

**LEGAL AND LEGISLATIVE AND SAFETY COMMITTEE**  
**NOVEMBER 15, 2011**  
**3:45 P.M.**

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

Others present included Dan Johnson, Daisy Madison, Chief Parker, Richard Beeland, Dickie Hutsell, Phillip Pugliese and Larry Zehnder. Ron Swafford and Mayor Littlefield joined the meeting later.

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

**CARTA AGREEMENT/CITY'S BICYCLE PROGRAM**

Chairman Murphy stated that first we would have a discussion on the Bike Program Update. He called on Adm. Zehnder.

Mr. Zehnder stated that this was a Bike-Sharing Program and was on the agenda next week; that the funding was complicated. He asked Mr. Pugliese to go over this.

Mr. Pugliese stated that we started with \$2 million dollars CNAC funding, with CARTA accepting funds in the amount of \$155,000 to assist in management of the Bike Program. They will also accept the transfer of bicycle share hardware and related equipment valued at \$992,961.56. A vendor (Alta Bicycle Share, LLC) was selected to purchase the bikes and share with the city at a value of \$350,850. There is no commitment from the City—the Vendor is providing the bikes to the City, and there is no cost to the City.

Chairman Murphy asked him to explain CNAC funding, which he did, noting that people using bikes would help improve the air quality. Chairman Murphy mentioned the Bike Sharing Contract in New York City. Mr. Pugliese stated that the launching date is April 1<sup>st</sup> and a demo is in route to us from New York City.

Councilwoman Scott asked for a bottom line—how many city dollars are involved in this project? The answer was “zero”.

Page 2  
**REDISTRICTING**

Chairman Murphy asked for public input.

**Mr. Joe Rowe, of 1204 Talley Rd. and First Vice-President of the NAACP**, addressed the Council. He stated that he was here two weeks ago and was disappointed in the Council; that they had known for ten years that this day was coming, and there was no way to accomplish this; that they could have begun as early as March of this year, and they had not accomplished objectives; that there were repeated failures; that we had always had four minority districts—7, 8, 9, and 5. He stated that this effort should begin with the Voting Rights Act of 1965, and the Council should look at District 7; that he had suggested 65%; that the Council should begin with District 7, which was the most logical place to begin. He stated that it was difficult to maintain District 8 as an electable minority issue, and we would not know until the entire process is finished; that Districts 9 and 5 are electable districts. He mentioned going back and looking at Majority Districts and going through the Election Commission based on precinct boundaries, stating that this was self-imposed and just got in the way. He stated that he contacted the Election Commission concerning this, and they did not respond; that it was different from what the Council did in place; that the Election Commission had known for five months; that we needed to get a complete model with nine districts and then identify what needs to be corrected. He urged that the Council look at what the Law says about redistricting—that this is the framework; that at a certain point, the Council should meet with Dr. Brown and the other plaintiffs; that he had talked to the Black ministers, and they were waiting on the Council to bring something to them. He stated that he could make a long speech about slavery; that the language is in the Voting Rights Act and is the 15<sup>th</sup> Act of the Constitution; that this goes back to the Civil War, and the Council needs to pay attention to the rules; that this is a very complicated procedure. Chairman Murphy thanked Mr. Rowe for sharing this message.

Councilman McGary stated that it was his understanding that this body waited until the County Commission drew their district lines; that we commenced a week later; that Mr. Rowe's concern that we had waited until the 11<sup>th</sup> hour was substantiated by this fact. Secondly, he would like to ask that Mr. Rowe make comments after we move through the presentation today. Thirdly, he stated that it was his understanding that Chairman Murphy and Mr. Burns met and concerns were "hashed" out. He asked if Mr. Rowe was telling us his old concerns or if these were new concerns?

Mr. Rowe responded that he wrote a letter to Legislative bodies asking to be informed of meetings—that this was in writing; that he got a letter from the City and County; however he saw nothing in the newspaper about the meetings nor any general announcement; that it was not a transparent and open project; that he had talked to Chairman Murphy, and he said that the entire Council was running this and not just him and that he needed to talk to all nine of the Council; that he thought there was mistrust between the nine councilmembers, which put him in an awkward position, and he was not comfortable debating this; that he did not know the rules.

Councilman McGary stated that he could not speak for his colleagues, but he did not think there was one ounce of mistrust; that Mr. Rowe could connect with Mr. Burns for options; that we were discussing all the options on the table, and this was not de facto that the Council did not trust one another; that they were submitting to a democratic process and making it open and were relying on Randy Burns.

Attorney McMahan explained that the policy has been on all important matters that the Council act as a Committee of the Whole; that they took to heart what Mr. Rowe had said at the first meeting concerning voting age population and implementing Majority-Minority Districts and Mr. Burns was taking these comments into his planning process; that Mr. Burns is the technician but the Council, as a whole, will make the decision and all the meetings are publicly attended.

Councilman Benson stated that he understood Mr. Rowe's feelings; that he had never felt or seen any attitude on this Council; that in trying to do this in the past there had been a special interest on gerrymandering; that he did not think precincts made any difference. Mr. Rowe agreed that precincts should not be a barrier. Councilman Benson went on to say that he thought all were in agreement concerning the voting age versus the census percentage of voting age in all census districts—that there was not much difference in voting age in each district.

Mr. Burns stated that he did not remember the exact numbers.

Councilman Benson stated that it was his understanding that we had never felt any mistrust in anything that we had to endure in the past.

Mr. Rowe asked if we were talking about the voting age in the old districts or in the new districts? Chairman Murphy responded that we were taking Mr. Rowe's concerns to heart; that Mr. Burns was paying attention, and this was not the end of the road.

Councilman Rico stated that he hated it had come to this; that not being White nor Black, he could see both sides. He asked Mr. Burns if this was not a law and a process we had to go through—that to him, it was so sad that it had come to this.

Mr. Rowe stated that he would make one last comment—that ten years ago he was in on the project for redistricting—that the Council could not agree as a group.

Chairman Murphy turned the meeting over to Mr. Burns. Mr. Burns stated that as the Council knew, he had e-mailed them several options; that since last night, he had a fourth option, which was a modification, and he would show the Council the map and talk about numbers; that Districts 1, 2, and 3 had not changed at all; that there had been changes with Districts 5, 6, 7, 8, and 9 and a little bit with District 4. He provided numbers of the districts using this model,

stating that it was the number of 18 year olds and not a percentage that this was accidentally left out; that the overall percentage of Blacks in District 9 is 64%; in District 8 68.5%; in District 7 50.2%; and in District 5 66.5%. The largest district would be District 1 with 2.4% over and the smallest district would be District 5, with 2.35% under.

Chairman Murphy asked about the minority voting age—labeling Blacks at 18 years of age? Mr. Burns stated that this would have to be another calculation; that he would have to re-draw it. Chairman Murphy stated that we needed to see these numbers; that we had to have a scenario where the Black population is younger or average. He asked Mr. Burns to “zoom” in on the borders of Districts 7 and 8 and then Districts 8 and 9, stating that we had kept track of precinct line changes that we needed to request of the Election Commission.

Mr. Burns stated that we had talked about taking the City Hall precinct and west of 27<sup>th</sup> St., but he did not do the numbers; that there were changes from Market up to Georgia Ave. but no other major precinct changes, mentioning the National Cemetery and Warner Park in Chairman Murphy’s district. Mr. Burns continued moving up District 1 and District 3 and the Hixson 1 precinct—two precincts from District 3 to District 1 but no population change; that District 3 is quite a bit over; that he took Hixson 1 and went down to Grubb Rd. and back up Lower Mill Rd. and split the precincts there. He stated that he and Chairman Murphy noted some of the lines that were particularly disturbing are natural boundaries. He went on to Germantown Rd. in District 9, picking up the Sunnyside Precinct from District 6; that Concord 1 Precinct is split from East Brainerd Rd. south, which may be the most populous precinct in the City.

Chairman Murphy asked about the population disparity—the smallest and largest? Mr. Burns stated that the largest is 19,088 and the smallest is 18,192. Chairman Murphy noted that this is a 5% total population disparity, and we are allowed 10%. Attorney McMahan added that anything over 10% is bad.

Councilman McGary stated that he had had the opportunity to preview the map; that in looking at the numbers, other options presented seemed to be a greater disparity in numbers.

Chairman Murphy asked Mr. Burns if he could show another version or if he thought the one he had done was his best job. Mr. Burns responded that it was closer to meeting the criteria; that this was (a); that again all of the changes were in Districts 7, 8, 9, and 5, primarily and a little bit of changes in District 6.

Councilman Benson told Mr. Burns that something that did not make sense to him concerning District 4 was that then you see property in Collegedale, yet he was taking away Concord. Mr. Burns responded that no one else can reach that section of Summit and that Councilman Benson’s District 4 is already over-populated and this part of Concord had to come out. Councilman Benson stated that Ooltewah goes to District 6; that this makes sense and that Mr. Burns had done a good job.

Mr. Burns stated that the population of each district is closer in this version than Option 6 that we looked at first; that there are only two solid Majority-Minority numbers districts. Chairman Murphy noted that this is the quietest committee meeting that we have ever had.

Mr. Burns stated that he could open Option B, which is a slight variation, attempting to push District 7 as a Majority-Minority and make District 8 a swing district; that he did not push the numbers far enough in his first attempt in making District 8 a Majority-Minority; that he would have to take Bushtown and add it to District 8.

Councilman McGary noted that as a body, one of the goals is 65%. He asked the City Attorney to determine the benchmark, wanting to know how solid 65% is for a Majority-Minority District? Attorney McMahan responded that 65% is strong. Councilman McGary asked about 60%? Attorney McMahan stated that it would still be a Majority-Minority, but not as strong; that 65% is preferred. He added that we should not be regressing and maintain three strong districts and look at the fourth.

Councilman McGary talked about this process, and the suggestion of what happened in 1990 or 2000 and if we were suggesting that we are regressing; that it seemed to him, due to movement, that we always have 65%, which seems like a pipedream; that we don't have 65% to begin with but can get as close as we can—that 65% is the goal and in some we exceed. He asked what we were trying to accomplish. He noted that 65% can be thrown out but legally can't be validated, then why is this number being given? He wanted to know if it was just because this was done in the past; that we are looking at different options—that as people move, what does it mean as a whole? He stated that Districts 8 and 7 are in the spotlight; questioning what Minority-Majority means in percentage.

Councilman Gilbert stated that Mr. Burns had not shown them Option C; that he would like to see Option C and stick to 65%; that Option D is close to the percentage. Chairman Murphy noted that in Option C there are two strong Majority-Minority Districts—5 and 9.

Councilman McGary noted that District 5 exceeded with 66% and Districts 7 and 8 hovered again questioning the numbers we are trying to reach; that in some cases, 65% is exceeded.

Councilman Gilbert noted that Option D is closest to the 65% and asked Mr. Burns if in his opinion if this is the closest we can get to 65%? Mr. Burns responded that it was possible to do more, and he was willing to keep working on it.

Councilman McGary stated that he needed more feedback; that 65% is the goal and Districts 9 and 5 are over 65% and Districts 7 and 8 are under 65%; that we have three districts at 60%, again questioning what the number is. He again questioned what we were trying to accomplish.

Mr. Burns responded that we can't get at 65% with three districts; that by carving out pieces of precincts, we can get three in excess of 60%.

Chairman Murphy stated that a valid point had been raised.

Councilman Rico stated that he understood what we are trying to do with the Black population; that if there were a lot of Hispanics in his district, he should get their vote; that Chairman Murphy had "messed" this theory up and this should not even have to come into consideration. Chairman Murphy acknowledged that there are minorities other than Blacks.

Councilman Gilbert asked Mr. Burns to pull up Option "D" again, with percentages of 66%, 64%, 61%, and 50%. Chairman Murphy noted that it was interesting to see the Hispanics in Version "D".

Councilman McGary jokingly stated that he would take exception with Councilman Rico being voted in by Hispanics, mentioning his command of the Spanish language! He stated that this brought up a good question; that his question was Minority-Majority District just non-White and were we just using Black as a "short hand"?

Attorney McMahan responded that the Black population is the most significant; a cohesive Hispanic population could be taken into consideration; however the main issue concerns Blacks, but we can't ignore Hispanics. Mr. Burns pulled up the Hispanic percentage.

Chairman Murphy stated that there is a media request—that folks want to know what we are looking at; that this is not set in stone; that we want public input and deliberation.

**Councilman Gilbert stated that he would say that "D" is closer, and we should go with it.** Chairman Murphy asked if he were making a motion to work with "D" and make modifications. **This motion was seconded by Councilman Benson.**

Councilwoman Scott stated that she had no objection to this, but when we put out information, some assume that it is final. She suggested putting a "watermark" saying this is a "draft" and subject to change.

Chairman Murphy asked if anyone wanted to address the Council after what they had seen today?

Mr. Rowe thanked Attorney McMahan for his position on redistricting and looking at African-Americans to be sure there is no retrogression. He stated that he did not talk about District 6; that Blacks could be moved to another district; that all districts need to be drawn and see if there are any other issues for racial gerrymandering; that the first step we have to take is to

make sure we have done the right thing; that the Council needs to be absolutely sure of what they are voting on before they vote; that we may need a demographer to work through this.

Mayor Littlefield was present and stated that he was enjoying the moment; that this is the fourth time that we have gone through redistricting since the new government; that in 1990 it was done with all census figures; then we redistricted before the 1993 vote; that redistricting was done in 2001 again and Councilman Benson and Councilwoman Robinson was involved in this. He again stated that he was enjoying the moment; that he had always been in District 6 and now would be in District 9; that it was an interesting process, and he was just watching.

The meeting adjourned at 4:45 P.M.