

LEGAL AND LEGISLATIVE COMMITTEE
September 29, 2009
3:30 P.M.

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

Others present included Solomon Hatch, Missy Crutchfield, Larry Zehnder, Richard Beeland, Lee Norris, Chief Cooper, Steve Leach, Dan Johnson, Chief Parker, David Johnson, Bill Payne, Dennis Malone, Dallas Rucker, Gary Hilbert, Daisy Madison, and Dickie Hutsell.

Chairman Murphy called the meeting to order and called on Adm. Leach to go over the flooding issue.

Adm. Leach noted that this happened between September 18th and September 22nd. He called on Lee Norris.

Mr. Norris stated that they went out on calls received for drainage clogs and trees falling; that there was an increase in overtime and a lot of issues last week.

Councilwoman Scott asked if he could foresee any changes that would occur with the stormwater fee issue and how things would be different? Mr. Norris responded that we were overdue for Hydraulic Studies, which would guide us; that we would have additional crews and do maintenance on shorter intervals; that we could be more proactive; that we had been prohibited on working on private property. She asked if the \$36 million we were now getting was not enough? He responded “no”; that there is a \$12 million dollar budget and \$5 million for current water fees—that we are shifting the cost to where it should have been funded in the first place. She asked if they had talked to residents about this? He stated that they had to meet with people about stormwater runoff—that would this mitigate everything—“no”, but there were a lot of things they could do with this funding.

Councilman Benson asked if they would take this increase in water quality fees and go on private property; that he thought we were prohibited on private property—that the demands would be overwhelming. Mr. Norris responded that they would have to hold the City harmless; that there would be an increase in demands; that this is what the population told them they wanted.

Mr. Payne added that we were obligated to certain things; that we were not prohibited but there were certain State regulations.

Councilwoman Robinson stated that a Hydraulic Study was done in District 2 to find out what was causing severe flooding; that they came up with the findings that the flooding was caused by the development of a subdivision and nothing could be done to help because of “Waters of the State”. Attorney McMahan stated that we get permits from the State for “Waters of the State”. Councilwoman Robinson stated that it was now a river. Mr. Payne stated that we would take these funds and leverage federal dollars.

Councilwoman Scott stated that she would like to suggest that we go with an educational piece with a pamphlet to describe what the City will and will not do so as not to mislead people; that it really needs to be clear what will be done and that it will not solve everything.

Councilman Benson stated that if we were asking for more money than is necessary that it could be counter-productive; that going on private property is open-door. He asked how many (x) this was going up? He was told from \$3.00 to \$9.00. Attorney McMahan added that it would escalate over five years. Chairman Murphy stated that this would depend on what we do on private property.

Councilwoman Ladd asked about performance of the retention ponds at Warner Park? Mr. Malone mentioned the two-year flood and that right now there is one other project to be built; that there was some flooding at the Zoo; that the retention ponds were filled up. Mr. Norris added that we would not manicure ditches.

Chairman Murphy stated that there could be public comment on first reading. He moved to areas up for annexation and asked if Councilmembers had any questions on **Ordinance (d)**? Attorney McMahan noted that all five are scheduled for a Public Hearing tonight—that there have to be two Public Hearings—one for the Plan of Services and one for the adoption of the Ordinance. Councilman Gilbert stated that we needed to hear what people want to say. Councilwoman Scott stated that she would like to point out something on **Ordinance (g)**; that the cost of sewers is \$2.8 million and on **Ordinance (h)** sewers are \$2.9 million. She mentioned that every single area of annexation would be \$56 million on sewer debt. Mr. Johnson stated that this was the entire Urban Growth area; that it is \$28 million dollars for both phases of annexation; that when he saw this, he was alarmed, too; that it is \$13.3 million for Phase I. Mr. Norris confirmed that it was \$28 million for Phase I and II. Councilman Benson stated that with the Enterprise Fund and Stan Sewell’s audit, we are in good shape. Councilwoman Scott asked about areas 11A and 9B and the cost? Mr. Norris responded that no sewers were needed in 10A; that in 9B it was \$2.7 million and 11A \$2.9 million.

Councilwoman Berz wanted to know what the basis was for saying we don’t have the right numbers? Attorney McMahan responded that it was the people in “Hamilton County Against Annexation”; that they had consulted with engineers, who say the figures are low—that it could be truthful or rhetoric; that the figures being given are not “engineered”. Councilwoman Berz confirmed that they were (+) or (-) figures.

Councilman Gilbert asked if gas prices go up again, could the figures double? He also asked about the price of concrete going up. Attorney McMahan responded that the cost is in digging the ditch.

Councilman Benson noted that when Hamilton Place was annexed, no one visualized how much money we would gain from sales tax; that we were not factoring in growth. Mr. Johnson agreed that the numbers were based on existing conditions with no projection for future growth. Councilwoman Berz confirmed that no assumption was made on growth or impact fees. She asked if developers could be taxed for part of this. Attorney McMahan noted that new development comes equipped with sewers.

Councilwoman Robinson asked what would happen if the subdivisions and streets are not built to city standards? Attorney McMahan responded that we don't immediately build to city standards; that in the 1970's the Federal Government paid 80% of the sewer cost. Councilwoman Robinson asked what would happen if subdivisions wanted to come into the City, and the City would not accept the streets? Attorney McMahan explained that if they were annexed as public streets, they would remain as public streets; that if they were private streets today, they could be maintained as private streets but not gated.

Councilman McGary wanted to know if there was any record or ranking concerning public streets? Attorney McMahan noted that annexed streets would not be on this list. Councilman Benson stated that he got complaints saying streets downtown are not as good as the County; that the County streets get both city and county taxes.

Chairman Murphy stated that he and Councilmen Gilbert and McGary had attended a meeting and the people said they would like it to be indicated on the Agenda the Council district involved so that the public would know. Councilwoman Berz thought this was a great idea. Attorney McMahan stated that they could start doing this.

Councilman Rico stated that he had a person who was concerned about Public Works' truck drivers using cell phones going down the road. It was felt that this could be in their line of work.

On motion of Councilwoman Berz, seconded by Councilman Rico, the last set of Legal and Legislative Committee minutes were approved as published.

The meeting adjourned at 4:10 P.M.