Councilman Page stated that he would make a motion to defer this rezoning until the Plan is finished.

Councilman Taylor questioned if there was a billboard on this property. Mr. Pace responded that he was just guessing that the billboard was in an R-1 Zone, and the applicant could not get a permit for it; that it was not a large piece of property. Councilman Pierce questioned how the original billboard got there. Councilman Benson noted that this was just Jerry "guessing" that this was the reason.

Councilman Page restated his motion to defer this until the Plan is finished. This was seconded by Councilwoman Robinson.

Mr. Pace next moved to **Ordinance (n)** for Mike Price to rezone a tract of land located at 7380 Applegate Lane from R-1 to R-4. He stated that this was in the process of going to O-1, and the applicant was asking that this be deferred for one week. **On motion of Councilman Benson, seconded by Councilwoman Robinson, the recommendation will be made to the full Council that this be deferred for one week.**

Councilman Benson shared that this would be a Planned Development with offices and would look like Georgetown outside of Washington, D.C.; that it would be really quaint, and he was proud of the way it was working out.

AMERICAN FAMILY FOUNDATION TRUCK

Councilman Benson stated that there was a problem in his community that needed to be addressed—an unsightly situation that was mis-leading. He stated that he had left a box full of toys there and did some investigation; that it was an American Family Foundation truck, and they had a really big billboard. He stated that this was offensive and intrusive and looks bad and that he was getting calls constantly about this. It is located at Shallowford and Gunbarrel Rd. Councilman Benson stated that there was a similar truck on Signal Mtn. Blvd., and they were putting collection bins around the City and had set this truck down on Dr. Liu's property. He explained that they just park the truck and then write a letter and say that they are non-profit and if they need to be moved to just give them 30 days notice. Chairman Littlefield added that they say in their letter that they don't need a contract.

Councilman Benson went on to say that he had a letter from Dennis Brice of Goodwill and Rheubin Taylor, County Attorney. He stated that the letters were very specific and asked that the City Attorney look into this. The letter from Rheubin Taylor was dated March 17,2000. Attorney Nelson stated that he thought this was discussed a long time ago. Chairman Littlefield noted that the letter from Rheubin Taylor went to Gloria Haney. Councilman Benson stated that he wanted this outside of his district. Attorney Nelson stated that they had looked into this; that there was one at the old Ace Hardware site on Hixson Pike where they had put up a bin without Ace Hardware's permission and that the City Attorney's office checked into this and found it was none of their business because it was on private property.

Chairman Littlefield stated that we would have to approach this on the basis of unkempt premises and illegal advertising; that there was one of these down in Georgia from American Family and stuff was piled everywhere.

Councilwoman Robinson stated that Goodwill keeps an attendant on site.

Chairman Littlefield suggested that this be referred to the City Attorney to amend the Ordinance to require that such a site be manned.

Councilman Benson stated that he thought this tied in with our trash policy and Dennis Brice told him that Miami had written an Ordinance saying that there has to be maintained and that they had moved out. He explained that American Family gets the goods and sell them to Alabama Thrift Store for a nominal amount; that the Federal Government had gotten involved because they were issuing bonuses rather than dividends. He stated that we needed to tighten our Ordinance and Goodwill says that tightening it will not hurt them. Chairman Littlefield added that they invite it and will have to deal with it. Attorney Nelson added that he had caught people stealing from bins. Councilman Benson asked that something be done in this area. Attorney Nelson agreed to take a look at this.

On motion of Councilwoman Robinson, seconded by Councilman Taylor, this matter will be referred to the City Attorney to take a look at it.

The meeting adjourned at 3:50 P.M.