

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

The meeting of the Legal and Legislative Committee was called to order by Councilman Benson, Chairman, with Councilmen Hakeem, Robinson, Pierce, and Littlefield present. Councilman Lively joined the meeting later. City Attorney Randall Nelson, Management Analyst Randy Burns, and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Shelley Parker and Mike Compton.

OPEN CONTAINERS & ALCOHOLIC BEVERAGES & BEER CONSUMPTION

Chairman Benson stated that he had talked with the Police Attorney and he had three different versions—one to cover specific zones and one which would be city-wide, and all would be contingent upon permits, supervision, and restroom availability and permitted by the Beer Board. Chairman Benson noted that we had guests present who might wish to speak and asked if they would like to speak before or after we hear the three versions.

Mr. Graham, representing CNAC, read a Resolution, which is made a part of the minute material, stating that CNAC was organized as a city-wide organization of neighborhood associations whose mission it was to eliminate crime and residents' fear, and they had met and voted to support this prohibition on a city-wide basis due to the general consensus that alcohol abuse in public is an instigator of crime, fear and moral decline.

Attorney Parker went over the version outlining a city-wide ban and on certain private business property. Private properties are not required to post signs unless it is a Teen Social Club.

Councilman Hakeem asked what we were supposed to do if we saw someone on private property with open containers. Attorney Parker explained that if they had the permission of the owner, there is nothing that can be done; however initially an offender would be issued a warning and the next step would be a citation. Chairman Benson verified that it would be a citation and not an arrest. Attorney Parker went on to say that if they failed to appear in court, a warrant could be issued.

Attorney Nelson asked if this was written or verbal. Attorney Parker responded that verbal was good enough; that the officers would find out pretty quickly who authorizes drinking on their property; that the officers would know where to go. Chairman Benson asked if an owner would give blanket permission. Attorney Parker acknowledged that an owner could protect just one person—that it did not have to be blanket.

Councilwoman Robinson asked about public drunkenness. Attorney Parker responded that we already arrest for that. She asked if this was being enforced. Attorney Parker assured her that it was, if they saw it. She asked if a person was just lying there was it probable cause for arrest. Attorney Parker responded probably not—it would be just if they could not stand on their own two feet.

Councilman Littlefield mentioned that we had some properties in Brainerd that were complaining about people using their parking lot after business hours, and this would hopefully resolve this—that they would be subject to citation. Attorney Parker noted that he got a call from a business owner in Brainerd last week. Councilman Littlefield noted that club owners want people to come in and drink and not sit in the parking lot.

Councilman Hakeem asked in dealing with the first option and Teen Clubs and private property, if it was essentially all-encompassing. Attorney Parker responded that this was the broad version. Councilman Hakeem stated that on behalf of Gary Ball, who was in his district, and Mrs. Bennett that there had been a meeting with CNAC, and it was the general feeling to move this to be city-wide. He stated that he did not feel there was any need to go into the other versions if this was the case. Chairman Benson stated that he would like for Attorney Parker to caption the other two.

Attorney Parker stated that Option 2 is the downtown area, and the other option is a variation on the downtown area.

On motion of Councilman Hakeem, seconded by Councilwoman Robinson, the committee agreed to recommend Option One to the full Council.

Councilwoman Robinson asked how long it would be before this was in force. Attorney Parker responded that it would be two weeks after it is passed on second and third readings.

Chairman Benson added that he did not think there would be any problem with public property but if a private business wanted to be an impediment, they could give blanket permission, and it would be legal. It was noted that it would become a problem once the person was on a public sidewalk. Councilwoman Robinson added that she thought property owners would be too leery of the liability involved.

Councilman Pierce stated that he would like feedback in six months; that we have laws on the book that are not being enforced, and we need a measuring stick on these laws; that officers will not enforce them just because we pass them. He stated that he thought this would be centered around one piece of property. Chairman Benson noted that the first version would be before the Council tonight. Councilman Pierce continued to ask who would do the feedback. Attorney Parker agreed that he would do this in six months.

Councilman Littlefield stated that we were trying to limit sales of beer and liquor already being consumed in public—that this was the only step we were taking now; that the offenders were the ones doing the selling. Attorney Parker noted that they were in violation of the terms of the beer permit. Councilman Littlefield still contended that this was really where the real offense was taking place. Chairman Benson added that this requires permits, supervision, and restroom facilities.

Councilman Pierce restated that he just wanted feedback.

Chairman Benson congratulated Shelly Parker on a good job.

DAPHNE SLOAN—CDC INFORMATION

Councilman Hakeem stated that we had with us tonight a person who assists residents of Westside and the Councilman of District 8 in becoming shareholders and having more control and a say in what is happening. He stated that this person was a member of the National Board of CDC's, and we were fortunate to have her in the City of Chattanooga. He stated that this was an opportunity for us to hear from Daphne Sloan.

Daphne Sloan prefaced her remarks by saying that Councilman Pierce was her representative but that Councilman Hakeem “works” her the most. She stated that she would like to talk to the committee about CDC's and what this mean. She stated that she had been successful in this particular area and had 30 years of experience doing this and had national experience, which was not a negative for Chattanooga. She stated that members of the Council had expressed an interest in wanting to become more educated so that they could make more informed decisions.

Ms. Sloan noted that she was involved with three of five CDC's and was helping to form the East Chattanooga CDC and had worked with the Martin Luther King CDC, as well as training for the 28th District CDC; that this was not new to her, but she just wished she had the time to become more involved with all of them.

She went on to explain that a CDC is defined by a geographic area with the intent of operating a non-profit business for the sake of those who live in the area. She continued on, explaining that CDC's had existed before now and some were not necessarily a formalized business; that most were government dependent and had very few business partners. She stated that she wanted to show the Council what a national model looks like. She noted that the Bedford area in New York City was the first; that Bobby Kennedy started this on an economic development track; that in order to succeed there had to be jobs and training and a safe place for residents and commercial development; that every model that was successful had these components.

She stated that in the late 1970's another component was added, which was housing redevelopment, and CDC's were intended to be a business relationship between the CDC and a developer, and a residential owner would operate rental units. She stated that many of these early ones failed because of non-consistent long-term management; that usually they were in volatile neighborhoods. She noted that Westside had a 25% turnover; that a lot of the residents were older, and they were losing some to death; that leadership is difficult to keep in place and people move outside of Westside where there is no such thing as single-family homes owned by people; that when people own property there is a different kind of commitment to the neighborhood.

Ms. Sloan went on to say that she was with Walnut Hills in Cincinnati and was requested to interview for the Westside job; that Chattanooga asked for the best, and they got the best.

She went on to explain that the purpose of CDC's is to develop a non-profit business for the sake of the residents to help them realize their goals and to train and educate them to become entrepreneurs and have ownership—that it is real simple. She stated that the question would be asked—How; that they are successful when they partnership. She mentioned the “Robin Hood” approach, where they put the rich and poor together. In this instance the CDC was the owner of the land, which was the best part, and they entered into a beautiful relationship; that the developer built 45 condos, and they owned the rights to the condos, and the CDC leased them the land to develop for 100 years, and then the homeowner would lease the land while he lived there. She explained that what they asked of the developer was that they provide job opportunities for their residents; that they agreed that they would spend time looking for the employees—that the developer should just give them the request, and they would do the testing. She stated that they would not minimize quality in the employees and that their developer found that this saved him time and money; that the CDC took his standards for human resources and the CDC agreed to screen the people for them. She went on to say that at least seven of the units had to be sold to moderate income families in the neighborhood; that if there was a need for a downpayment, the CDC did the grant writing to get the downpayments for these folks; the lease money was tied into the bank and collected with the mortgage payment; if the people defaulted on their housing loan and could not pay the house note, then they could not sit on their land.

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Chairman Benson pointed out that in this case the CDC owned the parcel of land; that this was different from what the Council encountered last week. Ms. Sloan continued to say that it was not uncommon to come together with business negotiations. Chairman Benson explained that the Council's zoning could not be contingent upon this. He questioned how a neighborhood association qualified to become a CDC and whether it was based on socio-economic conditions. Ms. Sloan responded that a for-profit organization cannot qualify. Chairman Benson asked about RiverCity becoming a CDC. Ms. Sloan responded that its being downtown would be the problem; that RiverCity concentrates more on business than people. She stated that a CDC might could take RiverCity as a partner and could benefit.

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Ms. Sloan stated that she was out of town; that truly there was a misunderstanding with words like extortion being used. She stated that she had just come today to share with the Council information and background about CDC's; that there is a lot of potential with the right handling. She stated that there were 18 CDC's in Cincinnati, and all of them were in competition; that there was only so much money that the city, county and federal government had for this, and they competed against each other; that they usually come to the agreement that if these five got their share last year, that they will support the next five the coming year. She reiterated that she had worked with neighborhoods on the Southside and downtown, MLK, and the 28th District; that this particular CDC was in District 9; that there is potential for CDC's, and they have to do it in cooperation with others. She stated that she had given models of this kind of partnership. She stated that CDC's were non-profit and non-taxed, noting that they did not want to rob the City and State of taxes; that the real benefit to development is not about the community trying to "rip" someone off—that the business profits.

Councilman Littlefield noted that the East Chattanooga case would be coming before the Council tonight.

Councilwoman Robinson asked if the group had met together yet.

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Councilman Pierce stated that the Council does not have any problem rezoning if there is a Plan; that the Plan they have presented is not in the best interest of the neighborhood; that there has to be a mutual agreement with each party; that the attorney may withdraw and in 90 days ask to have it rezoned again. He stated that they needed to bring us a Plan.

Chairman Benson agreed that we would not rezone on speculation; that we needed a site plan.

Councilman Pierce stated that he was Ms. Sloan's agent, and if anyone wanted to "book" her that they could come through him! He expressed his appreciation for her, stating that she kept him informed.

Councilwoman Robinson stated that she and Ms. Sloan had worked together on a number of things and had found the necessary commitment to get the school built.

Ms. Sloan stated that this had been a wonderful experience for her; that she had found that it works best when there is an understanding of what you are attempting to do; that it gives people a chance to express what they want; that density breeds contempt and that sometimes people don't have the language to express what they want.

Councilman Littlefield stated that he was out of town last week and felt that he should watch the tape of the meeting; that a 20-minute meeting went on for two hours; that the "gist" was there, and he thought the people said what they had to say.

Ms. Sloan expressed to the Council how much they enjoyed the Council's continued support; that they appreciated this and what was good for Westside was good for the City of Chattanooga.

BEER BOARD APPOINTMENTS

Councilman Pierce asked to discuss Beer Board appointments, stating that he was hoping that we could change this; that we had talked about this earlier.

Chairman Benson noted that this was whether an appointee had to live in the district where he was appointed from.

Attorney Nelson stated that he had devised an Ordinance that would permit what Councilman Pierce was wanting.

Chairman Benson stated that this would apply not to just the Beer Board but to all Boards. Attorney Nelson explained that this was not the case; that on the Beer Board each of the District appointees come from the District that they are replacing; that in effect no district has more than one representative. Chairman Benson noted that the Beer Board meets two times a month.

Councilman Littlefield noted that the only discussion of this was when Councilman Lively appointed someone that was not from his district, and it was someone who had served in Councilman Littlefield's district. He stated that he had no problem with this going city-wide.

Chairman Benson stated that he had a problem with appointing someone and them not giving quality service and getting them off the Board, and then that appointee running to another councilperson and saying you have a vacancy in your district and will you reappoint me.

Councilman Pierce stated that if he appointed a person that turned out not to be a quality person then he would inform the other councilmembers about that person.

Councilwoman Robinson stated that she had a problem with this because it left some districts unrepresented.

Councilman Pierce responded that he thought he knew who could best represent him. Councilwoman Robinson went on to say that this would leave District 8 unrepresented. Councilman Pierce stated that would not be the case as long as he is here; that it was not always easy to find the right person in your district, and you might have to cross district lines.

Councilwoman Robinson stated that the thing that worried her would be that some districts are not represented; that one of the basics of this form of government is one district and one vote; that there are nine districts in the City of Chattanooga, and it seemed to her that representation should be spread throughout the city and not in just three or four districts from one little area; that we needed to avoid the appearance of impropriety and spread this out geographically and balanced.

Councilman Pierce stated that he still felt like as long as the representative was coming to him that he should have the say as to represents him on the Beer Board; that if he needed information he could get it from his representative. He questioned if the number of representatives from a district should depend on how many beer establishments there were in a certain district.

Councilwoman Robinson stated that if there were already a representative from one district and another Councilmember appoints someone from that district also, that it seems to her that that district is getting more representation. She acknowledged that there could be a business person who operates a business in one district and lives in another, questioning if the representative should come from where he runs a business or where he resides.

Councilman Benson asked Councilman Pierce if he thought the representative should live in the City. Councilman Pierce acknowledged that he did think he should live in the City but not necessarily in his District.

Attorney Nelson stated that technically the way it works is that the Mayor's office consults with the Councilperson of the vacant seat about an appointee; that the Mayor makes the appointment and keeps up with whose seat is in operation; that in the back of his mind, he thought it was an administrative thing.

Chairman Benson stated that we would think about this.

The meeting adjourned at 4:00 P.M.

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Councilwoman Robinson stated that she and Ms. Sloan had worked together on a number of things and had found the necessary commitment to get the school built.

Ms. Sloan stated that this had been a wonderful experience for her; that she had found that it works best when there is an understanding of what you are attempting to do; that it gives people a chance to express what they want; that density breeds contempt and that sometimes people don't have the language to express what they want.

Councilman Littlefield stated that he was out of town last week and felt that he should watch the tape of the meeting; that a 20-minute meeting went on for two hours; that the "gist" was there, and he thought the people said what they had to say.

Ms. Sloan expressed to the Council how much they enjoyed the Council's continued support; that they appreciated this and what was good for Westside was good for the City of Chattanooga.

BEER BOARD APPOINTMENTS

Councilman Pierce asked to discuss Beer Board appointments, stating that he was hoping that we could change this; that we had talked about this earlier.

Chairman Benson noted that this was whether an appointee had to live in the district where he was appointed from.

Attorney Nelson stated that he had devised an Ordinance that would permit what Councilman Pierce was wanting.

Chairman Benson stated that this would apply not to just the Beer Board but to all Boards. Attorney Nelson explained that this was not the case; that on the Beer Board each of the District appointees come from the District that they are replacing; that in effect no district has more than one representative. Chairman Benson noted that the Beer Board meets two times a month.

Councilman Littlefield noted that the only discussion of this was when Councilman Lively appointed someone that was not from his district, and it was someone who had served in Councilman Littlefield's district. He stated that he had no problem with this going city-wide.

Chairman Benson stated that he had a problem with appointing someone and then not giving quality service and getting them off the Board, and then that appointee running to another councilperson and saying you have a vacancy in your district and will you reappoint me.

Councilman Pierce stated that if he appointed a person that turned out not to be a quality person then he would inform the other councilmembers about that person.

Councilwoman Robinson stated that she had a problem with this because it left some districts unrepresented.

Councilman Pierce responded that he thought he knew who could best represent him. Councilwoman Robinson went on to say that this would leave District 8 unrepresented. Councilman Pierce stated that would not be the case as long as he is here; that it was not always easy to find the right person in your district, and you might have to cross district lines.

Councilwoman Robinson stated that the thing that worried her would be that some districts are not represented; that one of the basics of this form of government is one district and one vote; that there are nine districts in the City of Chattanooga, and it seemed to her that representation should be spread throughout the city and not in just three or four districts from one little area; that we needed to avoid the appearance of impropriety and spread this out geographically and balanced.

Councilman Pierce stated that he still felt like as long as the representative was coming to him that he should have the say as to represents him on the Beer Board; that if he needed information he could get it from his representative. He questioned if the number of representatives from a district should depend on how many beer establishments there were in a certain district.

Councilwoman Robinson stated that if there were already a representative from one district and another Councilmember appoints someone from that district also, that it seems to her that that district is getting more representation. She acknowledged that there could be a business person who operates a business in one district and lives in another, questioning if the representative should come from where he runs a business or where he resides.

Councilman Benson asked Councilman Pierce if he thought the representative should live in the City. Councilman Pierce acknowledged that he did think he should live in the City but not necessarily in his District.

Attorney Nelson stated that technically the way it works is that the Mayor's office consults with the Councilperson of the vacant seat about an appointee; that the Mayor makes the appointment and keeps up with whose seat is in operation; that in the back of his mind, he thought it was an administrative thing.

Chairman Benson stated that we would think about this.

The meeting adjourned at 4:00 P.M.

