

Burns Randy

From: Crownover Shirley
Sent: Wednesday, May 08, 2002 12:44 PM
To: O'Neal Carol; Moore Carolyn; Burns Randy; Nelson Randall; Manis Pam; Compton Michael
Subject: LEGAL AND LEGISLATIVE COMMITTEE-5-7-02

LEGAL AND LEGISLATIVE COMMITTEE**May 7, 2002****3:00 P.M.**

The meeting of the Legal and Legislative Committee was called to order by Councilman Littlefield, Chairman, with Councilpersons Robinson, Benson, Hakeem, Franklin, and Pierce present. Councilman Page joined the meeting later. City Attorney Randall Nelson, Management Analyst Randy Burns, and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Daisy Madison, and Jerry Pace.

ZONING MATTERS ON MAY 14TH AGENDA

Chairman Littlefield acknowledged that there was nothing heavy on the agenda and that this would be his last time to chair the Legal and Legislative Committee; that there was no meeting last week and Judge Williams showed up. He called on Jerry Pace to go over zoning matters.

Mr. Pace began with **Ordinance (b)** for Michael Catlett to rezone a tract of land located at 6540 Lee Highway from R-2 to C-2. He noted that one of the conditions just says "no round the clock activity" and stated that we needed to put parameters on the timing at the Council meeting.

Councilman Benson stated that he had mixed emotions concerning this case; that we do not know what the applicant is planning to do; there is no site plan that would allow us to put conditions up front. He stated that the applicant has gone all through the community and the whole community is for this, and it should be commercial; that he wished the applicant had some definite proposal other than the property would just sell better if it were zoned commercial. He stated that the applicant was so nice and presented himself so well and was agreeable to any conditions that the Planning Commission wanted to impose; that the Planning Staff felt C-2 was appropriate.

Mr. Pace explained that the applicant was going to have to retain water, and the houses below will get the water, and they don't seem to understand this. He stated that we needed to get some definite time on the hours of operation. He reiterated that he has to retain the water according to stormwater regulations. Mr. Pace stated that the Staff recommended approval but had some concerns about the slope; that the applicant had brought back a site plan showing a building and a parking lot. Councilman Benson questioned if it were not speculative anymore.

Councilman Pierce questioned what would happen when he fills. Attorney Nelson explained that neighbors would not be left without a remedy. Mr. Pace agreed that he could go in and fill if he does not cause any harm to the neighbors.

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Attorney Nelson explained that in all practicality if the applicant brings in a site plan, nothing "weds" him to it; that he can change it the next day.

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Councilman Benson questioned if the Council could impose the condition that the applicant only use the property for the use stated in the site plan.

Mr. Pace stated that he could get a higher price for the property if it were zoned commercial.

Ordinance (d) to rezone a tract of land located in the 1200 block of Concord Road from R-2 to R-T/Z has been withdrawn and the applicant has said that he will come back in with single-family houses.

Ordinance (e) is to rezone a tract of land located at 413 Spring Street. Mr. Pace explained that the applicant came in asking to rezone just his building to C-2 and the Staff recommended R-4 with the suggestion to rezone the whole property.

Ordinance (f) is to rezone a tract of land located at 501 Manufacturers Road from M-1 to C-3. This is for a hotel and the recommendation will be made by Resolution that we expand the boundary for the C-3 Central Business District to include the area north of the Tennessee River between the Market Street Bridge and the Olgiati Bridge and south of Manufacturers Rd. Mr. Pace explained that this would help the parking situation; that you can have a C-3 zone in the CBD District; that Mr. Casey's property would be qualified for C-3, but it would have to go to the Design Review Committee.

Councilman Franklin asked if this was next to the JTT property. Councilman Benson pointed out that this is disputed property. Mr. Pace added that it also involved the Trail of Tears, and there may be some problem because of this on the Casey property; that the railroad spur issue is between JTT and Mr. Casey.

Chairman Littlefield pointed out that there may also be a fire code problem and suggested a letter to the Fire Marshall.

Councilman Hakeem questioned if it would not be better to clear up these problems before we do any rezoning. Mr. Pace agreed that this case could be deferred. Councilwoman Robinson stated that she would like to see it deferred.

Attorney Nelson stated that we were referring to this as "district" and as "zone", which was confusing; that the zone must fit within the district and until the district is expanded, this property can't qualify for the zone.

Councilman Hakeem questioned if we go ahead and do this, would we not be clouding the picture more?

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Councilman Benson stated that the issue of deferral came up at the Planning Commission meeting and the applicant's lawyer, John Anderson, made the statement that this was the first such development since the Choo-Choo and indicated that we were putting impediments in their way and that timing was of essence.

Mr. Pace stated that they had \$25 to \$30 million dollars tied up and indicated that the CEO of the large hotel chain had to have an answer.

Councilman Benson stated that the Council would hear the same argument.

Chairman Littlefield stated that they have to have the district (CBD) designation; that we need to acknowledge serious conditions about the compatibility of neighbors; that there is also a Fire Marshall issue; that we can, by Resolution, expand the CBD District, but we would still have the zoning to deal with.

Councilman Hakeem asked what the question was in regards to the Trail of Tears.

Councilwoman Robinson explained that they believed the John Ross Trading Post was in fact up the river at the

Walnut Street Bridge and the point of disembarkment was from this point, which would put the land on the Casey property, and this could prove to be a real point of controversy.

Mr. Pace stated that they had wanted to defer this until after the Riverfront Study was completed, which should be in June.

Councilwoman Robinson questioned if Mr. Casey could go ahead with his development if the Council does not rezone. Attorney Nelson responded in the negative, noting that rezoning is a three-month process.

Chairman Littlefield questioned if the applicant understood that the Resolution expanding the Business District was only the first step; that the second step is the rezoning; The Resolution is on next week's agenda and the rezoning is on for first reading, and the Council will have to deal with it.

Councilman Benson stated that it could be passed on first reading and still be turned down on second and third readings.

Councilwoman Robinson reiterated problems with the Fire Marshall and the Trail of Tears.

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Mr. Pace reiterated that they would like to see what comes out of the 21st Century Plan; that the applicant's uses are in line with what we want.

Councilman Franklin asked if this would "hogtie" JTT. Mr. Pace responded "no". Councilman Hakeem noted that this would be a \$30 million dollar hotel and there could be complaints about JTT. Mr. Pace stated that he thought the Hotel was AmeriSuites; that the barge on the river is to be a restaurant; that they were concerned about the zoning of the barge; that zoning goes to the center line of the river; that Mr. Casey's property does not go beyond the riverbank.

Resolution © is for a PUD known as the Spencer J. McCallie Homes Planned Unit Development on a tract of land located at 3500 Kirkland Ave. Mr. Pace explained that the McCallie Homes' roads are to be abandoned, and we need to move on the residential PUD to redevelop the McCallie Homes.

On motion of Councilman Hakeem, seconded by Councilman Franklin, the above items will be sent on to the full Council for further consideration.

PUBLICATION OF CHARTER CHANGES

Chairman Littlefield stated that we had dealt with the Charter and were moving toward the Referendum on August 1st. He asked if there had been any solution on the publication.

Attorney Nelson stated that it would cost from \$14,600 to \$14,700 and would be in the booklets in the newspaper.

Councilman Benson asked if this cost would be from the City Attorney's office.

Chairman Littlefield added that there was no way to do this cheaply.

Councilman Page stated that this was a lot of money to publish a lot of "junk" and questioned if this was the minimum that we have to do. Attorney Nelson explained that it legally has to be published one time. Councilman Page questioned if it could be put on a web site. Attorney Nelson explained that there was no known authority to do

this, and we would be taking a chance. Councilman Pierce indicated that he would like to take the chance. Attorney Nelson did not feel that this was prudent, considering that this is the Constitution of the City. Chairman Littlefield reiterated that there is no inexpensive way to do this; that the time is not yet here to put it on the web site, and he was sure to publish it this way would “pass muster”. Councilman Page asked if we were just publishing the changes. Attorney Nelson explained that we were publishing the whole Charter. Chairman Littlefield added that to describe what the changes are would take even more space.

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Councilman Benson suggested contacting Teresa Newton to “tabloid” it in “Woman’s Way”.

Chairman Littlefield stated that we had paid a lot of money to Attorney Nelson and the City Attorney’s office to get us this far, and they had spent a lot of time on this, and it needs to be done without a great deal of baggage.

Attorney Nelson stated that he thought it would cost less to publish it on Saturday, but that was not so.

Chairman Littlefield stated that this was set up for the next election in August.

LAND USE PLAN FOR DISTRICT 4

Councilman Benson stated that what he was bringing up was a matter of principle; that we had spent \$170,000 funding a land use plan in his area, and this plan had brought communities and businesses together to see a final outcome; that there was a lot of harmony and that Mayor Corker and Chairman Littlefield had witnessed this. Councilman Benson explained that now the problem is a certain sensitive border-line issue; that we had settled Applegate and Clearview (behind Targets) and north of Shallowford is settled with offices along Shallowford. He stated that they had met with the Clearview people and Monty Reeves is going to build a typical “pig parlor”, and RPA is working with the neighborhood, and it is zoned for what Monty wants to build in there (not for R-3). He stated that Barry Wild was working with them and the area behind Target’s is going to request that it be rezoned to offices with a greenway with a buffer before you get to apartments—that it will be a natural buffer. Councilman Benson explained that it was not “said” this way in the Land Use Plan; that it had been his contention that the Plan should be taken back to the consultants and the people if changes were needed and then bring it back up; that there is another choice if RPA will say that it is not exactly in the Land Use Plan but something within the concept of the Land Use Plan and that this would not be breaking faith with the people; that when it is brought to the Council he will stick with the Land Use Plan unless Planning says that it is within the concept of the Land Use Plan.

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CITY EMPLOYEE INSURANCE AS IT RELATES TO THE COUNCIL

Councilman Pierce stated that he had asked Randy Nelson to look at the City Employees’ Insurance and Randy had done some research on this.

Attorney Nelson explained that elected officials are entitled to hospitalization insurance and other benefits after

retirement under two circumstances—the first one being with 25 years of credited service and the second one being that an elected official of 62 years of age or more separates with 10 years of credited service. When the second circumstance occurs, then the formula gets applied to the premium, which says they separated after 10 years, paying 60% of insurance. Attorney Nelson explained that Councilman Pierce suggested that we delete that requirement and say that an elected official at 62 years of age will receive full pension benefits just as any other employee does. He added that an elected official gets time and a half and would qualify after two terms.

Chairman Littlefield stated that he would have to think about this.

Councilman Pierce added that the City's policy would become the secondary policy. Councilman Benson disagreed, saying that Medicare was the secondary policy.

Chairman Littlefield stated that he had not focused on this at all, and it could be taken under advisement when we go through the Budget approval time. Councilman Pierce stated that he did not think we had to wait until Budget time and that Attorney Nelson could proceed on this.

Councilman Hakeem asked for a one page summary stating what the Council has now, what they would have if this change takes place, and what it would cost. Attorney Nelson stated that the Benefits Department would have to provide the third part.

The meeting adjourned at 4:00 P.M.