

LEGAL AND LEGISLATIVE COMMITTEE

April 9, 2002

3:00 P.M.

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

Others present included Dana Stoogenke and Greg Haynes. Mike Compton, Jerry Pace, and Adm. Mitchell joined the meeting later.

GLENWOOD, CHURCHVILLE & ORCHARD KNOB PLAN

Chairman Littlefield called the meeting to order and noted that there were a couple of Neighborhood Plans that needed to be reviewed before endorsing to the full Council. He called on Dana Stoogenke.

Ms. Stoogenke stated that they had been working with Glenwood, Churchville, and Orchard Knob and that the Final Draft, which is made a part of the minute material, is hot off the press. She stated that they met with the Planning Commission four weeks ago and received approval and had met with the neighborhoods three times since and ten times in all. She stated that hopefully the neighborhood was satisfied with this.

Councilwoman Robinson asked for orientation, with Ms. Stoogenke responding that it was Orchard Knob to the west; the ridge to the east; and McCallie and Citico to the north. She went over the Mission Statement drafted by the communities stating that they were committed to being an ethnically, religiously and economically diverse community and ensuring a stable, safe and attractive environment for all residents, businesses and institutions.

Ms. Stoogenke showed a timetable of their meeting times and provided results of a survey showing that 60% felt safe in the neighborhoods; 60% felt that health facilities make good neighbors; and 75% felt good about this being a Historic District.

She then went on to talk about some of the recommendations, mentioning that the Churchville community would like to see properties downzoned to R-1, explaining that this would not happen with this Plan; that it is currently zoned R-3, which allows apartments; however most of the houses are single-family.

Ms. Stoogenke mentioned a small slither of Glenwood that is currently zoned R-2 that would also like to be recommended for downzoning to secure single-family housing and historic zoning. She explained that this would have to go through a Rezoning Study and adopted by the City Council. She stated that they were recommending office use on McCallie, which they felt would be best because of the hospital location.

She then directed attention to the Orchard Knob Elementary School, stating that some residents want it to stay on this site and are working with the School Board to see where it could be located; that if the school moves, then office or assisted living is recommended on this site. She added that the building was over 100 years old.

Councilman Taylor noted that the school seemed to be up in the air and asked if there was any push or direction. Councilman Hakeem mentioned the Facilities Committee that is part of the School Board, who will look at the sites along Third Street and Glenwood. Ms. Stoogenke noted that this was in the 5-Year Plan, and the study is actually smaller than the school zone. Councilman Franklin asked if the school zone would be expanded if they moved their site. Councilman Hakeem stated that there would be a little shifting, but not much.

Ms. Stoogenke stated that public institutions were a big issue in terms of the neighborhood; that there was no consensus between Planning and the neighborhood in regards to the 2400 Block of McCallie; that they had to pull this piece out and leave it blank; that the neighborhood wanted it to be presented non-bias to the Planning Commission and future land use would be on its own merits. She stated that this was just part of the problems; that in the long run the neighborhood was okay with this; that this was public use land—all non-residential—that they wanted it out of the residential core and to include site plans.

She next discussed the Glenwood Historic District; that it is in the National Historic District, and the neighborhood wants it to be in the Local Historic District. She explained that this was a two-year process; that we have to have money to do the study and there has to be an inventory before it comes before the Council; that while we are doing the study, there would need to be some sort of moratorium on demolition of housing; that they wanted some sort of park on DeSales Ave. She went on to say that they were trying to help the neighborhood understand the costs involved in streetscaping; that they wanted better crosswalks and safety was an issue.

Councilman Page asked if the Railroad Museum was included in this district, and the answer was “no”.

Ms. Stoogenke ended by talking about the implementation, noting that Memorial Hospital and other institutions would like to help with this.

Councilman Hakeem commended the Staff of RPA on this Plan, stating that they had really done all they could to make this workable for all the players involved.

Councilman Benson asked if the community felt comfortable with this. Ms. Stoogenke responded that she felt even the most vocal were comfortable with it.

Councilman Taylor asked if Sports Medicine was a major problem. Ms. Stoogenke explained that they had legally bought the property around them, and the neighborhood was upset with the expansion. Councilman Hakeem stated that this was a separate issue to come before the Council; that without this Plan it was free for all to expand.

Councilwoman Robinson asked if some of the fears had been allayed by adopting this Plan, stating that she thought it was very well done. **On motion of Councilman Benson, seconded by Councilwoman Robinson, this will be recommended to the full Council for adoption.**

BRAINERD HILLS STUDY

Mr. Greg Haynes of Planning was present for this Study, which he described as a mini-study. This will not come before the Council until next month. He mentioned rezoning requests along East Brainerd Rd. and oriented the Council on the location. He stated that there had been a lot of pressure for the residences to become offices; that the property across the street is zoned R-4, which allows offices; that it faces a busy street, and some wanted something more viable than residences. He explained that most of the community did not want any change and felt that with offices it would be opening the door to everything else, and the rest of the neighborhood felt threatened. He explained that there was a clash, and they had met to come to an agreement; that they had found a way to make these people feel a part of the community; that they felt some streetscaping was needed to make this look like a neighborhood and feel like a neighborhood; that the two main issues are the land use and keeping it as it is.

Councilman Benson pointed out that everything is R-1 on the Brainerd Hills side. Mr. Haynes explained that they would give streetscaping a chance to do its job, and if it does not work, we will rethink rezoning again; that we will revisit this issue again in 3-5 years to see if streetscaping is doing its job.

Chairman Littlefield stated that they had looked at the possibility and a series of meetings had been held and the last two were standing-room-only; that they had looked at the option of offices and residences like in Applegate and that issue might be revisited; that the neighborhood wanted to protect itself; that the homes are 50 years old, and it is an interesting neighborhood. He noted that there used to be a horse track here with racing.

Mr. Haynes reiterated that this would not come up until next month. Chairman Littlefield stated that this had gone before the Planning Commission and was approved and comes before the Council on May 14th. **On motion of Councilwoman Robinson, seconded by Councilman Benson, this will be recommended to the entire Council on May 14th.**

Attorney Nelson pointed out that both Plans today talked about streetscape, and we all know how expensive this is; that some of these neighborhoods want to be protected, and we might want to talk to them about sidewalk improvement; that this would entail something being added to their taxes individually, and they would agree to this upfront.

Councilman Page asked if this was a vehicle that was already in place, and if it had ever been used in Chattanooga. Chairman Littlefield responded that this had happened years and years ago in the past.

Councilman Benson indicated that he wished he had known about this when they did their Plan; that people who wanted free sidewalks could have been told that this was an option.

Chairman Littlefield stated that everyone wanted free sidewalks, and if the cost were spread among enough property owners it would not be an onerous thing.

Councilman Page asked Attorney Nelson to go into detail about how this would work. Attorney Nelson explained that this had not been done in his time here.

Councilwoman Robinson asked if it would be a one-time assessment, and the answer was “no”. Chairman Littlefield explained that if bonds were used, it would be over the lifetime of the bond; that it can’t be taken off the taxes. He noted that there were a lot of questions involved, but it is a vehicle. Attorney Nelson added that peoples’ taxes would go up. Councilman Benson stated that he thought some people would be willing for their taxes to go up if they could see the end product. Councilman Franklin suggested that it could be assessed along with residential property that was being built. Councilman Page asked if there was any way that this Council could be better informed on how to use this vehicle, stating that he was asking for a follow-up. Chairman Littlefield stated that we would talk to Adm. Boney’s office, and they could bring in experts; that a neighborhood would get to decide on how interested they were; that some areas might go for it. Councilman Benson stated that he thought his district would go for it.

CHARTER CHANGES

Chairman Littlefield stated that the Noise Ordinance would not be discussed tonight, and we would wait until the next meeting. He called on Attorney Nelson.

Attorney Nelson stated that he had done a spellcheck, which had revealed some “*Board of Commissioners*” and “*City Auditor*” that they had missed the first time.

At this point **Bob Mitchell**, who was in the audience, asked to speak in regards to the Noise Ordinance. He stated that he had not slept in years; that he lived on Hilltop above Brainerd Rd. and Jerry Pace was his next-door neighbor. He stated that it was very hard to sleep on Saturday nights, and he had called the police, and they had been very nice; that sometimes it would start up at 4:30 in the morning, and the noise was coming from the parking lots.

Chairman Littlefield stated that people were congregating with boom boxes.

Mr. Mitchell stated that he did not go down there because it was dangerous and was a “wild west show”.

Chairman Littlefield explained to Mr. Mitchell that we had gone through looking at a number of Ordinances in other cities; that there were some amendments and additions to our Ordinance in regards to loud motorcycles.

Mr. Mitchell stated that when these people park and open their doors that the noise does not go away; that they had it in their neighborhood at 2:30 A.M. and 4:30 A.M.; that it never goes away.

Chairman Littlefield stated that hopefully next week we will have a more complete draft.

Attorney Nelson continued with Charter changes, stating that he wanted to go over changes that he had missed. He began with **Section 3-103** where “*city auditor*” had to be changed to “*city finance officer*”. He explained that **Title 5, Section 5.1** was deleted because it is illegal and ruled invalid and is no longer part of the Charter. This had to do with voting by ballot. **Section 5.26** was redundant with **Section 5.3** and was taken out.

Chairman Littlefield asked when we could expect a clean copy. Attorney Nelson stated that he needed to know what the Council wanted, and he hopefully could get it to them by next week. Chairman Littlefield stated that he felt everyone trusted Attorney Nelson and if it were just word changes, he did not see the necessity of Attorney Nelson going over all of this.

Attorney Nelson stated that in regards to the Court Order, for the Council's information he had went through and put in a reference to the City Charter in case there were any questions. This is made a part of the minute material. He asked if the Council wanted a clean copy or a red-line copy. Chairman Littlefield asked for a clean copy and asked when the Council needed to act on this. Attorney Nelson indicated that it would be the first week in May. Chairman Littlefield asked that Attorney Nelson get this to the Council by Thursday of this week, and it can be discussed in the Legal and Legislative Committee meeting the following Tuesday. Councilman Benson asked that Attorney Nelson not mail it. Chairman Littlefield requested several extra copies. Attorney Nelson stated that he would provide a red-line copy and a clean copy on the web so that any citizen could see it, and we would get the word to them.

Chairman Littlefield mentioned our trust factor in regards to Attorney Nelson; however Attorney Nelson wanted to mention that **Section 1** is the Court Order amendment to the Charter and **Section 2** is the same thing; that he took out **Section 12** because it was not an ongoing thing, and the same thing applies to **Section 18**; that **Section 20** is a transitional thing also and has been taken out. **Sections 29 and 30** apply to the Board of Education and have been done away with. **Sections 34, 35, and 36** are also transitional.

Councilman Page asked how this would be presented to the voters.

Attorney Nelson explained that anything that goes before the voters cannot be more than 400 words in length; that the City attorneys will shorten it for the way it will be presented to the voters with wording such as "*shall the City adopt the amended Charter as directed by the Court Order and the changes necessarily implied therein*".

Councilman Page asked if none of the details would be included. Attorney Nelson explained that a computer would be set up that would be dedicated to this purpose; that we would depend upon the newspapers to educate people on why this is being done.

MEDICAL FACILITIES' CONCERNS IN REGARDS TO CELL TOWERS

Councilman Hakeem stated that he had sent information to the Council Vice-Chairman and the City Attorney's office in regards to some concerns of medical facilities.

Attorney Nelson indicated that he knew what Councilman Hakeem was talking about. Chairman Littlefield explained that it had to do with cell towers and their frequencies with regards to medical facilities.

Attorney Nelson explained that this had been preempted by Federal regulations.

Chairman Littlefield stated that we needed to do something; that the hospitals would like to know about the frequencies. Councilman Hakeem added that medical facilities had spent millions of dollars on equipment and certain frequencies used could cause a facility to be shut down. Chairman Littlefield stated that we were not the only one having this problem and asked that the legality of this be searched.

Councilman Franklin verified that the moratorium had been lifted and if cell tower companies were now released. Attorney Nelson stated that they would have to go back to Don Young; that they had explained to him that this was all subject to the new Ordinance and would have to go before the Board of Zoning Appeals. Chairman Littlefield stated that some would make it and some would not.

Councilwoman Robinson asked about the mechanism for district proportioning in regards to the City Charter. Attorney Nelson explained that this is accomplished after a census or annexation; that in 1991 it had to be approved by the Court but no future ones would have to be approved again; that each district should be as equal as possible; that districts have to be contiguous and precincts run along established boundaries. Councilwoman Robinson asked how often this is done. Attorney Nelson responded after a census is taken or annexation, which is usually ever 10 years.

Chairman Littlefield stated that we were waiting for the State; that Randy Burns had done a computer check on this and our present districts still work; that some districts have grown and some have declined, but we are still within 9.99%; that if we could stay with our present districts it would be wonderful.

The meeting adjourned at 3:45 P.M.