

LEGAL AND LEGISLATIVE COMMITTEE

March 13, 2007

3:00 p.m.

Councilman Benson called the meeting of the Legal and Legislative Committee to order with Councilmen Gaines, Page, Rico, Robinson, Rutherford and Pierce present. City Attorney Randall Nelson and Council Clerk Carol O'Neal were also present.

Others present included Daisy Madison, Dan Johnson, Tom Dugan, Steve Leach, Barry Bennett, Justin Steinman, Jeff Claxton, Donna Kelley and Greg Haynes.

JEANETTE WILKERSON: CIGNA CONCERNS

Councilman Benson asked Jeanette Wilkerson to address the Committee with reference to a concern regarding CIGNA coverage.

Jeanette Wilkerson stated that she has been with Chattanooga Urology Associates for 25 years and received a letter dated February 16, 2007 wherein she was informed of a decision that it was necessary for them to discontinue participating as a provider with CIGNA, noting that this decision would affect everyone. She stated the letter informed her that they would no longer see any CIGNA patients 60 days from the date on the letter to allow adequate time to see another physician. She stated the letter indicated that records would be made available to the new physician. She stated there are 13 Urologists; that she spoke with Wanda in the Benefits Office who was very helpful, nice and courteous. She stated that she was told only one Urologist was left in this city who would see those who belonged to CIGNA and called this morning and was told of three others; that one has come from New Orleans and was told of another who has gone back into practice. She stated this has been very heavy on her mind and finds she will be without a Urologist from April 16 through June. She stated UNUM has withdrawn from CIGNA and asked what are she and others to do; that she is fortunate enough to have Medicare however the young people do not have that and have to depend on CIGNA. She stated she has been going to this group since 1953 for dilation of her urethra as many ladies have to have this due to childbearing. She stated she had to bring this to the Council's attention as many do not know this is going on.

Councilman Benson asked Mr. Claxton to respond.

Jeff Claxton stated that he did research this matter this morning and was told this about a week ago by one of the employees who had received the same letter from the Chattanooga Urology Association. He stated that he called CIGNA and did not realize there were two groups possibly looking at getting out – Chattanooga Urology Associates and Plaza Urology. He stated at the time it is not a “done deal”; that they are looking at keeping both but are not sure they can; that they are still in negotiations and CIGNA is trying to negotiate to try to keep them in the network.

Councilwoman Rutherford stated that she met with some city employees; that they did not give specifics but they are not happy with CIGNA. She asked Mr. Claxton if they are “shopping around”.

Mr. Claxton responded “yes”; that they have sent out RFP’s that they have gotten proposals and are looking over them now.

Councilwoman Rutherford asked if Blue-Cross is one of them. Mr. Claxton responded “yes”.

Councilwoman Bennett stated when negotiations are in process will we be bound to a certain time as far as health care providers.

Mr. Claxton stated that it would run July 1 to June 30 of each year; that we have four-to-five months with CIGNA.

Councilman Benson inquired as to bad faith provisions to hold coverage until the end of the contract.

City Attorney Nelson responded “sure there are”; that they are, in fact, acting in bad faith and noted that he has not heard anything so far.

Councilman Benson stated they have a contract with CIGNA and if there is any bad faith we have recourse.

Mr. Claxton stated that he would like to defer to our attorney; that the network is something that is negotiable and can change; that it is his hope this would not happen often for our employees and retirees.

Councilwoman Bennett stated if we are losing a provider because of slow payment or other factors that should give us some reason for discussion.

City Attorney Nelson stated the first thing is to read the contract and he has not had an opportunity to do that.

Councilman Benson stated that the first step is looking into it.

Mr. Claxton stated that he would talk with Mr. and Mrs. Wilkerson and get specific information.

Mr. Wilkerson stated his major concern is what will happen to them from April 16 to the last of June.

Councilman Benson stated it is his hope Mr. Claxton can get an answer and get to all employees and policy holders.

SUBPOENA POWER FOR OMA: FLOYD KILPATRICK

Councilman Benson noted Mr. Kilpatrick was not present and recognized Johnny Holloway who was in attendance.

Mr. Holloway indicated that he was present just to observe.

C-7 ZONE

Councilwoman Bennett stated that she and Councilwoman Robinson have been working diligently with RPA with Councilwoman Robinson in reference to the C-7 zone. He stated there has been a lot of community involvement, meetings with residents and business owners, noting that it has been a difficult process as there are so many issues in that area; that the last of which is the diversity within the area. She stated regulations are needed that address problems not only generally specific to the area as a whole, but have to have different treatment for River Street and something else for Frazier, something for North Market, Cherokee and the Manufacturer's Road area. She stated it is her thought they have finally come up with something at this point that everyone is in agreement with regarding the C-7 zoning regulations. She stated most everything is now defined as a specific principle or guideline to go by and it hoped this is the end of the development process and the beginning of a new review process.

Justin Steinman referenced the guidelines for the C-7 zone noting that the major difference is that this defines the design process and redefines who the committee members are, changing them from nine members to seven members with no city staff involved other than as experts (such as traffic and zoning). He stated if someone is aggrieved by a decision and can not abide by what the designs are or what the new committee comes up with as far as a review of their project, they do have due process on appeal, which goes to Planning and is different from the what it is now as it goes to the Board of Appeals. He stated the major changes are very specific now for applicants and it was not quite the way it was before; that it is hoped this will run smoother.

Councilwoman Rutherford inquired as to the rationale to have no Staff on the committee.

Mr. Steinman responded that the Staff is adjunct but do not vote; that they are on other committees.

Barry Bennett stated that the City Attorney advised that they not be voting members, just advisory.

City Attorney Nelson gave an example by stating if he were a member of the committee, then he could make recommendations as the attorney and it might carry more weight because he would have two "hats" on; that we should be advising the client and not voting our own interest.

Mr. Steinman stated the matter is before the Council tonight for vote.

Councilwoman Bennett thanked Mr. Steinman for his due diligence, noting that he did a great job.

On motion of Councilwoman Bennett, seconded by Councilwoman Robinson, the matter was referred to the full Council for approval.

CABLE TV FRANCHISE: PATSY HAZLEWOOD

Councilman Benson stated Ms. Hazelwood called and suggested that she would rather meet with everyone than appear today. He stated that information has been placed in everyone's mailbox and noted that he met with her and corrected one misunderstanding regarding the proposed franchise agreement. He stated that he had the impression there would be a statewide RFP and money would be funneled through the state.

City Attorney Nelson stated that it would be a statewide franchise. He stated in our negotiations with Comcast we got them to define gross revenue in such a way as to include interest and late fees and a percentage on their percentage; that it actually turns to 5.25% rather than 5%, a quarter of percent and then we get them to agree to do home shopping and any revenue, advertising and a number of other things AT&T has written out of the state franchise. He stated we would get considerably more if they had come to the city; that in addition, there is no requirement on state contract that these folks maintain an office in the city; that any disgruntled citizen can not go meet with somebody face-to-face. He stated there is no provision in the statewide contract providing for liquidated damages if Comcast is wrong, that they can take it all the way to the Tennessee Supreme Court and they lose no penalty.

Councilman Benson inquired as to whether there has been any lobbying against the Bill.

City Attorney Nelson responded "absolutely".

Councilwoman Rutherford stated when Comcast was here a few weeks ago she thought they had better terms and the contract Comcast has would automatically change to equal the state's; that if this happens Comcast would have to change.

City Attorney Nelson stated that they can not and it would cost us money.

Councilwoman Rutherford stated that AT&T is trying to get the State Legislature to approve a blanket franchise rather than having to negotiate with each city and county; that what we are talking about is that we should oppose the blanket franchise.

City Attorney Nelson stated we have already negotiated better terms for the citizens of the city than offered by the state.

Councilwoman Bennett stated not only will this hurt cities but citizens; that there is no consumer protection and no guarantee for a more competitive rate. She stated Matt Lea has been lobbying in Nashville; that lobbying efforts AT&T is funneling into their efforts is phenomenal. She stated this is a regional effort; that all cities are interested in the same things.

Councilwoman Rutherford stated tomorrow the realtors in Nashville will meet with their legislators and expressed this is something the city and Hamilton County should set a day aside to do.

Matt Lea stated that the problem is tremendous amounts of money are being spent hiring lobbyists; that AT&T and Bellsouth are spending lots of money. He stated this is a very high profile Bill and there could be severe consequences to cities; that there are some pretty big concerns.

Councilwoman Rutherford made the motion that the City Council set a date and encourage their colleagues at the county and other municipal bodies to go to Nashville; Councilwoman Robinson seconded the motion.

Councilman Benson stated that a van could be secured. Councilwoman Bennett stated that she would provide information about the Bill received from the Tennessee Municipal League.

Councilman Page stated he would be remiss if he did not admit that he does not know a lot about this; that there is an explosion in technology and the Council should be upgrading. He stated that he knows there have been great complaints from citizens about the monopoly of Comcast and would like to learn more.

Councilwoman Rutherford stated that he plan is to have a level playing field and that is not what AT&T is after.

City Attorney Nelson stated if Ms. Hazelwood wants to come in and sign this agreement we are ready.

INFILL LOTS

Barry Bennett stated yesterday at Planning the Board voted that a task force be formed; that the task force would be charged with taking a look at the legal and technical aspects of the development quality issue and report back to the Planning Board. He stated the committee would consist of representatives from RPA, Public Works, the City Attorney's office, surveyors, professional associations and the Home Builders Association.

Councilwoman Rutherford stated the realtors should be included and she would like for one to be on the committee.

Mr. Bennett stated that they are trying to include all organizations that may have a stake in it; that the Board of Realtors is a reasonable addition. He stated the Council is familiar with two of the subdivisions creating some consternation among area residents and both are in the East Brainerd area; that one is on Carr Street and the other on Kay Circle. He stated one is currently developed in part and the plan went back to Planning for determination as to whether or not they have actually met the intent of what we are trying to accomplish; that Planning determined it did not and denied the subdivision plat. He stated the one at Kay Circle by the same developer was withdrawn from consideration and it can be brought back next month; that the difference is it will have to come back under new regulations. He stated on Carr Street there are lots of small narrow houses built on larger lots in the area and the Planning Commission adopted new regulations in place of the old ones. He stated there is nothing that keeps developers from doing small, cracker box houses if they want; that this does provide an opportunity for the task force to meet and see what can be determined regarding specific quality control issues to see if there are other measures within legal parameters we can take.

**REZONING CASE 2007-030:
City of Chattanooga & CDRC c/o Paul Page from R-4 to C-3**

Greg Haynes stated this is the last zoning case on the agenda for tonight for the C-3 zone at Walnut Street; that the conditions reflect that it should be for warehouse and parking only and the developer has requested that it be amended to read *allowance for limited office use*. He stated RPA does not have a problem with the conditions.

Councilwoman Bennett asked if the conditions attached were approved through Planning.

Mr. Haynes stated that there were six-to-seven conditions at Planning; that the first said townhouses and attendant parking and this would amend to allow for office use.

The developer stated that they wanted to make this a live and work neighborhood; that First and Market has retail on the bottom floor.

Councilwoman Rutherford asked if this is for townhouse use.

The developer stated that it is for office and retail on the main floors.

It was noted that townhouses are not mentioned.

Councilwoman Bennett made the motion to defer the matter two weeks; Councilman Pierce seconded the motion; the motion carried.

NORTH SHORE PARKING

Councilwoman Robinson stated that she wanted to bring something to the attention of the Council and noted that she does not have a solution and does not know what the recourse is. She state the Northshore parking become operational yesterday and she has received phone calls from some of the shoppers in the area and business owners telling her there have been a few start up kinks in the city equipment installed. She stated the meters have been calibrated digitally and some are not ready for “prime time”. She stated that she wanted to talk about what we should have done; that this is more than just putting tickets on car windows. She **made the motion that this should go through a mock period for a couple weeks, have ticketing for two weeks with a moratorium on fines; Councilwoman Rutherford seconded the motion.**

Councilwoman Robinson stated that she does not understand who is in charge; that she thought it was going to be CARTA; that the city would be doing tickets on Frazier and then only CARTA in the parking lot.

Councilman Rico inquired as to the meters and whether people would need to be educated on how to put money in the new meters.

Councilwoman Robinson stated there are no parking meters there; that there is not a single hand meter; that there is a parking island in the middle of the lot. She stated maybe temporary signs need to be put up on telephone poles for ninety days, noting that she does not know what needs to be done.

Councilman Rico stated we should get Tom Dugan here to explain; that it is out of bounds to have this discussion without having his response.

Councilwoman Bennett stated she knows Tom Dugan would agree to whatever process we need to go through and since he is not present he really needs to be here to talk about this.

At this point Tom Dugan joined the meeting and stated that the meters were turned on yesterday and a guide as to its use is available; that they had equipment glitches early on and they were taken care of. He stated that he met with the merchants this morning and one of the things they came up was that a church called who uses the lot off Frazier for a parking area; that the talked with the merchants who recommended that we look for free parking on Sundays. He stated it was announced this morning that they would not charge on Sundays; that it is not an issue of revenue but parking control. He stated he has been in touch with Ed Hammonds due to the glitches in mechanics on Monday morning; that he will probably try to get the tickets pulled or appear in court on behalf of citizens.

Councilwoman Robinson stated that she knows there are start-up kinks; that two more weeks should be given to get used to this and we may need to do it with signage. She people may not know they are supposed to buy a ticket as the parking ticket island is a half block down. She stated more friendly time is needed and more orientation.

Mr. Dugan stated that it really does not matter when it is fully implemented; that CARTA met with all police service technicians last Monday and they know what they are doing. He stated he will do what the Council directs.

Councilwoman Robinson inquired about temporary signs as the parking island for buying tickets is a half block away.

Mr. Dugan stated since yesterday the signs have gone up; that Republic officials are there now to paint the curb for meter parking.

Councilwoman Rutherford stated she does not want Tom to have to go to court as that is a real pain and waste of time; that if he speaks with the two judges that should be sufficient.

The meeting was adjourned at 4:34 p.m.