

LEGAL AND LEGISLATIVE COMMITTEE
September 18, 2001
3:00 P.M.

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

Others present included Beverly Johnson and Adm. McDonald. Adm. Boney, Mayor Corker, Mike Compton, Todd Womack, Amy Cherry and Adm. Mitchell joined the meeting later.

BRUSH AND TRASH POLICY

Chairman Littlefield stated that this might be a short, almost non-meeting as a number of things were not complete; that the events of last week had complicated everyone's life; that he had received a message from Beverly Johnson that they were not quite ready on the Brush and Trash Ordinance.

Ms. Johnson stated that Attorney McMahan had noted that the Ordinance needed some "tweaking", and he was working on that but was out of town on vacation in London. She stated that it would take until the next meeting to get this before the Council for consideration. She added, however, that they were moving "full speed ahead" and there would be a kick-off in the near future.

Councilwoman Robinson asked what the Council could do to help. Ms. Johnson responded "nothing at this point"; just let residents know at residential meetings that this is coming. Councilwoman Robinson mentioned some dumping sites in alleys and asked if people should be invited to comment on these long-term dumps. Adm. McDonald stated that they would like to hear from these people.

Councilman Taylor asked if the third site had been chosen for South Chattanooga. Adm. McDonald responded that they had identified a site that they hoped would work.

Councilwoman Robinson asked if there was a designated site on Access Rd. Adm. McDonald explained that it was across from Dupont. She asked if this was some of the donated land. Adm. McDonald responded in the affirmative, noting that this was primarily land for Parks and Recreation but one corner could be used for this purpose. Councilwoman Robinson asked if this would impinge on the soccer fields, and Adm. McDonald responded "no"; that he had gone out there with Adm. Mitchell, and this had been coordinated with Parks and Recreation.

Chairman Littlefield stated that he had talked with Judge Williams and told him that we were finalizing this Ordinance; that Judge Williams had expressed that he wished that he could be here, and he did express his support of this. He added that Judge Williams had asked about the possibility of a fourth location at Holtzclaw, noting that he (Chairman Littlefield) was not asking Administration to react to this but just give it some thought, remembering that it was coming from Judge Williams and not himself. He recognized Gary Ball, who was present from the Ridgedale community.

Mr. Ball presented photographs taken in Chairman Littlefield's district with one being on city property. He stated that it concerned him that the city would be able to solve problems by tagging piles of debris; that some of the trash is on property that the city and county own. He stated that it appeared to him that we would need two Brush and Trash Inspectors and not just one—that one would have to go behind the other. He mentioned that half of this trash would be assessed to the city. He stated that no one understood when he was the one voice saying that we are too kind on these people.

Chairman Littlefield asked Mr. Ball what his suggestions would be other than the proposal.

Mr. Ball responded that it would take some kind of neighborhood methods to identify people who were dumping stuff at night. He stated that he went by some property that he owned on Chamberlain and the entire curb was filled with brush and in this case the city would assess him as the property owner. He stated that there would be major catastrophes as to who did what. He stated that he was not sure where we should go; that these inspectors will be hated and will not be able to do their job; that they will tag city property and it won't get cleaned up. He stated that this proposal needs more fine-tuning, and he did not know what the answer was. He suggested that the city do some red tagging on certain sites to educate people first.

Chairman Littlefield agreed that this is a rough process but you could identify where stuff is coming from; that it could be traced back to find where it was coming from. He mentioned that in the past we had taken contractors to court, but we had to have the support of neighborhoods.

Councilman Taylor stated that he did go through his district and took a look at separated stuff as far as brush and trash goes. He asked how long items like this would remain; that there was a lot of stuff mixed in with the brush. Adm. McDonald stated that the city would pick up brush but if there were other items involved, it would be tagged and the city would not pick it up. Ms. Johnson added that the city would pick up brush but that the other items should be separated; that items that are not trash flash items and that cannot be put in authorized containers would be the owner's responsibility to remove; that these were the items that could be taken to the designated sites.

Councilman Lively asked what items Trash Flash would pick up. Ms. Johnson responded large bulky items such as furniture, hot water heaters, etc.

Councilman Taylor stated that what he saw was that people were putting brush out and then throwing stuff out of their house on to the pile. Adm. McDonald reiterated that if it were co-mingled that they would not pick it up, and it would be tagged.

Chairman Littlefield stated that this would be a big problem at first.

Councilman Benson stated that Mr. Ball's comments about neighborhood involvement were optimistic. He stated that he also like his idea about maybe considering a "pilot" program for this, one district at a time; that this way we could learn the intricacies and what succeeds and then add another district the next month; that a "pilot program" might prevent us from retreating and doing nothing.

Councilman Taylor reiterated that each pile he saw was not just brush—that it was little items mingled in and not bulky items.

Councilman Lively confirmed that brush goes to a different landfill.

Ms. Johnson stated that neighborhood organizations had asked them to revisit this and take a hard look at it; that the whole concept is to get an umbrella association involved; that there will be advocates of the policy in respective neighborhoods; that there will be a partnership in trying to make the operation of the policy easier; that neighborhoods will be an integral part of the policy. She mentioned a Neighborhood Services Program, stating that if someone knows a contractor with the propensity for dumping that they can tell us who is responsible and could even get paid for telling.

Councilman Lively asked what could go in Sway Cars. Adm. McDonald responded that brush could be put in these cars. Chairman Littlefield added that "Sway Cars" was a bad choice of words—that people don't know what a "Sway Car" is; that maybe it should be changed to "Trash Wagon"; that people did not know what a "Sway Car" was. He stated that we should have this Ordinance finished in a few weeks.

Councilman Taylor stated that we should look at this real close; that someone in his neighborhood had mixed things in a Sway Car, and it had been emptied in the street and contained tires; that the Inspector made the man dump the thing. He asked if this trash would be left and tagged. He reiterated that he had looked at piles, and they were not just brush and not big bulky items either.

Chairman Littlefield stated that if we wanted to get this town cleaned up we could not keep on doing what we are doing.

Councilman Benson added that education must come first.

Councilwoman Robinson added that when neighborhoods are cleaned up, the next day people bring more stuff out. Chairman Littlefield stated that scheduling was the “key” here; that people are willing to live by a schedule, but they don’t know what the schedule is.

Councilman Franklin mentioned that some neighborhood associations were willing to take it on themselves to have signs posted at visible sites saying what days brush would be picked up. He stated that we could put this responsibility on neighborhood associations to do. Chairman Littlefield agreed that it would be a good investment in signs. Councilman Franklin added that it might prevent stuff from being out on the streets another two weeks.

Councilman Benson noted that he had stressed being on time regularly; that it should be done regularly barring disasters such as snowstorms and floods. He added that there was nothing magical about every fourth week and questioned why not use a cycle of 5-6 weeks; that we need to have time to fill some emergency days in; that if we say we will pick up every fourth week, we might not be able to live up to this. He suggested saying every fifth week and have emergency days built in.

Adm. McDonald stated that it was easier to do it on a four-week cycle because then it occurs every month and keeps it from being so complicated. He stated that he would prefer to attempt to live up to every four weeks. He added that there would be events that would cause them to be off schedule; that inspectors would have to coordinate this with a pick-up schedule and not a date on the calendar.

Chairman Littlefield noted that being ahead of schedule creates problems; that people will say that they were planning to put things out, and the truck got there before they had time to do it.

Councilman Taylor asked if there was a set crew to pick up brush. Adm. McDonald responded that they had nine crews to do this; that if there were an emergency like a tornado then everyone would be pulled off to become involved in the cleanup. He added that if it rains for a week that this affects the schedule also; that crews have a set area where they go to work.

Attorney Nelson suggested maybe once a week investing in a fourth of a page ad in the newspapers to cover things like this; that it could include brush and trash pick-up and also when various boards are meeting; that sometimes it is pretty hard to find out these things. Councilwoman Robinson asked if there was not already a Community Bulletin Board in the newspapers. Adm. McDonald mentioned a web site that they are keeping up with now, even though it has not been advertised. Attorney Nelson noted that many people do not have access to a computer and stated that he was saying “do this in addition, not rather than”. Ms. Johnson stated that they had talked about advertising on a regular basis with Todd Womack. Adm. McDonald stated that they would make this known to our citizens. Councilman Lively added that TV and Radio stations could do public service announcements.

Chairman Littlefield stated that this pending Brush and Trash proposal would be taken up in two weeks.

Kathy Gilbert of the News Free Press asked if the City picked up everything now and would stop after this Ordinance passes. She was told that the City picks up everything but hazardous materials.

NOISE ORDINANCE

Chairman Littlefield stated that he had been sitting with three Noise Ordinances in front of him—one was from Chattanooga, which is from the Stone Age; one was from Knoxville, which goes into the next generation; and one was from Huntsville, which was his personal favorite and looked like it had been written by a Rocket Scientist. He stated that Huntsville’s was the strongest Ordinance, and he wanted to bounce this off our City Attorney. He mentioned that there was a limit in Knoxville of a \$50.00 fine; that in Huntsville each violation is a separate offense. Attorney Nelson stated that we might want to explore this, and if we incurred additional expense, we might be able to recoup some of it.

Chairman Littlefield went on to say that Attorney McMahan was working on this, and he would communicate with him by e-mail. He explained that Huntsville used general and decibel measurements, and he hoped that was the way we would go; that we needed someone who has a decibel meter to come in and demonstrate how it works. Attorney Nelson stated that the problem with a decibel measurement is that a person may not know that he is committing an offense.

Chairman Littlefield went on to say that the Huntsville Ordinance is getting a good review in Huntsville and is pretty restrictive; that we get a lot of complaints about car stereos; that in Huntsville the distance measured is 25 ft. from said system where in Knoxville the measurement is 50 ft.; that 25 ft. is pretty strong.

Councilman Benson asked how we would handle the problem about barking dogs.

Chairman Littlefield mentioned the term “receiving land use” in Huntsville’s Ordinance; that in most ordinances there are separate conditions for commercial and residential land but in Huntsville the “receiving land” is the one that controls.

Councilwoman Robinson asked if barking dogs was handled under an Animal Nuisance Law or the Noise Ordinance. Attorney Nelson responded that it was covered under the Noise Ordinance that speaks to 50 barks in five minutes. At this point Chairman Littlefield read this portion of the Noise Ordinance. He stated that he remembered when this was amended, and it produced a lot of levity when you started talking about how many barks per minute. Councilwoman Robinson stated that there were serious complaints from people next door to where there are five and six dogs. Chairman Littlefield stated that if we get into decibel measurements we can identify the dogs creating the offense. Councilwoman Robinson asked if the decibel measurement would preempt our Ordinance where it says a minimum number of barks. Attorney Nelson explained that if the Ordinance were amended to use decibel measurements that it would do away with this portion. Councilwoman Robinson expressed agreement with this, stating that she thought the number of barks was silly; that she thought it should be decibels. Chairman Littlefield stated that we were working on this and asked that the Council keep feeding him their thoughts.

Councilman Taylor stated that he was hearing that we have a Noise Ordinance on the books and asked if we would just be fine tuning it. He stated that we would still be in the same boat as far as enforcement goes; that we were sending Animal Services to check on the problem and no one is enforcing it. He questioned where the enforcement was.

Chairman Littlefield stated that the other player in this whole thing is Judge Williams; that after the people are cited to court it is not easy to define the Ordinance nor to enforce it in this manner; that Judge Williams can deal with cases where the police and neighborhood comes in to say there is noise, but it would be easier if you say this is the level, and this can be sustained; that if we get the Ordinance in better shape, it will be easier to enforce if we define terms more carefully.

MAYOR CORKER AND ECONOMIC DEVELOPMENT

Mayor Corker had joined the meeting by this time and Chairman Littlefield allowed him an opportunity to speak.

Mayor Corker stated that when he was campaigning door-to-door that he ran into neighborhoods with a lot of dogs and it truly is an issue. He stated that his purpose here today was to talk to the Council about Economic Development; that now that the Budget has passed, and a big part of this addressed infrastructure needs at the VAAP site and brownfields, that we need to get the mechanics in place to cause these sites to be developed. He stated that there was not a way to make this happen quickly; that Claude Ramsey and himself had talked about a development vehicle that would be staffed with someone who would make sure things are taking place, especially at VAAP. He stated that he wanted to run a couple of things by the Council.

He suggested a committee to be made up of himself, the County Executive, the Chairman of the Council or his designee, the Chairman of the County Commission or his designee, and two or three private sector people; that we would use this vehicle to hire someone to oversee this. He mentioned money that we would want to be appropriated and there would be checks and balances in place for this to come back to the Council and the County Commission. He stated that he had a commitment from the executive branch of the County that they would match what is needed. He mentioned an EDA Grant between the County and the City and stated that there has to be an Engineer of Record for this to take place; that we don't want to tie anyone's hands and want to have free access to vendors. He stated that preliminaries have to be put in place for the EDA Grant, and this is a good chance for federal funds.

Mayor Corker went on to say that he thought the VAAP site was a huge opportunity for all of us and should be handled as an asset for the community. He noted that the Interchange that will dump into this is moving rapidly; that our goal is to try to attract the highest number of high paying jobs per acre. He went on to say that the County should be a part of this; that we had been talking about this site so long and now we have the opportunity to develop it. He mentioned a public charette process and stated that he had asked Amy Cherry of his office to get with Claude Ramsey's office to work out a process; that we need to do it soon with some high level people coming to our community. He stated that he would like to make this happen in 30-45 days; that we needed to start putting this in place to get someone to help us; that the brownfields are not of as much interest to the County as they are inside the City Limits and owned by the City. He stated, however, that this could be jointly done. He noted that we had passed a Budget that put Economic Development at the forefront.

Mayor Corker went on to say that in another vein Mike McGauley of the Board of Directors of the Chamber of Commerce had assured him that they were moving to find a CEO to run the Chamber of Commerce; that we have no recruitment person at the proper level; that he would hate to see us wait to get a CEO and then have to find a recruitment person; that Mike had assured him that they were pushing this on a dual track; that we could wait until we have the CEO on board to finalize the recruitment person. He stated that the Chamber was ready to take on the task of becoming an entity focused on Economic Development; that we needed to get this Development Entity up through the salesmanship and recruiting to be conducted at the Chamber's office; that the Chamber will handle this on our behalf.

Chairman Littlefield asked if the Council needed to pass any Resolution on this tonight; that he knew the Mayor and Chairman Hakeem met regularly.

Councilman Page stated that he thought the Mayor was saying that he wanted to set up a Steering Committee to guide the VAAP Property.

Mayor Corker stated that he would like some guidelines as to the Council's thinking; that there was no way to do the VAAP and Brownfield property without this being looked at everyday; that they needed to make serious decisions, and we need an entity; that we have up to \$10 million dollars available for infrastructure at the Brownfields and VAAP; that we will be using the money for development of infrastructure, and the money will go into a pool to keep this in "evergreen" fashion.

Councilman Benson stated that it was important to do something right now; that he was afraid the momentum would slow down, and we can't afford to wait any longer; that he thought the Council should go on record as endorsing the direction the Mayor has laid out to pull this package together and give him official support to say that we are with him.

Councilman Franklin stated that he could see the importance of the VAAP Site; that both he and Councilman Taylor had attended a Brownfield's Conference; that there are 2-3 other similar type sites in California and the northeastern United States, and he thought the VAAP site had the Brownfield type scenario. He stated that we have already got a Brownfield's person and questioned how he would be coordinated in this whole piece.

Mayor Corker responded that he did not know what Jimmy's day to day duties were; that he should move over and be a part of this, and it would all be lumped together; that a lot of interest was given to Chattanooga once and nothing was done about it; that we were at a point where we really want to do something to coordinate efforts that will be best for Chattanooga.

Councilman Franklin stated that if we do it right, we can boost Chattanooga and get good publicity off of it; that we were ready to do a major PR piece, but it was put on the back burner; that we need to move strenuously and not “pussyfoot” around.

Mayor Corker stated that we would move ahead strongly; that we need someone who wakes up every morning knowing that this is what they do; that we have 940 acres and 200 acres coming on board in January. He stated that he thought the community should be part of the change in the business culture.

Councilman Franklin stated that there was a lot of money this area can receive to help in this regard.

Councilwoman Robinson stated that she got very comfortable talking about industrial recruitment and having the City and County in the driving seat; that the Chamber should serve as an advocate; that industrial recruitment is a “special breed of cat”; that the Industrial Recruiter carries the ball and should report to the City and County and be hired by the City and County.

Mayor Corker acknowledged that we had not gotten there yet; that there is a strong sense of the Chamber Executive Committee wanting to be this entity to look at Economic Development and wanting to be the entity to do the recruitment; that he felt the focus on recruitment should be inside this entity.; that the development pieces could be separate but not antagonistic; that right now there is a strong desire on the Chamber’s part to change the culture of the Chamber to handle this.

Councilwoman Robinson stated that we did need the committee.

Councilman Hakeem stated that he would like to propose that we ask our City Attorney to prepare an Ordinance for next week forming the committee to be made up of four governmental people and three non-governmental people and that this be discussed in Economic Development Committee next week. He stated that this way the Mayor would know the direction of the Council. This was made in the form of a motion by Councilman Hakeem and seconded by Councilman Franklin.

Attorney Nelson stated that he could do a Resolution.

Councilman Benson stated that he did not want to delay this and “committee” it to death. **He made the motion that we as a Council support and endorse the Mayor’s implementation of the process he has described for Economic Development and move ahead with this.**

Councilman Hakeem stated that he thought the Mayor knew he had the Council’s endorsement from what he had heard today; that this is a major event, and the Council needs to mull this over; that with all the press present today, they might feel like the Council had made this decision before hand.

Mayor Corker stated that this was more fun than a private meeting.

Councilman Lively stated that he supported the Advisory Committee; however, Councilwoman Robinson had “stole his thunder”; that he, too, had reservations about the Economic Development Recruiter working out of the Chamber; that he thought the Recruiter should work under the jurisdiction of the Mayor and County Executive.

Mayor Corker stated that the County would be playing a big part in the VAAP Site; that we will work together hand-in-hand. He asked that the Chairman alter his motion slightly to say that the Chairman and himself would be authorized to negotiate with the County.

Chairman Hakeem agreed to amend his motion to this effect, and it was again seconded by Councilman Franklin.

AMENDMENT TO BUDGET ORDINANCE—NATIONAL EMERGENCY DUTY

Chairman Littlefield questioned if the Ordinance on tonight’s agenda dealing with City employees who are called to active duty during the national emergency being paid the difference between their City pay and their total military pay, less combat pay, up to \$850.00 per month needed to be discussed as a body. **Councilman Franklin moved that this Ordinance be recommended to be passed on first reading, and it was seconded by Councilwoman Robinson.**

Attorney Nelson stated that he had made a small amendment to the Ordinance to cover those who have already been called up.

NEIL SOUTHERLAND

Neil Southerland, Assistant Attorney from the County, was present on the behalf of the law firm of Ward Cruthchfield. She related that at the Big Ridge School in the After-Care Program administered by the YMCA, a child was injured very severely and a suit was filed against the City of Chattanooga and the YMCA; presumably the City was insured by TML and Attorney Mike McMahan entered a deference in that case, and TML came back and said that they did not insure the City of Chattanooga but the Chattanooga Public Schools; that Attorney McMahan had talked with TML, and they told him to get the attorneys to amend their complaint; that since this had happened, the City of Chattanooga had gone out of the school business; that Attorney McMahan gave “tail” coverage for two months; that the Board of Education in April of 1997 decided they would cancel the “tail” coverage, and by the time the amendment was in, the “tail” coverage had elapsed. Therefore, the Insurance Policy should apply; the reason for the delay is that the Policy says only “mediate”; that Attorney Crutchfield tried to “mediate”, and the Supreme Court says mediation is not binding. Ms. Southerland stated that they needed to sue the TML for declaration of rights and include the City’s cost to defend the lawsuit today. She stated that they had to stand in the City’s shoes, noting that along with our assets they also got our liabilities.

Attorney Nelson stated that the Council could authorize him to file a lawsuit in open meeting tonight.

Councilman Pierce asked if TML defaulted, would the County come back to the City. Ms. Southerland replied that when they got our assets, they also got our liabilities.

The meeting adjourned at 4:15 P.M.