

LEGAL AND LEGISLATIVE COMMITTEE

August 1, 2000

4:30 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Crockett, Chairman, with Councilpersons Rutherford, Franklin, Hurley, Pierce, Taylor, Hakeem, and Lively being present. Councilman Eaves joined the meeting later. City Attorneys Randall Nelson and Mike McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Adm. Marcellis, Adm. Boney, Adm Mitchell, Mayor Kinsey, and Candace McRae-Walsh.

TERM LIMITS FOR BOARDS

A continuation of a discussion relative to terms of service for Board Appointments ensued.

Attorney Nelson presented a list of City of Chattanooga Boards including the number of members, their term years and whether or not they had term limits. (This is made a part of the minute material). He noted that there was a grand total of 51 Boards, with one or two now being defunct—the **Greater Chattanooga Industry Corporation and Partners for Economic Progress** are not operating anymore. This leaves 49 Boards. Attorney Nelson noted that there was little, if any, uniformity in the terms of years. He noted that perhaps seven of these Boards have term limits. He went over the ones that have term limits which are **Beer Board (2 terms)**, **Brainerd Golf Course (3 terms)**, **Greater Chattanooga Industry Corporation, is now defunct, but it was three terms or nine years**, **Chattanooga-Hamilton County Hospital Authority (8 consecutive terms)**, **Human Rights and Human Relation Committee (2 terms)**, **Human Services Board (6 years)**, **Memorial Auditorium-Tivoli Theater Board (3 terms)**, and **Metropolitan Council for Community Services (2 terms)**.

Councilman Pierce asked the significance under Term Limits of “No” and “Terms”. Attorney Nelson explained that if they did not have term limits, he just put “No”. Councilman Pierce asked the thinking of the old Commission in attaching these term limits when these Boards were formed. Attorney Nelson noted that the **Beer Board**, which is under consideration, was adopted by this Council—that the Ordinance was redrafted. Attorney McMahan added that the old **Beer Board** only had five members. Attorney Nelson noted that the **Brainerd Golf Course Directors** was begun back in the ‘80’s, and he stated that he would imagine that they set term limits because it could have been a beneficial thing where people got to play on the courses.

Councilman Lively asked if there was any pay on any of these Boards. Attorney Nelson stated that he did not see any. Adm. Boney pointed out that the **General Pension Board** members receive a small amount. Councilman Pierce asked if the **Electric Power Board** paid anything. Attorney Nelson responded that he did not think so.

Attorney Nelson also pointed out that the **Hospital Authority** is an act of the Legislature. He noted that the **Human Rights and Human Relations Committee**, which has term limits, was formed in the '80's and the term limits were not placed on it until the '90's. Councilman Pierce questioned why the Council placed these term limits on this Board. Attorney Nelson responded that he thought it was because of the expanded members. Attorney Nelson pointed out that the **Memorial Auditorium-Tivoli Theater Board** term limits were also put on by the Council. The **Metropolitan Council for Community Services** also has term limits. Attorney Nelson stated that he thought this Board had some City employees. Councilwoman Hurley added that the Council does not have anything to do with this Board.

Councilman Lively stated that there were arguments for both sides of this issue, but we all know that it is hard to get people to serve. He stated that one of his Board Appointment's term was up, and he found out that this member had only attended one meeting in three years! He stated that if we could find someone who would do a good job, we should keep them—that it is difficult to find volunteers!

Councilman Pierce asked if there was any reasoning to putting term limits on the elected officers of Boards; that we have a term limit on the Mayor but the Council does not have any. Attorney Nelson pointed out that the Council has term limits for their Chairman and Vice-Chairman; that this would ensure that the Chairman of the Board would rotate.

Councilman Pierce stated that Shirley Swanson had been Chairman of the **Beer Board** since 1990; that he thought Mr. Holmes had been on the Board since 1978; that Shirley had been Chairman for 10 years, and it needed to be rotated and give someone else an opportunity.

Chairman Crockett stated that this needed to be treated as a general thing; that as far as the **Beer Board** was concerned, he thought Mrs. Swanson was doing a good job, and she should continue; that the Council can do what we want to do, but it should not be made contingent on one person; that Mrs. Swanson was doing a good job and the **Beer Board** had confidence in her.

Councilman Pierce stated that when a new Councilperson is elected that the old appointee is out the door; that if we had term limits, we could say that that individual would stay for 2-4 years. Councilman Franklin stated that he thought the appointee carried over from one Councilperson to another. Councilman Pierce stated that he did not think that would be the case if we did not have term limits. Councilman Franklin stated that if he did not get elected, and he had appointed someone to a Board, they would remain on the Board until their term was up. Attorney Nelson confirmed that an appointee remained on a Board for a given term unless there was cause to remove them. Councilman Pierce noted that the Council forms these Committees and Boards so that they can have Council input, and this right would be taken away from a new Councilperson if they had to maintain the old Councilperson's appointee.

Councilwoman Rutherford asked if the Council had jurisdiction over all of these Boards or just the ones they make appointments to. Attorney Nelson responded that it would be just the ones set up by City Ordinance. Councilwoman Rutherford stated that if we only allow a Chairman to serve for one or two years that it might work for the ones the Council makes appointments to, but it could have an adverse effect on other Boards. At this point Attorney Nelson went over the Boards that were established by Ordinance, noting that he was not sure about the **CARTA Board**. He also noted the ones that were provided for by State Law. Councilman Franklin noted that in all, the Council had jurisdiction over about 23 of the Boards.

Councilman Hakeem asked *“Mr. Attorney, am I to infer this is the way we have done it, and this is the way it should be?”* Attorney Nelson responded *“You can infer that this is the way we have done it”*. Councilman Hakeem asked if when Attorney Nelson did his research if he looked at any progressive cities to see how they do it. (Councilman Lively injected that he thought we were a progressive city!)

Attorney Nelson questioned if “one size would fit all solutions”; that we might need to look at each Board individually; that some Boards take expertise that other Boards don't, and this should be a factor to look at; that one generic answer may not be the best.

Councilman Hakeem asked of the Boards the Council had control over, if there were a large number of members beyond their terms. Ms. Walsh responded that there were several, and we were going to reappoint—that some terms expired back in 1997. Councilman Hakeem noted that he had read in the newspaper that we have 50 people on Boards and only two are beyond their term limits. Councilwoman Hurley stated that she had one of these people mentioned in the paper—that this member had gone beyond their time. Councilman Hakeem asked if in looking at the Boards if people were in compliance. Mrs. Walsh responded “yes” for the most part, but some were “wildly” out of compliance; that some Boards meet on an ad-hoc basis and people forget; that most of the Boards are within compliance.

Councilman Hakeem stated that he would like to make a few points in reference to some questions about term limits on the Council itself—that when you look at the Court Agreement between the citizens and the City, they did not see us as having a need for term limits and the people can make a decision every four years. He pointed out that Board members do not answer to the general public but to the Council person that appoints them and questioned whether we should “recycle” the same people; that there was some degree of experience but a broad number of people had no experience to share in government. Councilman Hakeem stated that in talking about a “progressive city” he was referring to Portland, Oregon, who had put a great emphasis on involving citizens on Boards and Committees. He noted that they felt that Boards and Authorities “run the City” and are important. He stated that from his experience in the African-American community, there was only one individual on 15 Boards, and this limited the number of people involved. He stated this also might be true for Caucasian women; that we need a broader base of understanding government for our citizens.

In talking about leadership of Boards, Councilman Hakeem questioned how you can build a base of people who can contribute in a way that is broader than just being a member of a Board; that the Councilmembers should not be concerned about just their District but about the whole City. He reiterated that Board members do not have to come before the public to give an account and questioned if this should be in general as a whole.

Councilman Pierce pointed out that when the Council was first formed that many on the Council did not want to be Chairman but when they felt comfortable with it, they expressed an interest; that if we go no further than term limits on elected officers, then we need to decide whether it should be two terms. He stated that he did not know what this would boil down to; that if we took term limits out, we could still put limits on the Chairman. Councilwoman Rutherford stated that it might mean the Vice-Chairman would move up to Chairman. Councilman Pierce stated not just the Vice-Chairman, that anyone could move up.

Attorney Nelson noted that officers vary from Board to Board; that he did not hear anyone say we were looking at all Boards, but just the **Beer Board**; that we need to look at each Board as a separate entity. Chairman Crockett stated that he thought we had broadened this to raise the issue of being consistent. Attorney Nelson reiterated that it was hard to be consistent because the Boards are already so varied. Chairman Crockett asked if we could consider just looking at term limits on officers.

Councilman Franklin expressed that he thought we should look at all Boards individually; that as far as the **Beer Board** was concerned, there could be some sort of limits on the officers themselves; that it is hard to group any of the 23 Boards the Council has jurisdiction over because of the various numbers and inconsistencies. He stated that he would make the recommendation to look at all Boards at some point to see how the community would best be served and to put limits on the **Beer Board** officers at this time. **He was asked to put this in the form of a motion, which he did.** He reiterated that we needed to look at all Boards to see how they could best serve the community but as it relates to the **Beer Board**, the limits are on the officers themselves.

Councilwoman Rutherford confirmed that he was saying remove the term limits on the **Beer Board** but stipulate that you could only be an officer for two years.

Councilman Eaves stated that he thought the Council was “*stomping on a gnat with an elephant*”; that nine people are appointed to the Board by this Council; that once these appointees take a seat on that Board that they have a vote, and there should be nothing keeping them from electing whomever they want as chairman for as long as they want; that some say some of the members have been on the Board too long; that any of the nine members can change this quickly. He reiterated that we were “*stomping on a gnat with an elephant*”.

Councilman Pierce seconded the motion made by Councilman Franklin.

Chairman Crockett attempted to put the motion in word form, noting that there would be no term limits on the **Beer Board** and that we would put a term limit on elected officers of the Board. He questioned if this would be for one year or two years. Councilman Franklin indicated that his motion was for one year. Councilman Pierce asked if he wanted to alter his motion to say every other year.

At this point Councilman Eaves asked the Councilmembers how many of them knew whether the ones they had appointed were attending the Board meetings.

Councilman Lively asked if the motion was amended to hold an election for officers every year. Councilman Taylor indicated that he thought it should be every year. Councilwoman Rutherford pointed out that no one wants the job of Chairman of the **Beer Board** but Shirley Swanson. She stated that she thought Mrs. Swanson did a good job as they had kept her for ten years as Chairman.

Councilman Taylor questioned if the motion now stood for two years and then they would rotate Chairman. Councilman Crockett indicated that it was one year. Attorney Nelson verified that it should read that the **Beer Board** officers are limited to one year terms, but there would be no term limits.

A vote was taken with **Councilman Eaves voting “No” and Chairman Crockett and Councilman Hakeem “abstaining”**. The motion passed. This is to go to the full Council and be on the agenda in two weeks.

The meeting was adjourned