

LEGAL AND LEGISLATIVE COMMITTEE

March 12, 2002

3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, Chairman, with Councilmen Hakeem, Page, Benson, Robinson, Pierce, and Taylor present. Councilmen Franklin and Lively joined the meeting later. City Attorney Randall Nelson and Shirley Crownover, Assistant Clerk to the Council, were also present. Sarah Todd of the Mayor's Office was present.

REVIEW OF CITY CHARTER CHANGES

Attorney Nelson passed out next week's assignment, which is **Chapter 8, Distribution of Powers**. This had historically been the Board of Commissioners, Mayor and Vice-Mayor. Attorney Nelson explained that he could not just insert City Council in place of City Commission and Mayor—that it just could not be done and would have to be re-written. He explained that he planned to bring everything concerning the Council in one chapter and everything the Mayor does in another chapter with the legislative coming before the executive. He went on to say that this is very difficult reading and that it takes time to go over, and we would just cover one chapter next week. He mentioned needing a provision of how you call a Special Meeting; that it had been roughly 40%, and we need 44%.

Chairman Littlefield indicated that it should be fun and games next week.

Councilman Page asked that Attorney Nelson make a point where there are actually changes—that he felt there was a difference between clarification and changes. Attorney Nelson explained that he was just telling the Council the process he was going through. Councilwoman Robinson stated that what she thought Councilman Page was referring to was material changes. Attorney Nelson reiterated that we were trying not to make substantive changes.

Attorney Nelson went on to explain that rules regarding Special Meetings were adopted in 1911, and we were required to advertise for meetings in all daily newspapers. He asked the Council to realize how much lead time you have to give them; that we can notify but not have to wait until the advertisements are published.

Chairman Littlefield stated that we needed to write language general enough to not get locked into a particular media.

Councilman Pierce stated the emphasis was being placed on notification to newspapers, and he asked if it could not just be posted.

Attorney Nelson pointed out that we have only one daily newspaper, and it is written in the Charter this way. Councilman Pierce responded that that was his point, that maybe it should not be just one newspaper.

Councilwoman Robinson asked Attorney Nelson if in his experience, parts of the Charter needed material adjustment. Attorney Nelson responded in the affirmative but added that this was not the time to do this. Councilman Benson added that this was just a housekeeping effort that we wanted to pass.

Attorney Nelson proceeded with **Section 3.104, Page 53(a)** under **Oath and Bond**, where he changed “*Board of Commissioners*” and then payable to “*the City of Chattanooga*”. Councilman Benson asked if the bond of the treasurer should be raised. Attorney Nelson agreed that maybe it should be, but not now.

Section 3.111, Page 53(b), Duties of the City Engineer, “*commissioner of public works, streets and airports*” was changed to “*mayor*”; “*in that department and the respective commissioners*” was deleted and “*all*” was inserted in front of departments; “*subject to the direction of the board of commissioners*” was deleted.

Section 4.8, Page 58, City Workhouse, “*board of commissioners*” is changed to “*City Council*”. Attorney Nelson indicated that he felt we should retain our power to have a City Workhouse, even though this section might be archaic. He stated that it was doubtful if we have the power to incarcerate.

Section 4.22 on Page 59, Oath of Office; bond, “*board of commissioners*” is changed to “*City Council*” and “*board of commissioners*” is changed to “*City of Chattanooga*”. A similar change was made in **Section 4.25** dealing with a special judge.

Councilman Page asked if needed to make all these things gender neutral. Councilwoman Robinson asked how we would do this. Attorney Nelson suggested that we might just put in a condition that “*he*” shall mean gender neutral. (Councilwoman Robinson added that we might also say “*she*” shall mean gender neutral.)

Section 4.28 contained normal and similar changes.

Section 4.50, Page 62, Maximum fine for violation of ordinance, contained the normal and similar changes, with Attorney Nelson mentioning that this section might depend on how the Constitutional Amendment comes out; that we may want to change this in the November election. Chairman Littlefield asked about striking the \$50.00 fine amount. Attorney Nelson felt this would be a substantive change. Chairman Littlefield noted that this could be put on our list for November changes. Councilman Pierce asked about a \$500.00 fine. Attorney Nelson explained that the Supreme Court had severely limited the applicability of this.

Section 4.51, Page 62, contained routine changes.

Section 5.1, Page 64, referring to Wards—“*Nonresident freeholders may vote in the wards in which their freehold is situation, and not elsewhere; provided, that if any nonresident freeholder may have a freehold in more than one ward he may vote in the ward of his choice, in which his freehold is situated*” was stricken. “*Only persons who are residents of the City of Chattanooga shall be eligible to vote in City elections*” was added. Attorney Nelson stated that we might want to change wards to precincts.

Section 5.2, Page 64, Primary elections—“*commissioners*” was deleted and “*council members and city judges*” inserted.

Section 5.3, Page 65, Mayor and Council Elections, an entire new section was added with Councilmembers pointing out that in the second line “*march*” needed to be capitalized; also “*shall*” was misspelled. “*The primary election for such nomination shall be held on the fourth Tuesday preceding the second Tuesday in April*” was stricken.

Councilman Benson asked about reducing the time between the March election and the run-off election on the second Tuesday in April. Attorney Nelson explained that this was impossible; that we have to have time for absentee voting and the Election Commission has to have time to print the ballots. There are 28-30 days of early voting, and the process takes five weeks.

Councilman Page mentioned that some municipalities have a plurality vote. Chairman Littlefield noted that this type of vote was not selected when we went through the court case.

Sections 5.5 and 5.6 on Page 66 contain the regular changes.

Councilman Benson asked if the polls are not open before 9:00 A.M. Attorney Nelson explained that this was a matter of State law, and we were not making any substantive changes.

Section 5.7, Page 66, was omitted, as well as **Section 5.8 on Page 67**.

Normal and ordinary changes were made in **Sections 5.9 and 5.10 on Page 68**, as well as **Sections 5.13, 5.13.1, 5.14, and 5.15 on Page 69**, continuing with **Sections 5.26, 5.27 on Page 70**, with Attorney Nelson pointing out that the section on **Compensation of commissioners of election** was probably antiquated.

Section 5.51 on Page 72, and 6.1, 6.2, and 6.3 on Page 74 contained the normal and ordinary changes. **Section 6.4 on Page 75, Advertising fund** contained the normal changes and was one that Attorney Nelson stated he would not urge to take out.

Sections 6.16, 6.17, 6.18 on Page 76 contained normal and ordinary changes.

In **Section 6.19 Distress warrants on Page 78**, “*city auditor*” was changed to “*finance officer*”.

Sections 6.67 and 6.68 on Page 87, contained normal and ordinary changes.

In **Section 6.80, Page 88, dealing with the annual budget**, Attorney Nelson explained that the Court Order says that the Mayor shall promulgate and the Council dispose of funds. He explained that this was the section that required you to live within your means. He noted that the Council can accept, modify, or deny the Mayor’s budget. Normal and ordinary changes were accomplished in **Section 6.91 on Page 89**.

Section 6.92, Page 90, dealt with Youth Concerts and the normal word changes were made. Attorney Nelson questioned if this should be left in, stating that we may want to do this someday. Councilman Benson suggested that maybe this should be changed and “*city schools*” scratched and just say “*schools*”. Attorney Nelson stated that we could go with “*county schools*”. Councilman Lively stated that all of this sounds a little too pointed. Attorney Nelson pointed out that this happened before Home Rule.

Section 6.93 on Page 90, Farmer’s Institute—Appropriation contained no changes. Councilman Benson stated that it was a shame to have this in the Charter. Chairman Littlefield asked if Councilman Benson remembered the Farmer’s Institute and stated that we would maintain this for purity for the first vote and leave it in. (Councilman Benson indicated that he was having a problem remembering what “purity” was.)

Section 6.94 on Page 90 deleted “*judge of the county court*” and inserted “*county executive*”.

Section 6.113, Page 92, contained normal and ordinary word changes, with Attorney Nelson noting that it was probably archaic; the same for **Section 6.114**. **Section 6.116, Page 93, Sale of notes or bonds** contained the normal word changes as well as changing four members to six members for the vote, which is the majority.

Sections 6.118, 6.119 and 6.120 on Page 94 all contained the normal word changes.

Section 6.128—1941 Act (1), (2), (4), (5) and (6) on Pages 96-99 all contained normal word changes.

Sections 6.136, 6.153, 6.154, 6.155, and 6.166 on Pages 101-104, were fairly routine changes, with Attorney Nelson noting that **Section 6.166** probably needed to come out.

Sections 7.1 and 7.2 on Page 107 contained routine changes.

This brought the committee up to **Title 8 on Page 108**.

Chairman Littlefield noted that at the next Legal and Legislative Committee that we might take a look at the Noise Ordinance if it is ready. Councilman Benson stated the sooner the better. Chairman Littlefield stated that this Committee would be meeting every week.

The meeting adjourned at 4:00 P.M.