

**LEGAL AND LEGISLATIVE COMMITTEE**  
**September 10, 2002**  
**3:00 P.M.**

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

Others present included Mike Compton, Jerry Pace and Adm. Boney.

**RESOLUTION AUTHORIZING ISSUANCE AND SALE OF BONDS**

Chairman Benson turned this part of the meeting over to Adm. Boney, who stated as the Council would recall, an Ordinance was passed allowing us to take advantage of the Hotel and Motel tax; beginning on October 1st, the tax will be 2%; 2003 it will be 3% and the following year 4%. This tax will be used for projects, which enhance tourism, and the key is those projects described in the 21<sup>st</sup> Century Waterfront Plan. Adm. Boney went on to say that on October 1<sup>st</sup> we are proposing to issue bonds in an amount sufficient to cover projects of a public purpose; other funding sources will cover other projects. He explained that we are on a timeline to take advantage of the low interest rates and are in the process of finalizing with Hamilton County Government to collect this tax for us—that this is the simplest way. We will notify hotels, if they do not already know, that this tax will be forthcoming.

Adm. Boney went on to say that as part of the bond issue, there is a calendar of events—that within 20 days a petition may be drafted in opposition; that by the middle of October we need to start. He stated that for the Council's consideration there has been a Resolution drafted called the Initial Resolution on Bonds; there will be a start of the 20-day period and a ceiling amount of \$55 million dollars, which Adm. Boney explained was probably too much, but we want to have this cushion in the event that interest rates change, and we would need a little flexibility. He explained that we typically set the Initial Resolution a bit higher.

Adm. Boney explained the double barrel approach in regards to the Hotel and Motel Tax to pay these bonds and a pledge of property taxes should they be needed. In this way we get the very lowest interest rate. He explained that this was the way we issued Sewer Debt, and it works well in the market place and makes this attractive. He stated that they would like to start the clock and that Mayor Corker will be giving the Council a full presentation and go over the projects, telling what the money will be used for. He stated that he would like for this to be on the agenda tonight if the Council is comfortable with this; if not, place it on the agenda for next week.

Councilwoman Robinson asked if this would be on first reading. Adm. Boney explained that this was a Resolution, and there would be only one reading.

Councilman Page questioned if the presentation had not already been made to the City Council. Adm. Boney responded in the affirmative—that there were no new curve balls.

Chairman Benson questioned the “not to exceed \$55 million dollars”, asking what amount the Hotel and Motel Tax would bring in. Adm. Boney responded that we thought the Hotel and Motel Tax would finance \$46 million dollars in debt; that the experience in the County is 6% growth; that growth occurs when we have more hotels and motels, when the room rates go up, and when there is higher occupancy.

Councilman Page asked the terms of the bonds. Adm. Boney responded three years of capitalized interest and 25 years of amortization.

**On motion of Councilwoman Robinson, seconded by Councilman Page, this Resolution will be placed on tonight’s agenda.**

### LIQUOR LICENSE

Chairman Benson stated that Chairman Littlefield had to be absent from the committee meetings but that he would be here for the Council meeting tonight; that he was in favor of getting the Liquor Store issue on the agenda early. He asked Adm. Boney to review our options in regards to the Council signing this.

Adm. Boney responded that the State sets forth certain criteria with three conditions that must be met: (1) No felonious criminal record (2) The site must be 500 ft. from a church or public playground and (3) Adequate traffic flow as far as ingress and egress. He stated that the applicant in question had met all three conditions and the City Council has three choices: (1) Majority of the Council has to sign, which amounts to five signatures—there are three applicants in this case, and there will be three pieces of paper to sign (2) The Council can do nothing and under provisions of the State Law if nothing happens, authority is granted in 60 days or (3) Introduce a motion to deny. He explained that this happened last Winter and typically this action results in litigation, and the City does not fare well because there is no legal reason to deny it.

Chairman Benson asked about the expense to the City if the Council denied it. Attorney Nelson responded that it would be minimal in relation to the full City Budget; that it was a waste of time and minimal money.

Councilwoman Robinson pointed out that it would mean increased legal expenses for no good reason for businesses involved if the applicant met the standards. Attorney Nelson agreed that we had nothing “to hang our hats on”.

Adm. Boney added that we are allowed a maximum of 54, and this application takes us to 42. He also added that the timing is such that the Council has taken demonstrative action to discourage public consumption of alcohol. Chairman Benson added that one can sell beer at all hours of the night.

Adm. Boney noted that this does not come up as an agenda matter but that he would be happy to respond to this whenever the Council wishes. Chairman Benson stated that he thought it would be better to do this at the beginning since there would be so many people coming in for this.

### **HOLDING PONDS**

Chairman Benson stated that we were having a lot of problems with constituents not understanding that they own holding ponds; that the City can't go in and clean out these ponds if they are on private property. He related an experience where a man was deeded a holding pond, and he did not know it, and as it came about he had \$5,000 worth of expenses; that sometimes holding ponds are deeded to homeowner associations, and the people living there don't understand this and then are faced with a big assessment to clean out the holding ponds. He explained that in Atlanta and Nashville they require that holding ponds be paid for when they are developed, and the money goes into an escrow account to the City, and the City maintains it, and the people don't have to foot the bill. He questioned if there would be a problem in doing this here.

Mr. Pace stated that he knew there were problems when people don't read their deed restrictions; that other cities had methods of dealing with this; that it becomes a private matter when it is the responsibility of the property owner or a neighborhood association.

Chairman Benson stated that in the case he was speaking about, the man did not know he owned the holding pond; that he was faced with all of these expenses, after buying a house, and it was sad—that the costs could run anywhere from \$2,000 to \$5,000 to \$6,000.

Councilwoman Robinson asked if the ponds had to be dug out; that they could contain mosquitoes and with the West Nile Virus, it becomes a public health issue. She asked about the enforcement if a person fails to maintain the pond properly. Attorney Nelson responded that there are subdivision regulations, and we require holding ponds in our stormwater regulations, but our regulations do not authorize the City to clean out the ponds or charge anybody. Adm. Boney explained that a charge would only come to pass if we cleaned out the pond for them; that this is under the purview of Public Works. Councilwoman Robinson still asked what happened if a person fails to clean out their pond. Adm. Boney responded that they could be cited.

**BOARD OF APPEALS AGENDA**

Chairman Benson presented a copy of the Board of Appeals' Agenda, noting that one of the last cases on the Agenda was in District 3, and the people interested in this case would have to come early in the morning when the meeting begins. He stated that he thought it would work better if the Board heard the cases in District 1 first thing in the morning; that the way it is set up now, the cases appear on the agenda according to when the application is filed.

Attorney Nelson stated that this would not work unless we used a rotating system so that everything for one district is not heard first every month; that it would not be fair for District 9 to have to come last every month.

Chairman Benson stated that as it was now, people were sitting in this Board meeting all day long. He stated that he had addressed this issue to Adm. McDonald. Attorney Nelson suggested that maybe he needed to contact Jim Wilson, the Chairman of this Board. Mr. Pace added that it was hard to set a specific time for a case to be heard. Chairman Benson stated that he would talk to Adm. McDonald one more time about this.

Councilwoman Robinson asked if a report would be coming back to the Council in regards to the Open Container Law, tracking the results. Attorney Nelson responded that this was to be done in six months.

The meeting adjourned at 3:30 P.M.