

LEGAL AND LEGISLATIVE COMMITTEE

April 2, 2002

3:00 P.M.

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, Chairman, with Councilmen Page, Robinson, and Lively being present. Councilman Hakeem joined the meeting later. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Jerry Pace.

NOISE ORDINANCE UPDATE

Chairman Littlefield presented Huntsville's Noise Ordinance, which he felt contained some better definitions having to do with mufflers and sound systems.

Councilman Page asked about leaf blowers and if a section could be included for this if the problem arises and we need something to cover it.

Councilwoman Robinson was interested in dealing with the issue of motorcycles, noting some were used for transportation and some for recreation and questioned if it was necessary to have the "varoom-varoom" sound.

Attorney McMahan stated that he would make sure the "muffler system" part is "beefed up".

Councilwoman Robinson asked if there could be some special language for businesses that are adjacent to dwelling places, which would include places such as bars and restaurants that are adjacent to dwelling places, hospitals, motels and hotels. She also mentioned patrons gathering on patios and opening doors loudly from the inside coming out. She stated here whole point was the dwelling places—that we are encouraging buffer housing between commercial and residential, and we need to protect the people in the buffer housing. Councilman Page added that this would apply to people having parties also. Mr. Pace asked if it would apply to gathering places on parking lots, such as on Brainerd Rd.

Councilwoman Robinson went on to say that in a community model of mixed use you want to have eating establishments and bars and also housing, and there are problems. She mentioned that Seattle has a good model for this. Councilman Page questioned how they handle this in Georgetown.

Chairman Littlefield agreed that Huntsville goes a little bit far with their Ordinance but noted that they do have some good definitions for sound amplification systems that deal with more modern equipment, and we need to try to incorporate that; that we do not need to go into the measurement procedure as all we need are numbers. Attorney McMahan stated that it would be better to leave the Ordinance broader. Chairman Littlefield noted that there might be a lot of stuff in the Huntsville Ordinance that would open us up for more of a legal challenge than we would want. He added that one thing—measuring the sound on the receiving land use—was the only sensible way.

Councilwoman Robinson stated that she did not want to be so “hyper” about this, and we do say between 11:00 P.M. and 7:00 A.M.

Chairman Littlefield added that last summer we made it less restrictive by not cutting off at 7:00 P.M. for construction work because daylight is longer and construction people could go at least until 8:00 P.M. Attorney McMahan mentioned problems with CBL Development. Chairman Littlefield added that Lakeshore was also a problem, too. Councilwoman Robinson asked what would happen when we rebuild Chickamauga Dam. Attorney McMahan answered that we don’t regulate this. Chairman Littlefield stated that in thinking about construction, the shorter the hours they are allowed to work, the longer the construction goes on.

Councilman Page stated that he got a lot of complaints about construction people working on Saturdays and Sundays.

Councilwoman Robinson asked about a neighborhood that abuts a train yard and the diesel horns they use. Attorney McMahan stated that federal law requires these horns.

Chairman Littlefield summarized that there could be two or three additions in regards to mufflers, businesses operating, and construction zones. He mentioned a problem in his district on St. Patrick’s Day when restaurants on Brainerd Rd. operated outdoors until midnight. He stated that he had talked to his representative on the Beer Board to try to keep this from happening again. Attorney McMahan suggested that there could be no outdoor sales after 9:00 P.M. or 10:00 P.M. Councilwoman Robinson stated that 10:00 P.M. was reasonable and questioned if Riverbend would be exempt. Attorney McMahan stated that there were waiver provisions.

Councilman Page stated that he had had complaints from people who move into subdivisions and contractors work late evenings and on Saturday and Sunday. Chairman Littlefield responded that if a person moves into a subdivision where building is still going on that they should expect this; that he, himself, did work on weekends. Councilman Page asked if there was not a difference between residential working sounds and commercial property sound-wise—that he felt there was a difference between a big commercial project and some guy working on his own house. Attorney McMahan responded that manufacturing makes a lot of noise.

Councilman Page went on to say that he got a lot of complaints about Lakeshore and the work going on on weekends—that people said they got no peace and quiet and that they worked into the night.

Councilman Lively mentioned there being a horse barn that had been in a certain location for many years, and they built a subdivision next to it, and the people complained about the horse barn.

Chairman Littlefield stated that as Attorney McMahan has written the Ordinance, it does relate to residential property and sound amplification.

Councilwoman Robinson stated that she did not want to overreact; that 11:00 P.M. is an understandable hour for animation and festivals and people enjoying the riverfront.

Chairman Littlefield stated that we wanted to make sure we have covered cars with loud sounds amplified. Attorney McMahan stated that this was covered in general. Chairman Littlefield added that this was where we got more complaints than anywhere and that this went bigger than just boom boxes; that it was what Judge Williams was talking about; that he confiscated them, and this could give him the power to seize them legally.

Councilman Hakeem added that maybe age has something to do with this.

Councilwoman Robinson asked if the “dog part” was in there. Chairman Littlefield responded in the affirmative, adding “and the number of times they can bark”.

David Rumsey, a Ridgedale constituent in the audience, stated that all of the boom boxes that Judge Williams collects need to be destroyed—that this will eliminate the need for storage, and they won’t be heard again.

Case #2002-025 BST Family Trust

This rezoning case comes up next week and Mr. Pace asked if the Council wanted to defer this 90 days.

Councilman Page stated that this was in his and Councilman Franklin’s districts; that the neighborhood in his district had complained and that this was a very volatile issue; that he felt to be fair to Mr. Shelton that we should accept his request for a deferral—that he needs to have a chance to have his hearing.

Mr. Pace explained that if M-2 was denied, and there were no conditions place on the property, that the applicant could put in a warehouse with 18-wheelers, which would be more disturbing to the neighborhood than something we can put conditions on to help the neighborhood; that if we deny, he can develop it with a warehouse with no conditions.

Councilman Page stated that we needed to hear the neighbors; that they question our ability to put parameters on a development and the penalty not being too stiff; that they fear what happened in the past will happen again.

Mr. Pace stated that he felt the problems could be worked out; that if the Council is willing to defer this that he can contact the residents and tell them there is no use for them to come down next week.

Councilman Page confirmed that Mr. Pace would contact the neighbors and tell them not to come; that he felt like this case needed due process.

Chairman Littlefield asked if there was a spokesperson for the neighborhood; that he could be contacted and told that there would be a 90-day deferral. **On motion of Councilman Page, seconded by Councilman Hakeem, it will be recommended to the full Council that this case be deferred for 90 days.**

AMEND ZONING ORDINANCE—MULTI-FAMILY DWELLING UNITS

Mr. Pace also went over the Ordinance (First Reading) on next week's agenda amending the Zoning Ordinance, Article V, Section 404, Subsections (2), (3), and (6), incorporating new language relative to minimum lot area for multi-family dwelling units. He stated that when they recodified the Zoning Ordinance that they added language to the old one and inadvertently left one section out regarding multi-family units, and they are adding this back in; that they are deleting some portions since they have already been covered once. He stated that Adm. Boney was having a hard time understanding this.

Councilman Page questioned what we were adding. Mr. Pace responded that it was dealing with the R-3 Zone and the minimum lot size. Chairman Littlefield confirmed that they had covered the health department's language and explained that we were just clearing up the language and adding a portion that was inadvertently left out and deleting portions that would be redundant.

On motion of Councilwoman Robinson, seconded by Councilman Hakeem, this will be recommended to the full Council for approval.

The meeting adjourned at 4:00 P.M.