

LEGAL AND LEGISLATIVE COMMITTEE

April 28, 2009

3:15 P.M.

Councilman Benson, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilpersons Berz, Scott, Ladd, Murphy, Gilbert, Rico, and McGary present. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Stan Sewell, Daisy Madison, Larry Zehnder, Paul Page, Beverly Cosley, Barbara Medley, Chief Dodd, Jim Templeton, Chief Parker, Lee Norris, Steve Leach, Dennis Malone, and Jerry Stewart. Richard Beeland, Karen Rennich and Bryan Shults joined the meeting later.

COMCAST UPDATE/CHANGES

Chairman Benson noted that Councilman Murphy was now the new Chairman of this committee, but he had asked that Councilman Benson chair this meeting tonight. Chairman Benson explained that the committees would now be committees of a whole, and there are only eight committees, and he would not be serving.

He first called on the Comcast people, stating that there was a change with their converter boxes and people are calling about this. He also noted that the Council took a tour of the Electric Power Board today.

Laurie Shipley, Public Relations Manager with Comcast was present. Chairman Benson asked if their franchise fee was \$2 million a year. Ms. Shipley indicated that she did not bring this information with her. Mr. Johnson stated that he thought it was around \$1.8 million.

Ms. Shipley congratulated the new Council members and thanked Councilwoman Berz for coming out Saturday. She handed out pamphlets (which is made a part of this minute material) so the Council could know and be educated. She explained that beginning in April of this year they had launched **The World of More** and would move their full basic channels (14-78) exclusively to digital in Chattanooga. This will require a very small box, which is easy to install.

Chairman Benson stated that he might take issue with that.

Ms. Shipley stated that some constituents were asking “why”? This is a digital maintenance issue problem; those who are getting Channels 2-13 will not be affected. With this new program, people will get 11 additional channels with digital signals and the internet speed will double. She explained if one needed more boxes, it would cost \$1.99 a month and these can be ordered on-line or an 800 number can be called. She stated that they were trying to make it as easy as possible and launching more channels. She explained they were not trying to change any channels, and she gave everyone her card. She noted that the response to this had been wonderful; that you just plug the box in and get more channels.

Councilman Murphy stated that he had one newer television, which was digital. He wanted to know if he had to have a box for every television in his home? Ms. Shipley responded that he would need a box per television.

Chairman Benson mentioned “On Demand”, where they keep changing the call numbers and station numbers; that you have to have three digits to get anyplace.

Ms. Shipley thanked the Council, stating that if they continued to get calls to let her know; that they were going neighborhood by neighborhood, and the response is overwhelming.

Chairman Benson asked if there would be a technical charge if Comcast installed the box? Ms. Shipley responded “yes” if they had to roll a truck out. She added that she could do it, and she was not a “techie”.

OMA BYLAWS AMENDMENT

Chairman Benson explained that 3-4 years ago we set up Bylaws with the previous number of Board members and now there was an amendment.

Ms. Cosley welcomed the new Council members and noted that she had with her, Dr. Barbara Medley, who is Co-Chairman; that John Taylor is the Chairman but was out of town. She continued, stating that the OMA Board met in February and voted for approval of the draft that is before the Council and made a part of this minute material; that this Ordinance was originally drawn up in 2006 and now it is three years later, and they needed changes.

Ms. Cosley explained that the first change was with respect to council members' appointments and is the section that has been outlined in yellow. It reads "*Council or Mayoral appointments shall be made from residents of the City. Council appointments shall be made from residents within their council district if possible and with each Councilperson giving preference to cultural diversity representation reflective of the City*". The Council representative should be within the city limits. She stated that she felt this was better representation. She stated that they would also like to have a more diverse Board. She asked that the Council consider this in the make-up of the Board; that this was an addition.

Councilwoman Berz asked why the "if possible" was added? Ms. Cosley responded that some councilmembers say they have searched and can't find anyone in their district. Councilwoman Berz stated that she would really love for this group to be representative; that she could not believe that someone in the district could not be found.

Councilman Rico stated that he disagreed with Councilwoman Berz; that he could not find the kind of person that OMA wants that is qualified—that it was not just color or race.

Chairman Benson verified that it had to be from the District, if possible; that he thought right now it had to be from the district. Ms. Cosley explained that right now it is open. Councilman Murphy verified that adding districts is what is different. Ms. Cosley indicated that they also wanted to include ethnicity and gender, prompting Councilman Murphy to ask if the members were all male now?

Dr. Medley explained that they wanted to make it more diverse and ethnic as we grow rather than being driven in terms of gender and race; that they could be more diverse; that the majority is African-American, and they could increase that; that they had an individual from Pakistan and had had Latinos (one); that Jewish origin was also included; that some diversity is good but more would be helpful; that they had a maximum of 23 people and would like it to be more diverse and wanted the Council to take this into account when they made their selections. She went on to say that representation by district would be helpful if the district can be represented; that what Councilman Rico is saying is that sometimes it is difficult—that where it was possible, they hoped it would be by district because they had such functions as Sweet Diversity in each district, and they needed a representative from the district to put this together.

Councilman McGary understood the concern of diversity but stated that they would end up with some not knowing whom the others had chosen.

Dr. Medley stated that this was not a problem per se; that they had a list and break-down of the individuals on the Board and one could see the representatives from each district and how diverse it is to race and ethnicity. She stated that they could provide this information to the Council, which could be useful.

Ms. Cosley noted that a lot of the districts have representatives serving their second term; that they had two vacancies.

Councilwoman Scott asked if they were two-year terms? Ms. Cosley explained that the terms were staggered 1,2, and 3 years.

Councilwoman Ladd wanted to know when they met and if there was a vacancy in her district?

Councilwoman Rico stated that he did not know where his appointee lived; that there were no Hindus or Indians on the Board, and he found such a representative—that he did not want it to have to be from a certain district; that we might have Asians and Koreans willing to serve; that we have a large Indian population and there was no representation, but we do have a representative now (his appointee). Ms. Cosley explained that it why they added “if possible”.

Councilman Gilbert stated that he did not know who his representative was and asked that a packet be sent out.

Chairman Benson asked if anyone objected to this? He added that he was not able to see how this previously read. Attorney McMahan explained that everything that was in yellow was new. Ms. Cosley added that this language was never in the original—that they had just added it. Chairman Benson asked if there was concurrence to accept this?

Councilman Rico stated that his representative might even live in the County. Ms. Cosley stated that she lived in the City. Chairman Benson asked if they had to live in the City? Dr. Medley explained that anyone currently on the Board that is not in the City would be grandfathered in. Attorney McMahan stated that he would write a clause to this effect.

Ms. Cosley stated that they also wanted their meeting time changed; that the Committee presently meets monthly, and she would suggest to go to a bi-monthly Board and the Committee meet every month; that Attorney Ken Fritz was part of this; that it would read “no less than four (4) times each calendar year”. She stated that bi-monthly would suit their needs well and there would be no loss; that if there is a need for a Call Meeting that that would be an option. She reiterated “meeting no less than four (4) times each calendar year”.

Councilwoman Berz asked the feeling of the Board about cutting down their meeting time? She noted it could be cutting down citizen input and asked if they thought they were having too many meetings? Ms. Cosley responded that most are Board members, and it is an open meeting; that there is an on-going working committee and most of the work is done there; that they wanted the meetings to be of substance and citizens to feel a part of it; that they were just trying to prevent good members from leaving—that input from citizens is important.

Chairman Benson noted that some were scared of going to just four times a year—thinking that this might be the demise. Ms. Cosley stated that there was no reason to meet more than four times a year, and this had been suggested to her.

Attorney McMahan stated that this needs to be re-drafted and put on the agenda two weeks from tonight.

CHURCHVILLE & ORCHARD KNOB ZONING STUDY

Bryan Shults of RPA was present to go over this Zoning Study. He stated that he would try to make it very brief and that it would be on the May 12th Agenda. This Zoning Study comes with zoning adjustments from R-2 to R-1 in Orchard Knob and R-3 to R-1 in the Churchville area. The Planning Staff comes with a positive recommendation for these changes, and the people in the neighborhoods are in support of this. He explained that a Zoning Study is complex. The City Council made the request for the Study Boundary in April of last year—to the North is Citico Ave.; to the South is McCallie Ave.; to the East is Dodson/Lyerly St.; and to the West is Orchard Knob Ave. Only residentially zoned properties were examined. The purpose of the Study is to determine if current zoning supports and encourages current and future land uses that are consistent with the development character of the neighborhood. This is similar to other zoning studies completed in urban areas such as Brainerd, East Chattanooga, Avondale, Shepherd, and Highland Park neighborhoods.

He noted that the initial meeting was held November 6, 2008 and was well attended with about 50-60 people. Some of the top concerns were conversion of single-family dwellings; no new two-family developments; getting rid of ability to have multi-family developments; and the fact that current zoning hinders future development of the neighborhood. The Draft Zoning Study was presented to the Chattanooga-Hamilton County Planning Commission on April 13, 2009, and they recommended approval to the City Council.

Mr. Shults went over the current land use with residential uses being 63% and Institutional uses being 23%. 9% of the land is vacant and 4% is commercial. Most of the residential is single-family. He explained that area requirements also have to be met and that they looked at lots of record. He also mentioned that these were older and well-established neighborhoods. He stated that it was important to keep in mind that just because a particular use is permitted within a zone, the area requirements required by the zoning ordinance may prohibit permitted uses, and it is hard to meet the requirements without converting lots.

Both Orchard Knob and Churchville come with a recommendation for approval. Mr. Shults went on to say that there is a disconnect between the existing zoning and land use in the Orchard Knob area and that R-1 zoning reflects the existing land uses. Existing two-family dwellings are allowed to remain in their present use unless vacated for 100 days and are considered grandfathered uses.

Councilman Gilbert asked if Parkridge Hospital would be able to expand. Mr. Shults explained that they were presently zoned R-4 and were not included in this Study.

Councilman McGary confirmed if duplexes are vacated for 100 days, they revert back to R-1. Mr. Shults explained that if you lose the grandfather status, there is another option of applying for a Special Exceptions Permit, where you may be able to open back up as a duplex. Councilman Gilbert asked if this applied to the Brainerd area, too. He was told that this is city-wide.

Chairman Benson advised that there are a lot of requirements to be met for a Special Exceptions Permit.

Mr. Shults added that one of the goals is single-family infill—that there was a lot of community support and that the Staff recommended this.

He went on to talk about the Churchville area, where the lots are smaller and R-1 is better based on lot size. There is also a disconnect between existing zoning and land use. The majority of the land is used as a single-family dwelling. He noted that the R-3 Zone permits boarding/lodging establishments, which could increase the density in the area. This, too, has community support and is recommended for approval by the Chattanooga-Hamilton County Planning Commission.

Councilman Murphy asked if the area for rezoning in the Orchard Knob area included the military that adjoins? Mr. Shults responded “yes” and showed it on the map.

Councilman McGary wanted to know more about the Special Exceptions Permit, clarifying that if a building is a duplex and is vacated for more than 100 days and is reverted back to a duplex, it would have to be made to look like a single-family dwelling? Mr. Shults responded that duplexes can be converted to single-family. Chairman Benson stated that he thought Councilman McGary was talking about the reverse; that one would have to get the neighborhood's permission to allow a duplex and would have to show what the appearance would be; that just getting a Special Exceptions Permit was not a "gimme".

Councilman Murphy inquired if there was no requirement in State Law that a person be warned if something they are purchasing has been down-zoned and how many days it has been vacant; that there had been a lot of problems because people did not do their homework and were never told they were buying a property that can't be used for what it appears to be. He again asked if there was no requirement in State Law?

Attorney McMahan mentioned the Title Company's responsibility.

Councilman Murphy felt that someone should have to disclose this information.

Chairman Benson stated that this Zoning Study was a difficult job, stating that he thought there was one objection to this. Mr. Shults indicated that no objection showed up at the Planning Commission meeting.

The meeting was adjourned at 4:00 p.m.