

LEGAL AND LEGISLATIVE COMMITTEE

August 28, 2009

3:30 P.M.

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

On motion of Councilwoman Berz, seconded by Councilwoman Ladd, the minutes of the August 11th Legal and Legislative Committee were approved.

ZONING ORDINANCE—REGULATION OF NIGHTCLUBS

It was noted that the occupancy capacity would be changed from 50 to 100 people and that the Ordinance still read 500 ft. from portal to residential zone with a provision for landscaping for noise reductions.

Councilwoman Berz had questions about the trial run on noise that had been conducted, noting that the noise would be different in the “burbs”. The only change she desired was that the distance be 750 ft. rather than 500 ft., with Councilman Rico feeling that distance made no difference any way because the noise was not from the club but traffic driving around with loud stereos. Councilman Gilbert felt that parking lots could be controlled by the club owner. Councilwoman Berz still maintained that 750 ft., with proper landscaping, would allow entertainment and residences to co-exist—that 750 ft. was a good compromise with Councilwoman Ladd agreeing.

A discussion concerning the issuance of Special Permits for clubs ensued, noting that these permits could be conditioned. Mr. Bennett noted that outdoor activity, such as parking lots, could be limited with conditions. Discussion also centered around portal to residential property line and from property line to property line, including lease-hold lines. Mr. Bennett felt with a Special Permit, that no distance should be required but did feel that the way this is written, it would make sense to have a distance requirement and Special Permit. Councilwoman Berz still felt the need of a distance requirement because of the frustrations that people around Deep Blue had encountered, stating that we needed to protect neighborhoods that are already there. Attorney Noblett agreed that we needed some sort of a standard to avoid problems with adjoining property owners. Councilwoman Ladd also felt that the 750 ft. should be left in, with Councilman Gilbert agreeing. Councilwoman Berz will make a motion to amend to 750 ft. at Council meeting.

Concerning keeping order in parking lots, Chairman Murphy noted that a Plan B was coming, with Councilwoman Robinson feeling we should focus on good citizenship by owners and patrons and not get hung up on distances.

USED TIRE DISPOSAL

Used tires being an environmental issue that can collect water and breed mosquitoes and also an expense to government precipitated a discussion as to the problems the City encounters.

Lee Norris spoke from the standpoint of Public Works, explaining that when one buys new tires, they are charged a disposal fee that goes to the State. Tires cannot go into the landfills and it becomes the City's responsibility to dispose of the tires, costing around \$14,000 a year, not including the cost of manpower. Prosecuting illegal tire dumping is difficult, with tire dealerships also engaging in illegal dumping. Even with the installation of cameras, illegal dumping continues because people know where the cameras are located. He felt it was cheaper to incur the expense of \$15,000 a year than to hire more manpower.

Beverly Johnson supplied the other half of the story, collection of tires being an issue they deal with in litter abatement. Unlike Public Works, her department contracts this out. She agreed that it was very difficult to handle.

Chairman Murphy suggested that Public Works stencil marks on the treads of tires, noting that a \$50.00 fine was not sufficient as it is easier to pay \$50.00 and walk away. Councilwoman Robinson suggested \$50.00 per tire with Attorney McMahan agreeing to look into this. Brad Gardner noted that there would be a problem with tire marking if a dealer sells used tires as bulk to another dealer. He also questioned who would monitor tire marking, stating this would be a difficult process. Councilwoman Ladd asked about new technology to re-cycle tires and use the material to build sidewalks and playgrounds, which is a technique being used in Dalton, Ga. Mr. Norris noted that it is rather expensive to pull the steel out. Councilwoman Ladd felt that if tires become of value, they won't be dumped.

Councilman Benson suggested putting this issue in the ball park of Public Works and Neighborhood Services to come up with a mechanism that is cost effective.

SEIU MOU

A quite lengthy discussion ensued concerning this issue with **Doug Collier, President of SEIU**, speaking. He stated that similar MOU's were in place in different municipalities across the State, such as Nashville and Memphis. There is an MOU in place with Mayor Littlefield presently, and there is a need to look at this version versus the new version—the main difference being a refined process for grievances. He stated that the previous MOU was taken out of the hands of the Council, and they want to refine this and put it back where it belongs. He explained that the members they represent have different criteria from the Fire and Police.

Mayor Littlefield explained that the present MOU is between his Administration and various unions and has never been before the Council. He stated that he had not seen this MOU but that the Council could have a copy of what we had now.

Councilman Rico and Councilman Benson felt that with an understating with all of our people and treating our employees fairly, this would not be needed, with Councilman Gilbert disagreeing, stating that there is a need for an MOU so that the average person can have someone to rely on. Mr. Collier added that right now they only see directors and department heads and don't see the working employees, who can often be intimidated, emphasizing that there was a need. Councilwoman Ladd also supported an MOU to set expectations for employees and managers—that this was good for employees and managers. She suggested looking at what we presently have in place and meshing this into place, stating that it was a smart idea.

Councilwoman Scott questioned why the City should pay for this—that it should be employees' dues. She encouraged helping employees understand the grievance process but questioned why just SEIU members and not all of our city employees—that this needed to cross all of our employees and not to just a special group.

Mr. Johnson noted that we already have a grievance procedure in the City Code and also questioned the legality of this.

Attorney McMahan was called upon concerning legality, and he referred Councilmembers to the memorandum that he had already prepared, stating his opinion, which he felt would also be the opinion of the State Attorney General. Upon future questioning, he referred to the City of Harriman case, citing no authority for collective bargaining. Mr. Collier, however, stated that this same law firm (City) said the MOU was okay three years ago and questioned why the Mayor would sign it if it were not legal. He suggested sitting down and talking about the issues.

Councilwoman Berz noted that this MOU was not binding but was something we needed to protect the city regarding workers' rights—that it was not bargaining; that if we were going the legal route, she would respectfully ask for a lawyer on the other side to have a full gamut of legal opinion. She stated that this did not obviate existing law but was an agreement between administration and workers.

Mr. Collier felt that the biggest complaint was that the previous MOU was not brought to the Council, and they had no input and Administration has not appointed a Grievance Committee—that this has never been set up and workers are frustrated.

Mr. Johnson responded by saying that such a Grievance Committee would be a violation of City Code and also there should be separation of Administration and Legislation, with Chairman Murphy stating that if Mr. Collier is correct and Mr. Johnson is correct, then we might need to recommend a code change. Mr. Johnson stated that we follow the City Code on disciplinary procedures.

Councilman Rico stated that he did not think the Council should sign this and if it were not binding—what was the need? Councilman Benson stated that we could use this as an instrument to get a better process and get employees involved. Councilman McGary wanted to know if in the Agreement the Mayor signed, was the establishment of a Grievance Committee agreed to?

Councilwoman Berz stated that she thought everyone agreed that workers should have a say-so and we needed to get everyone at the table to talk about the process; that an MOU was Best Practices, and we could start with Administration, the Council and City workers; that we needed to red-line the old MOU and the new MOU; that if we were going the legal route, she read the law differently from Attorney McMahan, and we needed valid points of view and a full discussion that was not one-sided and this needed to be done fairly soon.

Chairman Murphy stated that if there were problems with our City Code, that these needed to be identified as the first step; then we needed to bring Mr. Collier and Administration together to resolve the rest of the issues—that this may just be a communication issue; that there is some consensus that parts of the prior agreement are not being followed and this frustrates SEIU—that we need to see if what we have in place is broken.

Donna Kelley stated that HR was the perfect place for involvement, with Mr. Collier stating that they would be glad to work in any fashion and would get in touch with Ms. Kelley to get this done.

SAGGING PANTS

In response to a phone call he had received, Councilman Benson brought up the issue of sagging pants, stating that the caller indicated that something had been done about this in other cities regarding indecent exposure. Attorney McMahan agreed to look into this.

The meeting adjourned at 5:00 P.M.