

LEGAL AND LEGISLATIVE COMMITTEE
November 10, 2009
3:35 P.M.

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

Others present included Dan Johnson, Paul Page, Chief Parker, Daisy Madison, Richard Beeland, Chief Cooper, Larry Zehnder and Solomon Hatch. Donna Kelley joined the meeting later.

STREET RE-NAMING ORDINANCE

Chairman Murphy stated that we would have to take up this matter next week.

There were no agenda items to be discussed.

LABOR/MANAGEMENT MOU DISCUSSION

Doug Collier of SEIU was present and stated that he and Donna Kelley had worked out differences, and there were no problems with the new language submitted. Councilwoman Berz agreed that a number of issues had been corrected, and this was what Administration wanted.

Attorney McMahan maintained that the City has no authority in this matter; that a MOU is a Collective Bargaining Agreement. He did acknowledge that Memphis has one. Mr. Collier maintained that they were all across the State, including Nashville. Attorney McMahan stated that we had an Executive Branch and a Legislative Branch and something like this would put him in conflict of interest—that it was more the Mayor’s bailiwick.

Councilwoman Berz stated that it was a MOU between SEIU and the Mayor, and this was coming up again because councilmembers wanted to be a part of the decision making.

Chairman Murphy questioned if we wanted a Resolution saying these are the rules between union members and Administration or a Resolution saying this is “keen”? Mr. Collier stated that the Council objected to the grievance procedure, and they had made changes that Administration suggested.

Chief Johnson stated that the Mayor entered into a MOU when he first came into office, and they had adhered to some things; that it was their position that this was Labor management and not a policy issue. Chairman Murphy stated that this was not really the Council's thing and asked if the Union just wanted us to say grace over it. Mr. Collier maintained that it had to come before Council—that they had looked at ways to rectify Council's concerns; that this was a policy change, and the Council had to approve.

Councilman Benson stated that he had considered passing a Resolution saying that the Council endorses the concept between Labor and Management but go no further than this. Councilman Rico stated that Councilwoman Scott had said it best—she questioned who represents those not in the Union, and the City can't endorse a special group. Mr. Collier stated that over 1,000 employees were eligible. The Union has around 200 members. Chief Johnson pointed out that the grievance procedure is in the Code—that this is just a MOU between the Mayor and Unions and not policy. Councilwoman Berz pointed out that we have a MOU now, and they are looking to renew it. She questioned if we wanted this renewed without the Council's input? Councilwoman Robinson felt that the Council should never have been a party to this. Councilwoman Berz noted that there was a point where the Council wanted to know about this as a matter of policy. She asked if we were saying that the MOU could continue but the Council would not put their two cents in?

Councilman McGary stated that we had to make sure that all employees are included—that it would have to be across the Board to be policy. Councilwoman Berz stated that Donna Kelley represents Administration, and she had sat down with SEIU and worked out an agreement. Chief Johnson stated that this was not Administration's position—that a MOU conflicts with the Code and cannot be policy. Mr. Collier maintained that the Council directed himself and Ms. Kelley to work out differences, and they did this—that they worked out conflicts, and the Council could approve the document or not.

Councilwoman Scott still felt that the Council should not be doing a special project for 200 members of an organization—that we could not just make one group happy.

Councilman Rico stated that a MOU was non-binding and just a worthless piece of paper, prompting Councilman Gilbert to say if it were not an issue, then we could just go ahead and pass it.

Chairman Murphy stated that the Union had made progress with Ms. Kelley and that was an improvement; that our attorney was saying that it violates law and oath; that other people are saying it is a Labor/Management issue, and they are not asking us to change policy. He wanted to know what the Council's approval would give the Union? Mr. Collier responded that we would be complying with certain standards—that he thought Ms. Kelley spoke for Administration; that the Council has to approve adoption or it is null and void. He asked that the Council vote it up or down.

Councilman Benson asked if it was all-inclusive and would take management as members? Mr. Collier stated that they do in Nashville and Memphis—that it is up to them. Councilman Benson stated that he had no problem as long as it is all-inclusive. Chief Cooper stated that management was not allowed to be members here in Chattanooga. The question was raised as to who would not allow this. Mr. Collier stated that it was not the Union—it would have to be Administration.

Councilwoman Ladd stated that she was conflicted and maybe uncomfortable; that labor laws dictate Unions. She stated she felt like she had one foot on the dock and one in the boat, and the boat was moving; that Unions bring an open door for procedures to take place in the work environment; that we seem to be picking and choosing what we don't like—that we need to get on board all the way or not at all; that she had never heard of management participation, and she had been in both environments; that HR needs to decide what is our model. Councilman McGary agreed that it was an HR issue, and he had difficulty with the Council exercising any authority; that he thought we would be crossing our boundary—that this was not a legislative issue.

Chairman Murphy stated that our attorney had said that a MOU amounts to collective bargaining, and we can't do this; that the Executive branch deals with labor. He asked Ms. Kelley if assuming we adopted the MOU, would it change how personnel matters are being handled? Ms. Kelley responded that after the discussions we had had, the Union representative acknowledged that the Code prevails. Councilwoman Scott questioned if the MOU would offer any benefit to an employee that was not a part of the Union? Ms. Kelley responded, realistically, probably not. Mr. Collier stated there would be no difference in policy—that if an employee was represented by SEIU, they would have a paid representative. He reiterated that he worked this out with Ms. Kelley and Councilwoman Berz; that they did away with parts that conflicted with the Code. Councilwoman Scott asked if we would fund a position on behalf of this organization for 200 people? Mr. Collier responded “absolutely not”. Ms. Kelley added that they took out the part where a city employee would work on activities. Councilwoman Berz agreed that these concerns were taken out, and it is clearly labor management; that we had agreed that this come before Councilman Murphy's committee if there were concerns that might touch on policy for further discussion; that the Chairman directed her to meet with Donna Kelley and Mr. Collier to work this out; that concerns had been taken out and everyone had received a copy.

Councilwoman Robinson stated that the Mayor entered into the MOU and questioned why it ended up over here when the Council was not a party in the beginning?

Councilman McGary moved that this was between Administration and the Union and that it remain with the Executive Branch. This was seconded by Councilman Rico.

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Mr. Collier still maintained that the Council had demanded that this issue come before them; that it might have been the former Council—maybe Councilman Pierce but that it would be in the minutes.

Chairman Murphy stated that he was proud of the fact that this got Mr. Collier and Donna Kelley together and thought that this was constructive.

On motion of Councilman McGary, seconded by Councilman Rico, the minutes of the previous meeting were approved as published.

The meeting adjourned at 5:00 p.m.