

## LEGAL AND LEGISLATIVE COMMITTEE

August 6, 2002

3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Benson, Chairman, with Councilpersons Robinson, Littlefield and Page present. Councilman Hakeem joined the meeting later. City Attorneys Randall Nelson and Mike McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Jerry Pace, with Mike Compton, Adm. Boney, and Daisy Madison joining the meeting later.

### CHARTER CHANGE ORDINANCES

Councilman Littlefield stated that the ones we would be going over were the essential changes.

Attorney Nelson asked to first go over old business, explaining that some of the hotels were complaining that the Ordinance relative to a privilege tax was not clear, particularly in regards to a complimentary stay, and the definition of “consideration” was re-vamped. Also the question was raised in regards to Bed and Breakfast establishments—whether they were covered under this and definitions were re-vamped to more clearly establish that they **would** be covered. Attorney Nelson explained that these changes were made at the hotels’ request, and we would need to substitute this tonight.

Councilman Littlefield asked if a roll call vote would be required on the substitution, and the answer was yes.

**On motion of Councilman Littlefield, seconded by Councilwoman Robinson, this will be recommended for approval by the full Council.**

Councilman Page stated that he wanted to understand what we were doing, and it was explained that the last sentence *‘Nothing in this definition shall be construed to imply that consideration is charged when the space provided to the person is complimentary from the operator and no consideration is charged to or received from any person’* was being added.

Councilman Littlefield explained that hotels/motels were concerned that Bed and Breakfasts were getting a “free ride”, but it had been deemed that the Ordinance covered this.

Councilman Page clarified that there would be no extra tax when buying food at the hotel—that the tax was only on the room.

Attorney Nelson turned attention to drafts of Ordinances in relation to changes in the Charter, explaining that he was doing something that he had not done before; that usually when there is an amendment, we just put the amendment in and leave the reason for the amendment out; that he had made a “stab” at putting in a reason why we were doing this. He proceeded to read the caption of the Ordinance regarding parking facilities, “*An Ordinance to amend the Charter of the City of Chattanooga, and all acts, ordinances, and other Charter provisions amendatory thereof, pursuant to the provisions of Article XI, Section 9, of the Constitution of the State of Tennessee (Home Rule Amendment) so as to repeal the provision of the Charter regarding the City Building, owning and operating off-street parking facilities*”. Attorney Nelson explained that the present provisions say that the City can only build parking facilities in conjunction with a city facility; that the parking facilities that we have built fit within this exception; with the change, there would be no restriction on going into business.

Chairman Benson noted that this change makes it more flexible.

The question arose as to why the Charter was written this way in the first place, and Councilman Littlefield explained that people were concerned with unfair competition by the City.

Councilwoman Robinson noted that this legislation is 40 years old and questioned if it had us “hogtied”. Attorney Nelson responded that it attempted to, but it didn’t. Councilwoman Robinson asked if this would fix it. Attorney Nelson explained that under Tennessee Bond Laws we can build parking facilities, but we have to use revenue bonds, and this stipulation goes away. Councilwoman Robinson clarified that we could then build free-standing parking facilities.

Attorney McMahan noted that this was one of the features of the 21<sup>st</sup> Century Plan.

Councilman Page asked if we were talking about just Section 1. Attorney Nelson explained that this has to be done with every amendment to the Charter.

**On motion of Councilwoman Robinson, seconded by Councilman Page, this Ordinance will be recommended to the full Council for approval.**

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Councilman Littlefield told of trying to get the new Charter adopted prior to the Court Order changing the form of government; that we tried to get it adopted by referendum, but the homebuilders were against the new form of government and feared the section on parking would lead to “socialized” parking in Chattanooga.

Attorney Nelson explained that that these changes needed to be passed on first reading by next week and all could be put on the agenda at the same time.

The second Ordinance that Attorney Nelson covered was the one relating to limiting fines to \$50.00. He explained that there is a constitutional amendment on the ballot in November to strike this provision and authorize the Legislature to set the amount of city fines; that if the people vote to pass this constitutional amendment on the State basis, then we don’t want to be limited by Charter to only \$50.00; that this takes out this limitation and the State can set the maximum amount.

Councilwoman Robinson clarified that we would get what we want if the people vote “for” this constitutional amendment. Attorney Nelson responded that we do whatever the State does; that if the State does not adopt this amendment, we still have the \$50.00 limit; if the State does adopt it, it will be left up to the State Legislature. Councilwoman Robinson verified that this last sentence, *“No fine shall exceed fifty dollars (\$50.00), but such limitation shall not apply to penalties or forfeitures”* will be taken out of the Charter.

Councilman Page asked if the State does eliminate the \$50.00 limit, will the City Judge play a role in setting the fine. Attorney Nelson responded that the State Legislature would authorize this; that there is no comparison between \$50.00 now and what \$50.00 was when this was enacted. He stated that it was the thinking of the General Assembly that they would look at this and handle it from time to time; that the State Legislature would give us an amount.

**On motion of Councilman Page, seconded by Councilman Littlefield, this Ordinance will be recommended to the full Council for approval.**

Attorney McMahan went over the next Ordinance relative to the collection of delinquent taxes. He stated that there was really a two-fold purpose for this particular Charter Amendment; that this was originally drafted in 1933, and there had been many changes to State Law and many inconsistencies or duplications of State Law. Secondly, the Mayor would like to have the City and County working together on the collection of delinquent taxes; we start delinquent taxes in July and the County starts the following February. If we do get it together, we won’t to avoid two lawsuits.

Chairman Benson asked if County taxes were due at a different time. Attorney McMahan responded “no”, both City and County are due in October and delinquent in March; that starting in March there is 1% per month in the County, and we collect ½% per month. Attorney McMahan stated that he had not discussed this with our financial folks; that we can continue to file in July if we want to or wait until February.

Chairman Benson asked about an incentive that if people pay their taxes on first notice they will get a discount. Attorney McMahan responded that this could be done by Ordinance.

Councilman Hakeem verified that this would give us more alternatives; that we were not bound to do anything with the County, but it gives us the option. Attorney McMahan explained that this clears up inconsistencies in case we do join with them. Councilman Hakeem stated that he did not want it to be taken for granted that we are shutting our Treasurers Department down.

Councilman Page suggested more discussion with Administration before we act on this.

Attorney McMahan verified that this was just the idea of making it possible.

Attorney Nelson added that he had talked to the Mayor about fixing it where we could work with the County; that the Mayor wanted the City to keep its options open; that this would just bring us closer together to enable us to work together jointly.

Adm. Boney stated that he thought it would be better to be silent on this matter and authorize the imposition of a penalty. Attorney McMahn stated that the penalty is the same. Adm. Boney stated that this was set by Ordinance.

Councilman Hakeem asked if this was discussed in State Law, would the general public know about this. Attorney McMahan explained that we would do it for next tax year and would put it on the next tax bill.

Councilman Littlefield stated that there were barriers to good government written into the Charter, and we want to take out some of these barriers; that we would have to see if it was advantageous to join the County.

Chairman Benson noted that this would just be accepting the concept.

**Councilman Page moved that this be recommended to the full Council for approval with the changes discussed. This was seconded by Councilman Hakeem.**

Attorney Nelson noted that we had just discussed three sections today that would be amended. He mentioned Section 2.9 that gives us the power to subscribe to railroad or turnpike stock. He stated that there was no harm in leaving this in here. He went on to say that we had not touched on eligibility for office, Section 3.1 on Page 7. Chairman Benson noted that we had talked about this but had not agreed to changing it.

Attorney Nelson stated that court costs were marked for discussion next week. He also mentioned taking out the words "*at large*" as Council members don't run "*at large*"; however he stated that this would clutter up the ballot, and we might want to leave it alone. He also stated that he had not touched "*veto power*" and that the only other thing to bring back next week would be the amendment to Planning.

Councilman Page asked if we had the capability in the present Charter to collect a tax to build sidewalks if we could get voluntary cooperation to exercise a tax to pay for this. Attorney Nelson stated that this could be spelled out in the City Charter as a Sidewalk Improvement Issue. Councilman Hakeem added that you could put a tax on something like this in a rich peoples' area. Councilman Page stated that he wanted to make sure we can do this.

Chairman Benson stated that at next week's committee meeting we would continue on Charter changes and would get back to clear-cutting the week after next. Councilman Littlefield added that we might could get on with Shelley Parker's "stuff" on drinking.

The meeting adjourned at 3:45 P.M.