

LEGAL AND LEGISLATIVE COMMITTEE

August 13, 2002

3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, in the absence of Chairman Benson, with Councilpersons Robinson and Page being present. Councilmen Hakeem 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 Mike Compton, Jerry Pace and Adm. Boney. Steve Leach joined the meeting later.

CHARTER PROVISION CHANGES

Chairman Littlefield called the meeting to order, noting that three additional charter provisions would be discussed for tonight's agenda.

Attorney Nelson explained that he had an amendment to one of the changes discussed last week regarding fines of \$50.00; that there was another section that also limited us to \$50.00, and he repealed that too.

The first Charter provision change discussed tonight dealt with repealing certain references to a City Planning Commission and their duties. Attorney Nelson explained that the City is authorized by Charter to have a City Planning Commission; however we had not had one in years because the State passed a Statute for a Regional Planning Commission. He explained that he had not stricken the idea because at any point and time, it could go back in; however certain provisions are very hard to live with, and we need to get rid of them. He explained that **Section 12.6** is what we call the Mandatory Referral Section, which states that before we can do anything, we have to give the Planning Commission the right to comment and make recommendations, but the Council can override them. Attorney Nelson explained that we need to go with State Law and to try to get rid of this section is his recommendation. He went on to say that we do not want our Charter limiting us later, explaining that this sections calls for minor things to have to go to the planning agency; that in most cases, the Council would do this anyway.

Chairman Littlefield agreed that there were good reasons to delete this language.

Councilman Page verified that the whole section on Page 2 was being taken out.

Councilwoman Robinson questioned if leaving this in might not be a good safety measure. Attorney Nelson explained that we already have that measure in place in State Law.

Chairman Littlefield reiterated that this was not necessary and that he agreed with Randy Nelson that this should be removed from the Charter; that the whole reference to a City Planning Agency operates under the State Enabling Act.

Councilman Hakeem joined the meeting at this point and apologized for being late and asked about the City Planning Commission. Attorney Nelson explained to him that there is a provision for a City Planning Commission in the Charter, and we were trying to take out parts that were burdensome to the City at this time.

Chairman Littlefield explained that this would be removed from the Charter because the Mandatory Referral Laws are covered in State law and are what we have been following.

Attorney Nelson explained that he was also suggesting deleting **Sections 12.23 and 12.24**; that we have a different notification request than that in State Law; that our requirements add nothing but expense and slows down the process; that we are following State Law anyway and need to do away with this.

Councilman Hakeem stated that he was at the Planning Commission meeting yesterday; that when they were outlining the guidelines the statement was made that the posting of signs was done as a courtesy; that he had heard in other discussions that it was mandatory that the signs be on the property.

Attorney Nelson explained that a 15-day advertisement in the newspaper is all that is required.

Councilman Page stated that he thought notification of zoning through a yellow sign is an important function, and it seems it is a misplaced and ongoing issue; that he did not know where this needed to go for discussion.

Chairman Littlefield stated that it does not have to be in the Charter but could be added to the Zoning Ordinance; that he thought this had already been done; that there was some resistance by Planning to do this, but it had worked very well.

Councilman Hakeem stated that it sounded to him like it was just a courtesy; that he had heard that property owners were required to have these signs erected and then he heard this at the Planning Commission meeting, and this left the community in limbo.

Chairman Littlefield reiterated that it could be put in the Zoning Ordinance; that it was part of State Law in Georgia.

Mr. Pace noted that there was nothing that required a public notice; that they do this as a courtesy and stress to the applicant that it is a requirement to put this sign on the property, but there is no penalty if they don't; that in talking about a penalty, we could either delay the case or deny it; that sometimes when there are angry neighbors, they take them down; that it is a hard balance, but we don't have the enforcement.

Chairman Littlefield noted that there are other benefits to the signs; that sometimes this is the only way you can find a location.

Mr. Pace agreed that this is a problem.

Attorney Nelson suggested that it could be made a requirement to put up a sign and made a violation for anyone else to take it down.

Attorney Nelson explained that **Section 12.24** has nothing like this in State Law, and this could come back and "bite" us if it differs.

At this point Councilman Hakeem stated that there was one thing that Councilman Pierce wanted to bring up. Attorney Nelson stated that this concern was not a Charter change. Councilman Hakeem maintained that it was, because it concerned salaries—dividing the Chairman's and Vice-Chairman's salaries between the rest of the Council!!!

The second Charter change dealt with City Court fees. Attorney Nelson explained that this essentially goes back to 1937 and was amended in 1945 and 1969. He explained that he was proposing to strike the language as it appears on Page 1 of the Ordinance and inserting the paragraph that follows on Page 2; that we will be taking out the "nickel and dime" stuff.

Chairman Littlefield verified that we would be taking out the amounts. Attorney Nelson added that there was a State Law that controls this.

Attorney Nelson stated that Judge Williams would be really interested in the next change; our Charter presently says "*a session of said city court shall be held daily, except Sunday*"; that we will substitute, "*a session of said city court shall be held daily except for holidays and weekends*". Attorney Nelson explained that this daily provision was put in when we tried criminal cases—that we had to meet daily for bonding needs; that we no longer handle criminal court cases, and it is not necessary to meet daily.

Chairman Littlefield asked if anyone "convened" daily. Attorney Nelson responded that he did not think so, mentioning an exception to the "*shall*" rule, which also might mean "*may*".

Councilwoman Robinson noted that a session means "one"; could all get together and say one meeting meets the requirement?

Attorney Nelson noted that this was put in the Charter in 1901.

Chairman Littlefield questioned if everyone would be happy with this. Attorney Nelson stated that he had not checked with Walter Williams, but he could not imagine him having any problem with this.

Adm. Boney asked if this precluded us from getting into the criminal court business.

Attorney Nelson noted that the magistrates come in on the weekends. Councilwoman Robinson asked if there were extenuating circumstances, could they be open on weekends?

Councilman Page questioned if the City Judge should not look at this first. Attorney Nelson stated that he could look at this this week.

Attorney McMahan noted that there were a couple of changes from what was discussed last week in regards to the Charter provisions relative to collection of delinquent taxes. In **Section 6.18**, the Council is empowered by Ordinance; that the other significant change mostly applies to the County involving purchase of property environmentally contaminated and put in that the City follows State Law procedure. He noted that this was written in 1935 and State Law procedures have changed since then. He pointed out that in **Section 6.39** the City Council may provide **by ordinance** for any supplemental or additional provisions it deems advisable to collect delinquent taxes or to take advantage of or conform to future changes in state laws.

Councilman Hakeem asked that the fact that the people at Chattanooga Coke allowed their property to go into back taxes, does this relieve them of responsibility? Attorney McMahan responded “no”—that they are one of the responsible parties.

Attorney Nelson mentioned our being “held harmless” against certain laws. Attorney McMahan noted that if we buy under “Superfund Law” we are responsible if we buy contaminated land.

Councilwoman Robinson asked how we collected when someone had no intention of paying. Attorney McMahan noted that we file in July. Councilwoman Robinson asked what if the land is contaminated, and we don’t want to sell it. Attorney McMahan explained that we could use the proceeds to collect from the owner. She asked if we would still hold title to the land. Attorney McMahan explained that the penalty runs forever until it is paid; that we can use other procedures to collect. She asked what happened with the Coke property. Attorney McMahan responded that it was taken off the tax rolls when we owned it. Councilman Hakeem questioned why we helped them out?

On motion of Council Page, seconded by Councilman Hakeem, the above Charter changes are recommended to be put on tonight's agenda.

BLUFF VIEW ARTS DISTRICT

Chairman Littlefield stated that he had a Resolution to be placed on tonight's agenda; that it relates to a simple matter that needed to be dealt with; that we have an asset on High Street and Bluff View in Hunter Art Museum; that Councilman Pierce and himself had met with Dr. Portera and his daughter, where they had expressed concerns about the fact that tourists could not find this area; that they tried to resolve this with a sign, and it was in violation of our Sign Ordinance; that Bill McDonald and Mike Compton had decided to make this an official district in Chattanooga, and the City can put up a sign that says "*Bluff View Arts District*".

Councilwoman Robinson inquired about the color of the sign, noting that some were brown and white.

Chairman Littlefield stated that we wanted to maintain some control by saying this area is sought by tourists and is difficult to find and will be called Bluff View Arts District; that this will be on the agenda tonight.

Councilwoman Robinson asked what import the word "*district*" had. Chairman Littlefield explained that if anyone else asked for this designation that it would have to be considered on a case by case definition.

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

2002-054 BEL Food Group, LLC

Councilman Hakeem asked if this would be deferred tonight. Chairman Littlefield stated that this was the Zaxby Chicken case that would be coming up tonight.

Councilman Page stated that they had sent a letter to the Leadership Committee who had adopted the Hixson Plan, and the Leadership Committee did not want to hear this and had denied the request to come before them.

2002-130 Dr. Jonathan Karl Christianson

Chairman Littlefield stated that this case was in his area and was a change from R-1 to R-4 to permit an office on South Germantown Rd. He stated that the neighborhood association in the area was strongly against this, and it came with a recommendation from Planning to deny, and he had told the applicant that this was not likely to pass. He invited the Council's assistance in this regard.

2002-108 Marvin Berke and Ronald Berke

Councilman Hakeem stated that the applicant and the community requested that this be delayed for two weeks.

BEER BOARD APPOINTMENTS

Attorney Nelson stated that Councilman Pierce wanted to talk about Beer Board appointments; that he was prepared to discuss this, but Councilman Pierce was not present. He stated that technically the Mayor appoints members to this Board; that our Ordinance requires that members be a resident of the district of the vacant seat; that Councilman Pierce wanted the Mayor to make an appointment from a district different from his own.

Councilman Hakeem asked if he could do this. Attorney Nelson responded "no"—that the appointment should be a resident of the district of the vacant seat so that all nine districts could be represented; that Councilman Pierce wanted someone from a different district than his own; that this could be discussed when he is here.

Chairman Littlefield stated that this became an issue when a term expired and another councilperson was going to appoint the same person; that we needed to have Councilman Pierce here for this discussion.

2002-111 RiverCity Properties, LLC

Chairman Littlefield stated that we probably should mention this case on Barton Avenue, from R-2 to RT-1, which is in Councilwoman Robinson's district. This backs up to Dalton Street. He asked if there was any controversy surrounding this.

Mr. Pace stated that they presented a good site plan and design, and approval was recommended by both Planning and Staff; that they were making sure there was no access off of Barton.

2002-113 Mike Price

Chairman Littlefield asked if there were any questions regarding this property located at 7380 Applegate Lane. Mr. Pace stated that John Bridger would be at the Council meeting tonight to answer any questions on conditions that might be controversial or hard to interpret; that all issues had been worked out, and they had come to an agreement.

EXPANSION OF BOUNDARY OF CENTRAL BUSINESS ZONE AREA

Mr. Pace wanted to go over the Resolution on tonight's agenda amending Resolution No. 21041, adopted on July 16, 1996, and Resolution No. 22001, adopted December 8, 1998, to expand the boundary of the Central Business Zone Area. He noted that the entire Downtown Zoning boundary would be coming before the Council fairly soon. This expands the C-3 Zone.

Councilman Page stated that he thought this fell under Federal guidelines.

Mr. Pace responded that this is the Central City Business Core; that over the years it has expanded and now goes down to the freeway and the railroad track near UTC and down to Chattanooga Creek; that the downtown boundaries have grown, with smaller lots and C-3 Zone offers some incentives and advantages to develop on smaller lots.

Councilwoman Robinson asked about the eastern boundary. Mr. Pace responded that it was near Central Ave. and Chattanooga Creek to the River; that it does not go as far as Highland Park.

Councilman Page asked if any other issues were involved other than C-3. Mr. Pace responded that parking was an issue.

Chairman Littlefield noted that C-3 is tightly confined and enterprising people were asking for C-3 outside of the downtown so that they could escape the parking requirements; that this now adds an additional level.

Mr. Pace used as an example, Riverview and Darras' Restaurant; that we need something similar to C-3 to help special areas that have parking problems that encroach into neighborhoods; that John VanWinkle's office was getting calls about people parking in front of their driveways. He stated that automobiles had caused a great deal of problems.

Chairman Littlefield stated that this meeting would adjourn on this easy to resolve note.

The meeting adjourned at 4:00 P.M.

