

LEGAL AND LEGISLATIVE COMMITTEE
March 5, 2002
3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, Chairman, with Councilmen Benson, Hakeem, and Pierce present. Councilmen Taylor, Franklin, Page and Lively joined the meeting later. City Attorneys Randall Nelson and Mike McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Jerry Pace, Mike Compton, and Adm. Boney. Adm. McDonald, Beverly Johnson, and Phillip Lynn joined the meeting later.

REVIEW OF CITY CHARTER CHANGES

Chairman Littlefield explained that the purpose of this meeting was primarily to deal with the issue of updating the Charter, precipitated by the Court Order a number of years ago; that the Charter was difficult and contorted and still referred to the old City Commission and other archaic conditions that no longer exist. He noted that the City Attorney had provided each Councilperson with a copy for their reading pleasure; that we would go through and strike some sections of the Charter that are not in compliance with the Court Order and put in new language. Each Councilperson was also given a copy of the **Defendants' Amended Plan**, which is made a part of the minute material. Chairman Littlefield turned the meeting over to Attorney Nelson.

Attorney Nelson stated that the committee would need to go through the Charter section by section, keeping in mind the Court Order; that we wanted to be able to present to the public as clear a version as possible. He explained that if we attempted to change other provisions in the Charter at this time that we might bring in false issues. He stated that most of the changes in the Charter were necessitated by Paragraphs 3 and 4 of the Court Order on Page 2, giving all executive and administrative authority and responsibility exclusively to the Mayor and creating a City Council whose responsibility would be all legislative and quasi-judicial authority. He explained that the changes necessitated by these two paragraphs permeate the whole Charter and heretofore had been handled by footnotes.

Councilman Benson asked if there could be other changes made. Attorney Nelson responded that that would be guided by the Council but needed to be done as clearly as possible; that once we have a clear copy in August, we can come back in November and make any other changes. He gave as an example of one thing we might want to change would be the Section dealing with the City not operating parking lots; that we may want to change this, but not at this time.

Chairman Littlefield explained that this is simply “word changes”, and we have had 12 years of experience in working with this form of government; that we were going to change old terms to new terms and were not changing the way the government functions; that it would be words that correspond with the Court Order.

Attorney Nelson stated that there were 211 pages and 100 pages had been done in going through the amended plan to see if everything had been incorporated. He explained that we had done away with the Board of Education; that the committee needed to go through each section to be sure everything is in the Charter; there is no longer a Board of Commissioners and there is a Finance Officer instead of an Auditor.

Attorney Nelson directed attention to **Section 28 and 29 on page 7**, striking “*The Board of Commissioners. . .*” and in **Section 29** inserting “*City Council*”. He stated that this section dealing with Acquisition of property for parks might need to be changed but not at this time. He suggested that the Council might want to write down any changes we might want to make in November as we go through the Charter.

Chairman Littlefield stated that it would be incumbent on the Council to read through this quietly and mark the questions they wanted to ask.

Councilman Hakeem asked if this would have to be distributed broadly; that it was pretty thick. Attorney Nelson stated that we could charge people for this. Councilman Littlefield stated that when there was a finished document that he thought there would be quite a few requests. Attorney Nelson stated that it could be put on the City’s web page and copies could be available at the Library and here in the Council Office.

Attorney Nelson next directed attention to **Page 8, Section 29**, where the footnote stating “*in the opinion of the City Attorney, this section is modified by . . .*” was deleted. This dealt with the case of Brown v. Board of Commissioners and on **Page 57, Section 4.4**, the same thing was done. In **Item 60 on Page 13 under Schools**, “*to establish a system of free and other schools and to regulate the same*” needs to come out completely.

Page 14, Section 2.2, “*board of commissioners*” was struck, and in its place “*City Council*”. This section dealt with establishing, altering, modifying, changing, abolishing, merging or consolidating wards within the boundaries of the City. Attorney Nelson stated that he did not think we had wards, but we may have to establish them, as some precincts are within the City and County, and we may need a ward for the city section.

Section 2.3 on Page 14, dealt with Municipal Bands. “*Mayor and Board of Commissioners*” was struck, leaving only “*City Council*”. This would have to be done by Ordinance and money appropriated for that purpose.

Section 2.4 on Page 15, deals with the Blue Laws, or opening and closing hours of merchants, and “*board of commissioners and the mayor*” is replaced with “*City Council*”.

Section 2.5 on Page 15 deals with **Parking Meters**. Councilman Benson asked if it were true that we don’t give any parking fines after 4:30, stating that he thought we needed to review this. Councilman Pierce stated that we can’t do everything for revenue. Attorney Nelson explained that this was not for revenue but for distributing traffic. Councilman Benson asked if it had anything to do with the Meter Maids. Adm. Boney pointed out that Meter Maids write citations for other things than just parking tickets. Attorney Nelson added that they do not do this on Saturday. Councilman Benson stated that the Meter Maids work on Saturdays. Councilman Pierce noted that the Meter Maids do fender benders as well.

Attorney Nelson stated that **Section 2.6 on Page 16**, dealing with **Lease contracts with the federal government**, was probably antiquated, that we rent to the Federal Government for military purposes. “*Board of commissioners*” was replaced with “*City Council*”.

Section 2.7 on Page 16, “*board of commissioners*” was replaced with “*City Council*”.

Section 2.8 on Page 16, “*board of commissioners*” was replaced with “*City Council and Mayor*” to have the power from time to time to create, fill, and discontinue other offices and employments than those prescribed. Attorney Nelson explained that this was both an Administrative and Legislative function. In the next paragraph “*board*” was replaced with “*City Council*” to create any new office and “*election by the board of commissioners or by a commissioner*” was replaced with “*the Mayor*” with the approval of “*said board*” being replaced with “*City Council*”. Attorney Nelson stated that when he got to the section dealing with the positions of City Clerk and Management Analyst, that he would insert this.

Section 2.9 on Page 17 contains the words “*being free male inhabitants thereof, over twenty one (21) years of age*” which will be taken out as this language dates back to 1866. Attorney Nelson stated that his suggestion was to strike this. Chairman Littlefield stated that he felt this would be within the spirit of the Court Order.

Section 2.10 on Page 17 (2), *“court and board of commissioners”* was replaced with *“City”* in dealing with **joint city-county hospitals**. This has all been superseded by the Hospital Authority Act. Attorney Nelson explained that the County has a funding obligation as part of the Sales Tax Agreement, whereby they have assumed our obligation.

Section 2.11 on Page 17 deals with a **privilege tax on pleasure automobiles and motorcycles, taxicabs, buses, etc.** *“board of commissioners”* was replaced with *“City Council”* and *“auditor”* was replaced with *“finance officer”*. A fee up to \$5.00 can be levied. Adm. Boney stated that this fee amount could well be eliminated as we don’t want specific dollar amounts.

Section 2.14 on Page 19, dealing with **Supplemental pension payments** strikes *“board of commissioners”* and in its place inserts *“City Council”*.

Chapter I, Section 3.1 on Page 20, dealing with **Eligibility for office** replaces *“board of commissioners”* with *“City Council”*.

The entire **Section 3.1.1 on Page 21** dealing with **Employees and appointed officials required to be residents or legally qualified voters**, was struck, as all employees are eligible to vote in the State of Tennessee, and this is in direct conflict. This section was replaced with *“All employees of the City shall either be registered voters in the State of Tennessee, or eligible to vote in the State of Tennessee, except that those employees currently employed (as of January 18, 1990) and living outside the State of Tennessee shall be exempted from this provision”*.

Section 3.4 on Page 22 was struck in its entirety as it is not part of the Court Order. Attorney Nelson stated that the Council and Mayor may wish to leave this in; however he felt that it was antiquated as we don’t keep a “stub book” anymore. Chairman Littlefield agreed that it was archaic. Adm. Boney explained that our check system is “warrant based”, but we do not keep a “stub book”.

Section 3.5 on Page 22 deals with **Military leave** and *“board of commissioners or board of education or other board in charge of employment in the department in which such employees was employed”* was replaced with the *“Mayor”* shall reinstate.

Section 3.6 on Page 22 replaces *“Minimum salaries of city attorney and city judge”* with *“Minimum salaries of City Judges”* and deletes *“city attorney”* in the body and changes *“city commissioners”* to *“City Council”*. Attorney Nelson stated that this could be left in for City Judges. Chairman Littlefield stated that he thought this goes without saying, but it could be left in.

Chapter II. RECALL, Section 3.18 dealing with **Authorized; procedure** contains “*members of the board of education*”, which will be struck. This was revised by Referendum in the early 1990’s and changed the recall provision.

CHAPTER 111. PENSIONS AND DEATH BENEFITS, Section 3.29 dealing with **Death benefits for survivors of employees killed, etc., in performance of duties** was struck **Section 3.37 Definitions on Page 25 and 26**, “*Editor’s note In the opinion of the City Attorney, this section is modified by*” was deleted. Attorney Nelson noted that the rest of the Pension Section was fairly clear. **Section 3.40 (4)**, there was a typographical error and “*her*” was deleted in the fourth line from the bottom of that section. **Subsection (6) © on Page 32**, “*(sic.)*” was taken out.

Section 3.44 Page 38, Administration of plan was removed and under **(1) on Page 39**, Attorney Nelson copied this portion out of the Court Order.

Section 3.46, Trust management, on Page 43 (8), Resignation and removal of trustee, “*city council*” was replaced with “*Mayor*” and “*elect*” was replaced with “*appoint, subject to the approval of the Council*”.

Attorney Nelson stated that **Section 3.48 on Page 46 Other pension systems closed to new employees** was probably antiquated, but he left it in for historical reasons.

Section 3.63 on Page 49 takes out “*elected by the board of commissioners*” in the first line. “*Commissioners*” is replaced with “*council members*”. “*He shall be subject to removal from office by a majority vote of the board of commissioners for cause; provided he may demand that charges be made in writing and that he be given a public hearing*” was struck.

Section 3.95 under City Finance Officer Qualifications strikes the **Editor’s note**.

Section 3.103, dealing with the city treasurer acting as tax collector, “*city auditor*” was replaced with “*City Finance Officer*” and “*board of commissioners*” was replaced with “*Mayor and City Council*” and “*on the first Tuesday in January, or*” was struck. (It was noted that we may need to change the gender).

Chairman Littlefield stated that we would stop at **Title 4 on Page 54**.

(It was noted at this point that Page 53 did not get printed).

\$58 M DOLLAR BOND ISSUE

Adm. Boney stated that their goal was 3%, and they actually got over 4.1%; that the Council passed a Resolution to sell the Bonds, and this ratifies the savings; that the Bond Purchase Agreement will happen tomorrow. **On motion of Councilman Franklin, seconded by Councilman Benson, this will be added to tonight's agenda.**

The meeting adjourned at 4:05 P.M.