

LEGAL AND LEGISLATIVE COMMITTEE

JANUARY 18, 2011

5:00 P.M.

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

Others present included John Bridger, Karen Rennich, Dan Johnson, Randy Ray, Daisy Madison, Mark Keil and Doug Kelley.

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

Ordinance 6(a) First Reading amends the City Code to identify certain areas of scenic value and establish a special exceptions permit relative to the regulation of structure heights in such areas. John Bridger was present to give an update on this View Shed Ordinance. He stated that he would like to talk about the “why”; that everyone realized that Chattanooga scenery is a key asset; that based on a survey, it is one of the most important business recruiting tool and adds to the strategic mix. He mentioned significant growth at Enterprise South and noted that this tool is an option in five key areas of historical significance—Billy Goat Hill, Lookout Mtn., Stringers Ridge, Missionary Ridge and Orchard Knob. He explained that with over 35 ft. tall structures, their Staff would make a recommendation, which would in turn, go on to the Council. The Council would have three options—approve it, approve it with conditions, or deny it. This would not apply to single family fee simple property. (Chairman Murphy interjected that Mrs. Mary Eastman had called him concerning the exclusion of single family fee simple property to allow for townhouses). Mr. Bridger noted that he had also talked to Mrs. Eastman but could not change the previous minutes. He went on to say that some uncertainty had been created, and there are things that need to be improved.

Chairman Murphy stated that this discussion would be continued through a larger process.

Mr. Bridger explained that a HUD Grant of \$5 million dollars would come through the Hamilton County Staff and would go toward Regional Growth of our community; that both Mayors were interested in regional growth in the community and that the way we protect scenic assets would be a part of this.

Councilman Rico asked if the Council had the final say-so, what was the purpose of making this into law? He felt we needed to take each incident case-by-case and protect areas case-by-case; that something like this could discourage people from coming into the city, and it could be something like eminent domain.

Councilman Benson stated that he had mixed emotions about this; that to his knowledge, Gatlinburg was the only place that has this. He outlined a problem he had concerning a piece of property in Ridgedale where we take away uses of the property after an owner has bought it resulting in eminent domain. He stated that we would be subject to lawsuit if we take away property value.

Attorney McMahan agreed there is a concern, but there is regulation where people can get compensated.

Councilwoman Ladd stated that based on the fact that there will be a strategic planning meeting, she would like for us to hold up on this; that she was very concerned about this; that she had heard from an existing large company with a vested interest and long-term plans to add to their facilities that they felt concern about investments. She advised to hold up on this. She added that she had a question about building a structure and putting an apartment on top and calling it a residence. She advised to hold up and wait.

Chairman Murphy stated that this would be addressed in a broader context—that there was more than one way to protect scenic assets, which are a big draw.

Councilwoman Scott stated that she did agree that it was a good idea to put this off; that she had a question of understanding how this is predicated on health and safety—that this is a view issue; that she liked the concept of protecting our scenic views but questioned protecting an asset that we don't actually own—that if it is the land the city owns, we could make a request, but she would like further discussion concerning looking at the rights of property owners, which is one of the things that had been mentioned; that we need to give the public more input into the process. She mentioned a five-page document concerning cell towers. She reiterated that she would like the health and safety part explained. She also wanted to know if the Ordinance had changed since the first one after having subsequent meetings?

Mr. Bridger confirmed that it was kept in the current form.

REGULATION OF NIGHTCLUBS

Attorney Noblett spoke to **Ordinance ©** that amends the City Code relative to the regulation of nightclubs. He mentioned the definitions of bowling alleys and sports bars; that as the Ordinance stands now, a nightclub is A2 occupancy, along with sports bars, restaurants and those that serve alcohol between 11:00 P.M. and 3:00 A.M. and has been in effect since August of 2009.

Chairman Murphy indicated that definitions would change.

Attorney Noblett noted that a nightclub would be an establishment with 100 people or more that serves alcohol and has live or recorded entertainment. He stated that they do “mirror” each other and proceeded to read the provisions as to what constitutes a nightclub, which is much more defined. He also read definitions for restaurants and also sports bars, which have more than 100 people and are in a C-2 zone. He explained that Special Permits could be revoked by the Council, and an establishment could lose their license; that there was some discretion as to the 750 ft. distance requirement, and a nuisance could be explored on the front end.

Chairman Murphy noted that there was discretion to reduce the 750 ft. distance, noting that a business could change under some circumstances. Attorney Noblett noted that a permit could be “yanked”.

Councilman Gilbert asked if the Council could increase the 750 ft. distance, too? Attorney Noblett noted that the requirement was at least 750 ft. away or the Council could decrease the distance; that C-2 is usually next to residential property—that it says decrease but does not say increase. (It was noted that there was a typographical error that read 705 ft. when it should be 750 ft.).

Councilwoman Berz noted that a larger distance would not be obviated.

The meeting adjourned at 5:20 P.M.