

LEGAL AND LEGISLATIVE COMMITTEE

August 3, 2010

3:55 P.M.

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

Others present included Dan Johnson, Richard Beeland, Lee Norris, Steve Leach, Mark Keil, Bill Payne, Paul Page, Chief Flint, Daisy Madison, Fredia Kitchen, Vickie Haley, Larry Zehnder, John Van Winkle, Gary Hilbert, Jerry Stewart, Dennis Malone, Dickie Hutsell and Dardee Long.

Chairman Murphy began the discussion with **Ordinance (c)** on next week's agenda that amends the City Code relative to Aviation. The portion of the Code dealing with Aviation is superseded by FAA and TSA and is therefore irrelevant and needs to be stricken.

Councilwoman Scott wanted to know how and when we took away our rules and was superseded and how one knows when this happens?

Chairman Murphy responded that the City does not have this authority—that it is under the authority of FAA and TSA.

Councilwoman Scott maintained that money was involved, in addition to safety issues.

Attorney Noblett explained that if they regulate, the City can't regulate.

Councilwoman Scott stated that she was not clear on the money part concerning the cost of fuel and certain amounts paid that is referred to in the section that is being deleted. She wanted to know how this just goes away?

Attorney Noblett responded that he did not know how we could regulate fuel anyway, but he would bring this up. He stated that we did not know the amount of fuel.

Councilwoman Scott stated that it seemed odd to delete all of these sections and have nothing whatsoever; that normally when we delete, we replace it with something.

Councilman Benson noted that the Airport was once under Public Works and when we got rid of it we had to have approval with FAA and our Ordinance is not in compliance; that we need to move on this and get rid of an antiquated Ordinance.

Councilwoman Scott responded that this may be true, but she would like to understand why we are doing this—that if the Council doesn't make decisions on such Ordinances, she questioned why we even vote.

Chairman Murphy stated that this issue makes our Code a little thinner; that it is pointless verbiage. He asked that Councilwoman Scott get her questions to Attorney Noblett, and he would get with the Airport.

Ordinance (e) authorizes a referendum to make certain changes to the disciplinary appeals procedures for rights of police officers, firefighters, and employees of the City of Chattanooga relative to the administrative procedures for employee disciplinary appeals. This would change the way our appeals are conducted.

Councilwoman Scott compared the Ordinance we have and the one being proposed and wanted to know why the major difference in what we do for regular employees and how Fire and Police employees are handled?

Attorney Freiberg acknowledged that Fire and Police employees do get more than regular employees, but it is only a little bit different.

Attorney Noblett explained that the Charter was adopted much earlier and had a section about Fire and Police; other employees were not written in by Charter and were dealt with in the City Code.

Councilwoman Scott asked if we were acting appropriately by having a disparity? She noted that Fire and Police hearings may be private or public and wanted to know why it is like this?

Attorney Noblett responded that these are the provisions since the beginning; that a different Administrative body made this decision other than the Council.

Councilwoman Scott asked if we wanted these appeal hearings to be private? Attorney Noblett noted that with three Councilmembers hearing the appeals, they could not be private.

Chairman Murphy noted that matters dealing with medical issues could be private.

Councilwoman Berz stated irrespective, we follow the same format with pros and cons; that this should be done more formally and taken away from the Council and referred to a three panel group to do the hearings; that what the Council had to decide was whether we want to retain this responsibility or delegate it. Secondly, there was the matter of private and public—do we delegate the responsibility and then there is the matter of fashioning it.

Councilwoman Scott still questioned if we wanted to treat regular employees differently?

Councilwoman Berz stated that first we needed to decide which way to do it and then fashion it.

Chairman Murphy noted that with a seven day suspension, Fire and Police employees can appeal it—regular employees can't do the same.

Councilman Gilbert asked why it was not the same? Attorney Freiberg responded that it had always been that way.

Attorney Noblett stated that this has to be on the referendum and 2/3 of the people have to vote for it; that it is a difficult process to get things changed; that this has to be dealt with on August 10th to meet the deadline of November.

Councilman McGary wanted to know the logic behind this. Attorney Noblett responded that under the Commission form of government, we had five members who ran departments and were personally involved. Councilman McGary surmised that the Commission had a more direct hands on involvement with employees than the Council does.

Chairman Murphy moved to **Resolution (I)** authorizing Parks and Recreation to enter into an agreement with Friends of the Zoo for the lease and management of the Chattanooga Zoo at Warner Park. He asked Adm. Zehnder if this was a good idea? Adm. Zehnder responded “yes”. Councilwoman Scott stated that this was a terrific contract—that it was very clear and excellent. Attorney Freiberg thanked her and stated that this was their 26th draft. Ms. Madison agreed that it was a well written document but stated that in her role as Finance Officer she had to say that she supported the Contract and the Zoo but that FOZ have an outstanding obligation of \$1.7 million dollars; that they pay \$100,000 every quarter, and she wanted understanding that this loan is part of this Contract. She noted that they had experienced some difficulties in meeting their obligation, and they are behind as this document comes forth. She stated that she recognized that this is an automatic payment, and the Zoo has obligations to the City; that there is a possibility she might not receive it; that the City has the right to effect the payments of the Zoo if they should default; that this is just an ability written into the Contract.

Attorney Freiberg confirmed that Section 13.8 concerning the outstanding loan is in the agreement.

Councilwoman Scott asked if it were the intent to deduct this as we go forward? Ms. Madison stated that we would just leave it out there, and they will make their quarterly payment, and if there should be a default for an extended period of time, we should have the ability to at least try. Councilwoman Scott asked if we would be able to deduct a portion that is owed to the City? Attorney Freiberg stated that she did not know if FOZ had agreed to this. Adm. Zehnder stated that there had been no official comment, and they might not feel comfortable with this; that once we enter into this Agreement, this issue will be resolved.

Chairman Murphy noted that the loan was from Capital Improvements and the asset is ours now; that we should not make it an automatic if it drives them out of business.

Councilwoman Robinson stated that we have improved our lease-hold, and the property is worth more. She asked if we could not work with FOZ.

Ms. Madison stated that this is the intent; that the present Board is okay, but there could be another Board—that the people now are very responsible, but the Board could be made up of different people, and they could choose not to repay the City.

Dardee Long explained that FOZ came up short in capital, and we gave them help (\$2 million dollars), and they had paid some of it back; that she was in agreement with what Ms. Madison is doing so that we will not be unprotected; that she thought it was a good move on Ms. Madison's part. She went on to say that they had not made a payment, and she met with the Mayor, Ms. Madison and Dan Johnson about extending the loan to June of this year; that this is a binding agreement and regardless of who the Board is, they are bound to it.

Councilwoman Robinson stated that she remembered in the early 1980's when the Friends of the Zoo were formed and what they have done is wonderful; that we have a Zoo we can be proud of; that they have created a beautiful habitat and are doing so much, and she commends them.

At this point, on motion of Councilwoman Robinson, seconded by Councilman Gilbert, the minutes of the previous meeting were approved as published.

At this point, Councilman McGary stated that he would like to ask a historical question—If there were any buildings that the City pays the lease on and maintain; if there were any other properties where we do the same? Councilman Benson quickly responded “yes”, in East Lake and on Missionary Ridge. Adm. Zehnder agreed that there were a bunch of them—that Highland Park is the major one and mentioned the East Lake Seniors’ Building. Councilman McGary wanted to know how the City got in this business? Adm. Zehnder responded that a group of citizens came before the Council asking to turn these facilities into a meeting place for their civic leagues.

Councilwoman Ladd stated that this could all be discussed next week; that she was getting concerned about our time—that we needed to move into the Public Works Committee.

This meeting was adjourned at 4:20 P.M.