

LEGAL AND LEGISLATIVE COMMITTEE
FEBRUARY 13, 2007
3:00 P.M.

Councilman Benson, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilmen Rico, Gaines, Page, Robinson, Bennett, and Pierce present. Councilman Franklin joined the meeting later. City Attorneys Mike McMahan and Randall Nelson; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Shelley Parker, Lt. David Woosley, Lee Norris, Dan Johnson, Richard Hutsell, Tom Dugan, Daisy Madison, John VanWinkle, Greg Haynes, Steve Leach, and Mayor Littlefield.

Chairman Benson called the meeting to order.

HOMELAND SECURITY GRANT

Chairman Benson called on Shelley Parker, who went over a Resolution authorizing application for a Grant from The Tennessee Department of Homeland Security in the amount of \$125,000.00. He explained that the Police Department found out two to three week ago that there was extra money that needed to be spent, and they felt like this was an appropriate add-on. He explained that they were under time constraints and that this would require no matching funds; that some of the equipment purchased would be given to others. He asked Lt. Woosley to speak to what this money would be used for.

Lt. Woosley explained that the money was allotted to us; that others were unable to spend it; that there is a 125 day time-frame, and the money will be used for flash suits, robotic equipment, and computers.

Councilwoman Bennett asked if this was regional and was told that there is a ten county area, and we are District 3.

On motion of Councilman Rico, seconded by Councilwoman Bennett, this Resolution will be recommended for approval by the entire Council.

Councilman Page indicated that he was somewhat nervous when it comes to spending taxpayers' money quickly and cautioned that it should be used well.

Chairman Benson inquired if there were Federal Government mandates.

Lt. Woosley explained that there are specifics—that the money is to be used to buy equipment, and the money is “trickling” down to zero; that this is the last bit and will be used for equipment we can use every day.

LIUNA PAYMENT

Daisy Madison was present to go over **Resolution (a)** on next week’s agenda that authorizes a remittance of \$283,002.00 to the Laborers’ International Union of North America (“LIUNA”) Pension Fund for withdrawal liability due to termination of city employee participation in LIUNA. She explained that this involves 14 City employees and that this Union has decided to discontinue these 14 employees participation in the Labor Union’s Pension Fund, and they will no longer be able to participate in the pension fund; that the City has a withdrawal liability of \$283,002.00.

Councilman Pierce stated that he did not fully understand this and that Daisy had said “just trust me”.

Ms. Madison stated that this was not “totally understandable”; that one has to understand how pension funds work; that in working with our General Pension Fund and also the Fire and Police Pension Fund, as we fund them, we may or may not have full funding; that at anytime they could be unfunded; that we are allowed to fund a liability for over 30 years; in doing so, if we were to terminate benefits, there would still be a cost associated with employees.

Attorney McMahan added that before 1979, all the city yards’ employees were not participating; that the withdrawal liability is not only for the 14 left; that many are receiving benefits today; that it is calculated on the highest number and not just the 14; that Federal Law says we have to allow participation in a Pension Fund.

Ms. Madison added that an actuary had calculated this.

Councilwoman Bennett asked if this was to make sure that employees have full benefits? Ms. Madison responded that we would pay no more to LIUNA, with Chairman Benson verifying that this was a one-time payment.

Councilman Pierce asked if employees could have two pensions? Ms. Madison explained that any employee could be in the General Pension Plan, but we are not required to allow two plans; that we are required to allow participation in the General Pension Plan, and these 14 employees are eligible for this Plan.

Councilwoman Bennett asked if funds rolled over into the General Pension Plan and was told “no”; that this money goes into the Laborers’ Pension Plan.

Mayor Littlefield explained that the Laborer's Pension has been covering the cost over time.

Councilman Page asked about the participating event or what caused the Union to drop these 14 employees?

Ms. Madison responded that the Union never gave a satisfactory explanation; that they just made a decision that they would no longer represent these employees. She reiterated that they gave no explanation but that they did have this right.

On motion of Councilman Rico, seconded by Councilman Franklin, this Resolution will be recommended for approval by the entire Council.

PARKING METER ORDINANCE

Chairman Benson called on Tom Dugan to go over this issue.

Mr. Dugan thanked the committee, stating that he was trying to decide how to do this in a brief manner. He stated that CARTA had been working on parking since they are now the Parking Authority; that in order for them to continue in this parking capacity, they had proposed changes to the Parking Ordinance; that the North Shore area has a complete plan, and the infrastructure laid out and that CARTA had no right to put parking meters on the street. He went on to say that the existing Parking Ordinance is detailed and shows by street where parking meters go and also spells out the rate. He stated that the proposal that they had created would do the following: (1) Identify three parking districts—North Shore; Riverside; and where the City currently has parking meters. He stated that he thought there were about 1600 meters. He reiterated that this would designate three zones and would permit the Mayor to assign to CARTA the responsibility for management. He explained that they could be designated as Management but could not install or take down parking meters without approval from the Traffic Engineer; that if they designated the North Shore as a district then they would be responsible for management and purchasing of equipment, rates, hours, and accountable for fees collected—that the fees would stay with them.

Mr. Dugan then went into the reasoning for this action, explaining that a Study was done in 2004 that found the need for some organization to look at the big picture of parking in the City, and it was decided that it would be CARTA's responsibility; that people don't want to feed meters when going to a restaurant like the Big River and yet there is no alternative for people who work downtown. He stated that they had some work to do on the rate adjustment; that enforcement stays with the Police Dept., and North Shore is the focus as it is a vibrant and changing area. He noted that the Little Theater provides the majority of parking, and they own this property, but it will be changing by March 12th; that if we don't get the rest of the meters in, two-thirds of the area will be charged and one-third will not.

Councilman Pierce asked if all of the proceeds go to CARTA?

Attorney Nelson explained that sometime within the last week he had been asked to take a look at the Charter; that by general law we can collect parking fees, but it cannot be construed as a tax; that it has to be reasonably related to regulation of parking meters; that in case we overshoot the mark, the money can be applied to the General Fund; that we are not quite where we can finish off on this, and we may have to do some contract agreements.

Mr. Dugan stated that it was their fault that we are not at this point.

Councilman Pierce verified that our Police would continue to enforce and asked if it would be another added cost if we contract this out to CARTA.

Attorney Nelson explained that City Court contributes to the costs, when we receive fines.

Mayor Littlefield explained that we fund CARTA every year and are not taking on some stranger; that we have been working with CARTA on downtown garages and as we continue to expand the shuttle system; that this is just another way to make it happen; that CARTA is short on their budget every year, and we have an unlimited desire to expand shuttles and garages and CARTA is the logical one to do this and collect the parking fees.

Chairman Benson added that CARTA has always been cost productive and efficient and have justified our faith in them.

Mr. Dugan added that the net proceeds will be used for parking facilities and equipment and shuttles; that all of the money will go back into parking related activities.

Councilman Page stated that in the setting of parking fees, he was uncomfortable if we have no jurisdiction.

Mr. Dugan explained that the City would have jurisdiction; that one-third of their Budget comes from the City and that CARTA listens to the City; to make the system work, there may have to be changes in fees but that does not necessarily mean raising them; that garage fees may go down, and we will treat these like bus fares—that there would be public hearings—that before any fee change, they would have a public hearing.

Councilman Page noted that we need garages, and this comes under capital expenditures and asked if it would be up to CARTA to do the construction? Mr. Dugan responded that they would function as the Parking Authority, but they could not do this in a vacuum.

Mayor Littlefield added that there is a CARTA Board, which the Council confirms.

Mr. Dugan went on to explain that they would attempt to find federal grants to take care of capital costs; that they expected to generate funds out of parking and to apply this money as a match for grants; that they want to leverage with other grants.

Councilman Pierce wanted to know how soon this would take place?

Mr. Dugan stated that he could work with Adm. Leach on this; that the City needs to install the meters, and the faster the better to get organized; that he could come up with something for North Shore through Adm. Leach.

Chairman Benson noted that this was a Charter change and would have to be voted on.

Mayor Littlefield stated that there were ways to do this; that it could be passed through the General Fund as an appropriation to CARTA.

Chairman Benson asked if this could wait for two weeks until the next Legal and Legislative Committee meeting. Mr. Dugan responded that two weeks would be fine. Chairman Benson stated that this would be heard again in Legal and Legislative Committee in two weeks. Mayor Littlefield added that we could work out the funding.

BUILDING PERMITS

Chairman Benson explained that people were getting permits, and they could be used forever because there was no “sunset” on them and some people were abusing this.

Adm. Leach noted that this was on new construction or re-construction; that they went to the City Code for a Statute on fees establishment; that when folks get a building permit, there is a fee structure and an established fee; that when people pay their fee for a building permit that Public Works does do an inspection, and the work is generally done within the year; that if it takes longer, it is usually a homeowner who is doing the work themselves. At this point he presented a copy of a Building Permit—the only notation was that it shall become invalid if the work is not commenced within six months; that once a person gets a permit and continues on the construction, the permit is valid, and there is no incentive to get the work finished; that they are under no obligation from the City’s side to do the work in a timely manner; that we could either use an incentive program or a dis-incentive; that right now we don’t charge for an additional permit, and there is no incentive to get the work done—that we don’t double the fee and have no good policy to make folks finish projects.

Councilwoman Bennett questioned if according to the amount of time the work would take, if we could suspend the permit or abandon it?

Adm. Leach explained that there were extenuating circumstances—that sometimes folks run out of money and as long as they continue to do some construction we take into account the extenuating circumstances; that some never finish a project.

Councilwoman Robinson asked that as long as work was commencing if a dumpster could stay there for a year. Adm. Leach responded that it could stay there indefinitely. He added that he did not know if we had a solution.

Chairman Benson stated that Administration has experience in dealing with this; that the Council is getting “kicked” by their neighborhoods about suspended activity.

Councilman Pierce asked if some were taking over a year to finish; that we could limit it to a year and then have a renewal period for 60 days and that would be the deadline.

Adm. Leach stated that we could issue a permit for a period certain and questioned if we could then put another fee and also questioned what would be fair if they continued their building. He stated that they needed to think this through and understand the problem, and they needed to look at this further.

Chairman Benson agreed to give them time to look at this.

ORDINANCE ON HORSES

Chairman Benson stated that he thought in our original Ordinance we added horses could be allowed within the City limits if people had an acre of land; that we discussed everything but Item (d), and the matter of horses got dropped for some reason.

Attorney Nelson explained that the reason horses got dropped was because we had horse owners come in and plead their case, and we took (d) out.

Chairman Benson stated that he thought we told them that they could be “grandfathered” in, and he thought Item (d) said one acre minimum to have a horse in a yard.

Councilman Page wanted to know what the conflict was.

Chairman Benson stated that a person in Morris Hills had 7/10th of an acre—that he sold this house and built another house, and the guy he sold his property to had three horses on 7/10th of an acre, and the odor was getting out of hand; that the way our Ordinance is written, he could have 50 horses on 7/10th of an acre.

Councilman Rico stated that he thought he remembered that a person would have to have “so” many acres for an animal to graze.

Attorney McMahan explained that this had to do with the Agricultural Zone but did not apply to a Residential zone.

Attorney Nelson stated that he thought the problem arose when a disabled child had a small pony, which they kept as a pet, and no one wanted to touch this situation.

Adm. Leach added that in the County they relied on the Health Department for issues such as odor and fecal matter; that this might be another way to look at this—from a safety standpoint.

Councilwoman Bennett noted that in her district, some families were concerned about the location; that someone had a horse in their front yard; that some thought the horse should be at the back of the property. She asked if it were appropriate to have a horse in the front yard?

Chairman Benson stated that with his one situation, he would start with the Health Department.

At this point Chairman Pierce recognized “Kelley”, who is replacing Herman Wang for a week at the News Free Press. She stated that she was from the Williamsburg, Virginia area.

DEMOLITION BY NEGLECT

Chairman Benson inquired where we stood on this matter. Attorney McMahan explained that the Demolition by Neglect issue needed more work; that there is a problem concerning where the money will come from to restore the buildings and also the method of enforcement; that the Staff had raised concerns and Cornerstone was also involved.

Councilman Rico asked if we were just talking about historic neighborhoods? Attorney McMahan stated that it would be historic neighborhoods or a building that is a registered historic structure.

Chairman Benson asked about the funding source. Attorney McMahan explained that the original concept was that we would have to deem if a building is worthwhile to hold on to; that if it is a detriment, it can't stay in a neighborhood forever, and it would have to be torn down.

Adm. Leach explained that there is a process for buildings in an Historic District; that we have some protection, but it does not prevent buildings from deteriorating; that we need a stop gap to prevent them from deteriorating to the point where the building could not be sold—that we are trying to stop them before they get to the point where the ceilings are falling down because the roof is gone.

Chairman Benson asked if this was for both residential and commercial property. Attorney McMahan responded that it was mostly residential.

Adm. Leach stated that a lot of issues needed to be discussed. Attorney McMahan stated that he would work with the Staff for a better draft.

COMCAST

Attorney Nelson stated that next week he would be bringing the matter of Comcast to the Public Works meeting; that this has been negotiated with a new Franchise Agreement to increase the City's revenue—that we are not exclusive.

Chairman Benson asked if this was franchise fees or subscriptions? Attorney Nelson responded that we were now going after more. Chairman Benson asked if the reason was because we needed to expand. Attorney Nelson stated that he would bring the new manager to the meeting next week. Chairman Benson stated that the Council needed some knowledge before this person walks in. Attorney Nelson indicated that he would e-mail to Carol O'Neal a copy of the Ordinance and would ask the Council to familiarize themselves with it before next week—that it is a 50 Page Ordinance.

Chairman Benson asked if it were the difference between \$1.5 million dollars and more.

Attorney Nelson urged the Council to review this if they could, mentioning Gross Revenue on Page 4; that we did have a definition from several Tennessee cities but had now gone with the definition of the International Municipal Law, which is much broader; that by Federal Law it is only 5% of gross revenue, and the key is how you define gross receipts.

Councilman Pierce questioned why we did not go for exclusiveness? Attorney Nelson explained in that case if someone else wanted to come in, we would not let them. Councilman Pierce asked if we can let someone else come in? Attorney Nelson responded in the affirmative, adding that they would have to be governed by the same contract as we have with these people.

Councilman Pierce noted that this would be discussed next week at 3:00 P.M.

Councilwoman Gaines noted that there were several items on next week's agenda dealing with Parks and Recreation Agreements and asked if she should hear these.

At this point, Chairman Page called the Economic Development part of the meeting to order and called on Alfred Smith who was representing EMJ and CBL.

Mr. Smith noted that Mark Stevens, Tax Administrator for CBL was present, and also Steve Hiatt from the Chamber. He stated that they were asking for approval of delegating a pilot arrangement for a new building at Hamilton Place for the purpose of expansion and to accommodate 104 new jobs; that it will be an addition for CBL and EMJ, who everyone knows is two of the largest employers in the City and EMJ is the construction company for CBL. He explained that this is a \$10 million dollar plus project and \$1 million in personal property; that the reason they need to expand is because of new jobs, and they are running out of space; that EMJ is expanding into the new building and CBL will take over the existing building. He then went over the Chamber's matrix—no taxes in the first year; 25% in the second year; 40% in the third year; and 50% in years four through 13. He stated that he would be happy to answer any questions.

Chairman Page asked Mr. Stevens if he would like to make additional comments.

Mr. Stevens explained that basically they were taking up three floors of the existing five-story building and EMJ the other part, and they were full; that they were having to add more because they had no room to grow.

Councilman Rico asked about the wages of the new jobs? Mr. Stevens responded that they would average over \$56,000.

Councilwoman Robinson asked about the nature of the hiring and was told by Mr. Stevens that as they develop more centers, they have to have more people.

Mr. Smith added that these would be corporate office jobs and not retail.

Councilman Benson stated that CBL had come a long ways in personal growth; that in the late 80's there was some animosity towards their growth, and they had worked closely with the neighborhood; that they were community-minded and before starting this, they contacted the neighborhood towards Jarnigan; that the neighborhood accepted this, with a gated entrance for employees; that this would not be a short-cut to the Mall; that the people would rather see this type expansion than commercial activity. He emphasized that the community had been involved in this.

Councilwoman Bennett stated that she had a question that she would like to direct to Steve Hiatt as to how these tax incentives can be applied. She wanted to know if had to be commercial and manufacturing—that this was different and asked if there were opportunities for other businesses that were in a growth pattern.

Mr. Hiatt responded that the standards were the same—that they looked at the number of new jobs, wages, and financial investment; that everything is equal based on their formula; that both Mayors had drawn a line that this was not to be for retail projects.

Councilwoman Bennett asked if this was the only exclusion. Mr. Hiatt responded if nothing else comes up—that this is for offices, manufacturing, and warehousing.

Councilman Pierce wanted to know how the formula is worked out.

Mr. Hiatt responded that there was nothing “magic” about it—that they did have a formula—that the company had to create (x) number of jobs with (x) amount of wages; that performance measures are written up in a legal document, and the Chamber follows up on contract with the companies involved; that they have to report to them to see if they have met up to their promises. He stated that they worked with companies outside the City and also inside; that they work with them through Economic Development of the Chamber, and they submit information to both Mayors, and they usually approve them, and they then sent a copy to the company to know of their commitment to the community, and they engage Counsel for legal documentation.

Attorney Nelson added that they agree to pay a certain amount of taxes but are not billed the full amount; that this is taken to the Industrial Development Board and is made tax-exempt, and they take ownership of the property.

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

Chairman Page asked about the type of jobs? Mr. Stevens responded that it would be accountants, developers, and architects—all professional jobs—also assistants and secretaries.

Chairman Page thanked CBL for their continued confidence in Chattanooga, noting that he went by one of their developments in Ft. Meyers and asked how Hamilton Place measured up to other developments. Mr. Stevens responded that it was \$1.3 million—that in Tennessee it is the second or third largest—that Opry Mills in Nashville in bigger.

The meeting adjourned at 4:10 P.M.