

**LEGAL AND LEGISLATIVE COMMITTEE**  
**October 16, 2001**  
**3:00 P.M.**

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

Others present included Beverly Johnson, Judge Williams, Kenardo Curry, and Jerry Pace. Phillip Lynn, Todd Womack, and Adm. Boney joined the meeting later.

**BRUSH AND TRASH POLICY**

Chairman Littlefield called the meeting to order and stated that we had a couple of fellows with us today who know more about technology than we do in regards to noise. He noted that there were one or two other issues to be discussed first. One of these issues is on tonight's agenda and changes the Zoning Ordinance as it relates to lots of record on duplexes and single-family homes. Chairman Littlefield stated that we were asking for one more week's delay as there are specific developments, and we are concerned about relaxing some of the regulations on certain individuals.

The second issue is the final version of the Refuse Brush and Trash Ordinance and Ms. Johnson was present from Public Works to put "the icing on the cake". Chairman Littlefield stated that comments had been sent to him by the Chattanooga Neighborhood Association Council Board in a letter from Robert Schreane, Vice President, which is made a part of the minute material. This is to be passed on first reading tonight and modified down the road if we need to. Chairman Littlefield stated that these points would be taken into consideration. Chairman Littlefield made mention of the fact that Mr. Schreane was present, as well as Gary Ball. He noted that CNAC met the first of October and that we would address the points in this letter. He stated that we would continually be required to "tweak" this as there are still some issues and areas that are not covered. He stated that he did not want to go into detail at this time; that we did address all of the issues that we could; that some of the legal issues are not in our purview and are forwarded to the City Attorney and Judge Williams. He stated that we would continue to address the fines at this time; that the Ordinance has been prepared by Mike McMahan for first reading tonight.

Attorney McMahan stated that they amplified some of the problems such as co-mingled waste and having people not put out trash too early; that large items should be put out no more than 24 hours and brush and trash no longer than seven days. He explained that we would maximize the ability to enforce by making people responsible for clean-up costs and there was a Section on civil penalties that might need to be applied that would allow us to go beyond the \$50.00 fine limit.

Chairman Littlefield stated that he had read through the version, and it appeared to him that we had dealt with this as thoroughly as we could and people need to be assured that if they call, the problem will be dealt with; that we are not leaving people “high and dry”; that people can be told how this will work properly.

Ms. Johnson pointed out that the centers are identified on Page 6, and she handed out a map of the Brush Route, which is made a part of the minute material. She explained that the areas would be manned and secured from “dawn to dusk”, and we would “hone in” more specifically; that items can be dropped off or the City would collect and find the designated site. Ms. Johnson stated that this would go into effect January 1<sup>st</sup> and between now and then we would be educating people so that all our citizens will be aware of the program and know what the penalties are; that we will get our inspectors trained, as well as neighborhood groups. She stated that the inspectors would be hired within the next ten days and that they would not be working 8:00 A.M. to 4:30 P.M. hours because these problems occur after these hours and on weekends; that we will need non-traditional kinds of time for total enforcement.

Councilman Benson expressed that Public Works had done a good job in bringing this back to this point and getting it down to the fourth grade level. Ms. Johnson stated that it was aimed at the 8<sup>th</sup> grade level. Councilman Benson suggested getting this information down to an 8 ½ x 11 page. Ms. Johnson noted that there would be brochures that would be readable and a handy reference.

Councilman Page asked about the education requirements—if the city employees who would be explaining this would be consumer-friendly and if attention would be given to this. Ms. Johnson assured that the education would be both internally and externally. Councilman Benson asked about a public phone number. Ms. Johnson responded that they would like to get one number for everything as opposed to a person having to look in the blue pages.

Councilwoman Robinson stated that she still had one question; that on Page 2 it refers to offenders being given notice of their violation. She questioned if this would be the property owner or renter or the individual who the trash belong to. She mentioned a situation in her district where there is trash, and the property owner refuses to go to court and testify against the offender, even though she knows who it is. Ms. Johnson responded that the policy and Ordinance is designed to cite the property owner. Attorney McMahan agreed that the owner has the ultimate responsibility.

Judge Williams asked that in Section 1 (e) and (f), that we make sure we put in the same language—that each day the trash remains it is a separate violation, and the person is subject to \$50.00 a day. He asked to make sure this is incorporated. He went on to say that he had sent out a memo saying that he would be increasing Environmental Court cases (January 9<sup>th</sup>) to Wednesday and Thursday; that he had notified Chief Dotson that traffic cases will be cancelled on Wednesday morning; that we will start earlier and add more days. He stated that they had tried to accommodate requests; that people who were afraid to come in would have to suffer the consequences. He assured Councilwoman Robinson that we don't tell where the information comes from and that in order for us to stop it, people have to step up to the plate.

Ms. Johnson thanked the neighborhood group, stating that they had provided a lot of input and had guided them in the direction that they needed to go and stated that they would continue to be open to reviewing other comments.

Chairman Littlefield assured that this could be changed if we needed to.

Councilman Lively stated that we needed to explain to people the reasons behind this—that it will make picking up garbage and trash more efficient and there is a cost factor in that it will save tax money and keep the City on a schedule.

Ms. Johnson added “and no one will be losing a job”.

### **NOISE ORDINANCE**

Chairman Littlefield stated that we had talked about modifications to the Noise Ordinance; that Bruce Witt of Telemetrics out of Rock Springs, Georgia was with us tonight; that he had done a lot of work with schools and industry and that he was going to show us what a sound meter looks like. Also present with us tonight was Jim King, a representative from Murray Hills and an Audio-Engineer. He stated that both of these men understood decibel levels better than we do.

Chairman Littlefield stated that the question was “how loud is loud; that 110 decibels is deafness; that a car horn produces 90 decibels and can cause damage; 75 to 80 decibels is unhealthy; 45-60 decibels is moderate to conservative. He noted that sound level hitting

70 or above is illegal in Huntsville, and they have a most restrictive and technical ordinance. He explained that acceptability is measured by the “receiving land use”; that exceeding 55 decibels in residential property in Huntsville was illegal; that commercial and businesses at all times must be 62 or lower. Chairman Littlefield stated that we had talked about the meter and Bruce Witt has one to show us tonight. He called on Mr. Witt.

**Mr. Witt** explained that this does include a microphone and is based on filters in the “A” scale, measuring noise in the spectrum we hear it. He explained that there were some frequencies, beyond which we cannot hear; that noise is defined as “unwanted sound”; that some of the vehicles going by during this meeting had peaked at the sound level; that Interstate noises are 85 decibels and can cause hearing losses; that most plants that have 85 decibels must have hearing protection. He stated that some communities meet 70 decibels at anytime. He added that 62 decibels cannot be met in some neighborhoods. He made mention of the fact that ever so often there are noises that violate the Ordinance and the police are called out to measure and mentioned “peak hold”; that traffic going by will not give an accurate level when measured and other influences can cause the level to increase. He stated that the level in this room was 70 to 75 decibels as he had been talking.

Chairman Littlefield asked about “woofers” in vehicles. Mr. Witt explained that this is on the “C Scale”, it is the low frequency sound we feel, and this is the most difficult to manage. He explained that this was the toughest to reduce because the wave is big and goes through walls and bones; that sometimes we cannot hear it, but we feel it; that the “C Scale” will include low frequencies sounds and may require some sort of “peak hold” feature.

Chairman Littlefield asked about barking dogs. Mr. Witt agreed that this could violate the Ordinance.

Councilman Page asked if the environment could affect the decibel level. Councilman Benson asked about humidity.

Mr. Witt explained that air does not change the level inside or outside; that sound travels through concrete; that the acoustics of the environment can affect sound in a room, but we try to make acoustics pleasing so sound does not bounce. Acoustics are good in neighborhoods with lots of vegetation; noise is controlled on the Interstate with barriers of trees.

Chairman Littlefield added that noise was absorbed through concrete. Mr. Witt agreed that there was noise through friction and molecules bouncing around.

Councilman Hakeem asked if automobile “woofers” would pick up sound, and the answer was yes.

Chairman Littlefield introduced Mr. Jim King, an engineer and head of the neighborhood association in Murray Hills.

**Mr. King** explained that sound was something you can’t see, but sometimes you feel it. He stated that the U.S. Army uses low frequencies to make others feel obnoxious or sick. He asked those present if they had ever sat in a church service or at a ballgame where their physical psyche did not feel comfortable because of air waves. He stated that you can’t see and can’t smell anthrax and noise is as strange as that; that people using “woofers” don’t understand the psyche, and they are out of control. Mr. King stated that technology had changed in the last five years and license plates sometimes vibrate from using “woofers”. He explained that the high end part you hear is piercing and the low end “moves you”. He told of a situation relating to the atmosphere and wind in Murray Hills where music was booming one-fourth of a mile away in a car, and he could hear it at his house. He stated that he drove over and told the individual that he was playing his music wide-open, and it was rocking his house. He stated that he also told him that he was the President of the Murray Hills Neighborhood Association and was working with the police. He added that we had talked about thick walls, but you could hear a van outside when it went by; that sometimes people drive by in vans just to irritate people in a building and this should not be.

Councilman Hakeem asked if it was having that impact on us, what was it doing to the person in the vehicle. Mr. King responded that they would not be affected by low psyche; that they were too close to it.

Councilman Benson asked if “woofers” were bass, and the answer was yes.

Mr. King stated that if the Fire Department pulled up, you would hear waves.

Chairman Littlefield stated that we would be working on this for a while; that the Ordinance needed to be more easily defined as to what is legal and illegal and it needs to be more enforceable.

Judge Williams stated that he would like to invite Council members to go to the Purchasing Department; that we have confiscated 500 speakers; that some of them are powerful systems with additional batteries. He told of an incident at McCallie and Holtzclaw where there was an ambulance coming down the street with full energy equipment; that this young man had super dooper units blasting, and Judge Williams said his Cadillac was shaking. He stated that the ambulance had the right-of-way, but the kid went right on through, and the ambulance almost wrecked. He stated that the kid could not hear the siren and almost broadsided the ambulance. He stated that we had serious problems across the country, and there was no easy answer. He stated that the first time,

he fined the person; the second time he took the music; the third time he took the car; and the fourth time, he took all of him. He urged the Council to go to Purchasing and find the speakers; that we are spending thousands of dollars to do this; that he was concerned that when people got older, they would not have any hearing at all; that we needed to do something for the safety of the public and the people themselves.

Chairman Littlefield noted that there was interest out there for the meters and that they were affordable. Councilman Benson stated that he did not hear the cost. Mr. Witt stated that the one he had with him cost \$10,000.00. Chairman Littlefield stated that the ones we would want would cost from \$500 to \$1,000; that each precinct needed one to measure problems and to give Judge Williams numbers to deal with.

Councilman Lively asked who bought the \$10,000 type. Mr. Witt responded, we do; that some of their clients were luxury car dealers, and they have to measure them.

Judge Williams stated that the biggest problem was apartment complexes. He stated that he thought four meters per precinct should be enough to go around to help with the residential situation. Chairman Littlefield mentioned situations where cars circle neighborhoods with the doors open at 2:00 A.M. Mr. King stated that large “woofers” were sloppy.

### **AGREEMENTS BETWEEN CITY, TDOT, AND RAILROADS**

Mr. Lynn stated that Resolution (b) on tonight’s agenda authorizing an Agreement with TDOT and the CSX relative to the construction of the Third Street Bridge over Citico Railroad Yards, providing for CSX to reimburse the City for the railroad’s share of the construction cost in the amount of \$213,801.30 and authorizing the transfer of \$1,710,410.44 to the State of Tennessee Department of Transportation for the City’s share of the construction was held from last week. He explained that Resolution (c) is the same type of agreement with Cincinnati, New Orleans & Texas Pacific Railway Company to reimburse the City for the railroad’s share of the construction cost in the amount of \$641,403.91. He explained that TDOT did not send us these at the same time, and we will consider Resolution (c) as well as the agreement with CSX. He explained that they were three-way party agreements with TDOT, the City, and the railroads. He stated that the amount had changed, and we will be reimbursed.

Chairman Littlefield asked the net cost to the City, with the answer being \$855,000+.

**On motion of Councilman Franklin, seconded by Councilman Lively, the above two resolutions will be recommended to the full Council.**

**ABATEMENT FOR DISCARDED AND ABANDONED VEHICLES**

Councilman Benson stated that Kenardo Curry had asked for a few minutes. Mr. Curry explained that they had been looking at inoperative vehicles and waiting the ten days and looking at the Housing Code and the items we use to enforce and how the ten days is an unnecessary window; that it gets complicated when we have to allow another ten days review without citation; that when we get the complaint, we will be able to instantly cite.

Councilman Benson added that now when we get a complaint, we have to go by and see if it is there and then wait for ten days and then inform the owner and then we wait another ten days; that instead of these 20 days, it will now be ten.

Mr. Curry noted that we would be able to cite to court after notification is mailed to the owner. He stated that this was step one and that we were going to streamline this procedure.

**On motion of Councilman Franklin, seconded by Councilman Taylor, this will be recommended to the full Council.**

Judge Williams stated that we needed to change the Code; that the 10' measurement came from him; that just because a car has tires does not make it operable; that it needs to be able to move 10 ft. forward and 10 ft. backward on its own.

**JACK AND TINA JOHNSON REZONING**

Mr. Pace stated that Case #2001-057 for Jack and Tina Johnson and Irene Walters from R-1 to R-4 at 1606 and 1608 Gunbarrel Road came up in May and was held until the Hamilton Place Plan was completed. He stated that the Plan had now been adopted and calls for something different than the recommendation from the Planning Commission and the Staff. He stated that Councilman Benson would make a motion tonight for what the Plan calls for. Attorney McMahan stated that we would need a substitution. Councilman Benson stated that we needed to approve this on first reading tonight. Mr. Pace reiterated that it would be for what the Plan calls for.

Mr. Pace also noted that Case #2001-097 for John Gibson to rezone from R-2 to C-2 at 2005 Lyerly Street is on the agenda for first reading tonight; that Mr. Gibson had sent him a letter asking that the case be deferred along with Mr. Harless' case.

The meeting adjourned at 4:15 P.M.

