

**LEGAL AND LEGISLATIVE COMMITTEE**  
**September 17, 2002**  
**3:00 P.M.**

The meeting of the Legal and Legislative Committee was called to order by Councilman Benson, Chairman, with Councilmen Lively, Hakeem, Robinson, and Littlefield present. Councilmen Page and Perce joined the meeting later. City Attorney Randall Nelson and Shirley Crowover, Assistant Clerk to the Council, were also present.

Others present included Shelley Parker, Daisy Madison, Mike Compton, and Jerry Pace. David Eichenthal joined the meeting later.

**NOISE AND OPEN CONTAINERS ORDINANCES**

Chairman Benson noted that the committee had guests present tonight; that an Ordinance that the Council passed last week did not seem to work this week and had created a problem. He called on Mrs. Ann Smith to relate the problem.

**Mrs. Smith** stated that she lived on Hamilton Cove Drive, about a mile from Hamilton Place Mall, and this was where the problem began; that there was a concert with music that was not too bad on Sunday around 4:00 in the evening; unfortunately this music, or noise, got worse as the concert went on and got so bad Sunday evening that they could hear it even with their ceiling fans on; that they could feel the bass of the band playing. She stated that they wondered "What is it?" and "Where is it?" She stated that she became angry after hearing the loud noise and drove to the mall to find out what was going on; that other people were also trying to locate the noise. She stated that she left the parking lot and went south and finally realized that the noise was coming from the Hamilton Place Parking Lot; that it was tremendously loud and continued on to 11:00 P.M. She stated that she called the police to complain, and they said there was nothing they could do about it because the people had a permit. Mrs. Smith stated that she thought we had a Noise Ordinance that controlled noise pollution; that she called the Manager of Hamilton Place and then found the number for noise pollution and called that number, and they suggested that she call the City Attorney's office; that the young lady who answered the phone did not think she needed to talk to Attorney Nelson and referred her to Ann Shafer; that Ms. Shafer asked her why she did not report this last night, and she told her that she did; that Ms. Shafer informed her that there was nothing they could do because these people had a permit; that it seemed with a permit one could do anything they wanted to do. Ms. Smith stated that at this point, she called Councilman Benson.

Chairman Benson stated that he got a copy of the permit; that this was permitted by Don Young, who stated that he told these people about the noise ordinance and told them that they would have to comply with it. Captain Francis explained to Chairman Benson that the officer called out saw the permit and thought it pertained to the newly passed Open Container Ordinance; that this officer interpreted the permit as having to do with Open Containers of Beer and thought they could make as much noise as they wanted to. Chairman Benson stated that we had a problem in interpretation of the Noise Ordinance. He stated that people living off Mentone could hear this, and his phone rang off the hook; that it sounded like it was right next to him; that the permit was given to a religious group, where there would be no drinking, but the music was real loud.

Mrs. Smith stated that they felt the bass the strongest; that at first she thought it was a car radio on her street, and it was very unpleasant; that the kids thought they were doing no wrong; that she was not opposed to kids having this going on, but she was opposed when it invaded others' privacy.

Chairman Benson stated that they had the speakers turned north and the music blared in one direction. He questioned if the problem was one of interpretation.

Shelly Parker agreed that evidently it was. Councilman Littlefield added that the Council had the Noise Ordinance written and subjectively there was no requirement to have a meter; that an offender could be cited to court if they were asked to quiet down and did not do so. He went on to say that there are not many meters out there; however this process is being resolved; that since we passed the Noise Ordinance there has been quite a bit of discussion about the meters, and they are in the process of being supplied; that there had also been discussions with policemen about the interpretation.

Attorney Nelson stated that his office had had several complaints, and the policemen were saying that they don't have the decibel meters to enforce this.

Chairman Benson pointed out that each meter would cost \$2,000 to be the quality that would stand up in court; that he thought the first step would be to tell people to turn their music down and if they did not do this then the decibel meter would be used.

Councilwoman Robinson stated that the Council had written the Ordinance, and she thought that the equipment that the officers needed to enforce the law should be allocated right away. Also, she stated, we should look at the permitting process and be sure that all groups are aware and know what their limits are so that they will not inadvertently run into trouble.

Chairman Benson asked Jerry Pace if he would relate this to Don Young.

Mr. Pace explained that when they have an applicant fill out an application for a zoning change that they have a list of do's and don'ts; that the applicant signs this, and they could be asked to sign a permit when Don Young explains things to them; that this would give Don Young a record with a signature. Chairman Benson reiterated that Mr. Young told him that he told the people about this.

Councilman Lively stated that the purpose of this meeting is informative; that he equates this with buying a four-wheel drive vehicle for snow—how often does it snow—that this is a one-time happening and nothing to get overly excited about. Chairman Benson stated that it was not a one-time thing if a permit entitles someone to raise as much noise as they want to.

### **PAWNBROKERS**

Shelley Parker stated that the cost of regulating pawnbrokers runs around \$220,000 per year in cost of a supervisor, employees, vehicles, office supplies and training—that most of this is salary, including data entry clerks; that they are proposing to impose a transaction fee of \$1.00 on each original pawn transaction to be collected by the pawnbroker and remitted to the City Treasurer on a weekly basis; that this should amount to about \$180,000 per year. He explained that this was a fee and not a tax; that it offsets the cost but does not completely cover it.

Attorney Nelson asked how a transaction would be defined. Mr. Parker explained that it was defined in the City Code. Attorney Nelson asked if with a bag of marbles each marble would be a separate transaction. Mr. Parker noted that this would be one transaction.

Councilman Pierce questioned if pawnbrokers were the only business we needed to regulate by putting a fee on it; that he thought this was just part of everyday business and now it looked like we were collecting for the salary for the person performing a job. Mr. Parker explained that the pawnbroker business was a heavily regulated industry for a reason—that there is a lot of stolen property. Councilman Pierce still questioned if we would start taxing other businesses; that this had always been a legitimate business. Mr. Parker noted that this idea had been floating around for sometime; that it does not completely offset the cost, and it seemed fair to them because so many employees were being used and it seemed that the people using this service should pay for it. Councilman Pierce still contended that this was another tax being added. Mr. Parker noted that it was not a tax but a fee. Councilman Pierce stated that it would be viewed as a revenue stream. Mr. Parker stated that he had documentation that it would offset the cost of regulation.

Councilman Littlefield asked what this unit did. Mr. Parker explained that they received daily reports of each pawn transaction in the city with an item description and serial number; that they use the NCIC to detail as much stolen property as possible; that they try to detect stolen property. Councilman Littlefield asked if there were any numbers to show how effective we are in doing this. Mr. Parker noted on the report that he had, it showed a \$124,000 value recorded; that with additional personnel they could recover more property; that they needed the personnel to enter data.

Councilman Page questioned what we were formerly doing and what was being proposed now. Mr. Parker explained that there would be a \$1.00 fee per transaction collected from the customer. Councilman Page asked if these funds would be used for upstaffing. Mr. Parker explained that this would not happen right now—that they would not be increasing their staff. Councilman Page asked where this proposal came from. Mr. Parker explained that it had been floating around and was done in other jurisdictions; that he equated this with a building permit fee; that we had to use office space and vehicles, and the industry should help pay for the regulation; that this helps the city offset the cost of regulation. Councilman Page stated that it seemed to him that this should have been discussed during budget time, and he questioned increasing revenue at this point—that it seemed after the fact or premature to him; that if he could see a plan and basis for this it might make a difference but that an added tax does not make a lot of sense to him.

Chairman Benson asked about the cost to the city of collecting this. Daisy Madison responded that it should be minimal.

Councilman Pierce stated that we had had some real problems with pawnbrokers; that the State required that we pass regulations; that Sgt. Chance worked in the department and kept coming up with ideas about regulating pawnbrokers; that we had had some real battles with them and the Council did not add any additional regulations; that this just keeps “popping” up. Mr. Parker noted that this was in 1999 in essence; that it was defeated and subsequently a Bill was filed that allowed Knox County and Shelby County to take thumbprints. He agreed that this had been an ongoing battle. Councilman Pierce suggested trying to regulate selling alcohol to minors. Mr. Parker explained that this money would not come to the Police Dept. but would go into the General Fund.

Councilman Page stated that it seemed to him that it would be more appropriate for Administration to propose this and that it be tied in with some kind of improvement; that it seemed to him like an additional tax, and he could foresee other departments, like PRAC for instance, raising taxes and also Public Works.

Chairman Benson asked if this came through the Mayor’s Office. Mike Compton answered that it did.

Councilman Littlefield stated that he had asked Shelley Parker to bring these Ordinances in so that the Council could deal with them; that we had had a continuous flow of items in the Legal and Legislative Committee such as the Noise Ordinance and the Open Container Ordinance, and we had pushed this back; that he had known that this would be an issue of some controversy. He suggested that we take this under advisement and study the issue and not try to complete it tonight.

Councilman Lively questioned the need of the revenue to defer the cost; that part of the merchandise was stolen but 95% that was taken in was by people in dire need of money, and we would be taking another \$1.00 out of their pockets, and he suspected that the pawnbrokers would pocket some of this money and questioned how much the city would actually get.

**Councilman Littlefield moved to hold this matter, and this was seconded by Councilman Lively.**

#### **TRAFFIC UNIT OF THE CHATTANOOGA POLICE DEPARTMENT**

Mr. Parker explained that the next Ordinance amended the City Code, relative to the Traffic Unit; that it was really a housekeeping matter with one important change; that being that PST's would be allowed to investigate minor traffic accidents. He stated that the Annual Report would remain the same, reiterating that this was mostly housekeeping. He added that he was taking the fees out because they are governed elsewhere, and he was deleting them.

Chairman Benson verified that the significant changes were the deletion of the fees and allowing PST's to investigate minor traffic accidents.

**On motion of Councilman Lively, seconded by Councilman Littlefield, this Ordinance will be added to the agenda with a recommendation for approval.**

Chairman Benson complimented Mr. Parker on his memo to the various sectors concerning solicitation on the streets; that people are warned and asked to move on; that if they do not, they are subject to citation. He stated that this had really helped in his district.

**REZONING SIGNS**

Councilman Hakeem noted that two months ago we had had a discussion about signs being posted when zoning cases are coming before the Council and who puts them up.

Chairman Benson noted that Barry Bennett was supposed to come back to us with recommendations. He added that Gene Hyde would also be coming back to us with ideas on clear cutting.

Mr. Pace stated that they ask that the applicant put them up immediately, and there is no way of policing this. He noted that he views each case himself, reiterating that there is no requirements that a sign be posted or that notification be given; that we do this as a courtesy; that they had found that yellow signs are more productive than letters and cover a broader spectrum. He explained that they notify for Planning Commission meetings; that there is no notification of when the cases come before the City Council. He added that this was a big expense for them and that they do notify Neighborhood Associations and that they needed to keep their files up to date when contact persons change in the neighborhood; that there are a lot they have to contact and make sure they are aware of the zoning changes and closure of roads; that if they are going to be required to post for City Council meetings there needs to be some action taken by the Council in regards to budget.

Councilman Littlefield asked if phone numbers were on the signs. Mr. Pace responded “yes”; that people could call and ask the times. He explained that it was hard to say when signs have to be put up. Chairman Benson asked about notification of cell towers. Mr. Pace explained that this did not come under them; that this was the responsibility of the Board of Appeals.

Councilman Lively added that the Council makes zoning decision on professional input; however neighborhoods do affect us; that some cases come back year after year, and the applicant sometimes leaves his old sign up and people don’t know that he is coming back again.

Mr. Pace stated that people are issued a sign, and then they note that the sign has not been put up; that sometimes people wait on putting up the sign for fear of opposition.

Councilman Hakeem asked how we balance the scale; that when they wait to the last minute, it is a disservice to the neighborhoods. Mr. Pace noted that it comes down to policing and the question of who enforces this; that they don’t have the manpower to do this.

Councilman Hakeem asked what would it take to know all of the zoning cases coming up in District 9? Mr. Pace explained that they send to the City Council office a packet; that they close out on the 10<sup>th</sup> of the month, and it takes them 3-4 days to prepare the maps and packets; that they send a set to the City Council members to go in their boxes; that each Councilmember would have to go through and pick out the cases in their district. Councilman Hakeem still questioned how we could balance this if the applicant waits to five days or less before the case comes before the Council or Planning Commission; that if we have some people not putting signs up, how do we balance this?

Councilman Littlefield stated that he thought this would have to be handled on a case-by-case basis.

Councilman Page noted that the signs could possibly be torn down by accident. He asked if Codes did anything in so far as notifying or if Neighborhood Services sent any notices. Mr. Pace responded that it still boils down to manpower and budget constraints; that we might could impose a fee that would be refundable to the applicant; that we could require a check, which we would hold as a deposit and if when we review the site the sign is up, we could give the check back—that this might be an incentive.

Chairman Benson noted that this would be tough, too, because sometimes the opposition tears the sign down deliberately.

Councilman Hakeem questioned if the Council should come up with a recommendation or if they should ask the Planning Staff to come up with recommendations. Mr. Pace noted that we could begin not depending on the applicant to put up the sign but that we put it up ourselves. Councilman Hakeem asked if he heard Mr. Pace correctly that he went by twice a month. Mr. Pace stated that was correct—at least once a month; that he went by each case.

Councilman Pierce stated that we could give the signs to the Chairman of the Council and let him “ride the roads”. Councilman Lively added that he checks them out in his district and questioned if the date that it comes before the Planning Commission and also the date that it comes before the City Council could be incorporated. Mr. Pace explained that the date before the City Council would not work because sometimes the Planning Commission defers a case, and the month and date would be wrong. Councilman Lively questioned if they put the dates on with markers. Mr. Pace responded “yes”—waterproof markers. Councilman Hakeem asked if this was something an intern could do.

Attorney Nelson added that State law requires a 15-day notice of the hearing before the City Council; that neighborhood groups could be advised that two weeks out this will appear in the newspapers, and they will know this and can look in the Legal Notices everyday and then they cannot say they did not know.

Chairman Benson noted that Chattanooga.Com puts the Council agenda on the internet and the public is hitting their computers.

Mr. Pace added that they needed to be given the money in their budget to handle this.

Attorney Nelson noted that it could go on the City's web page also. Mr. Pace noted that they do put this information on the RPA website.

Councilman Hakeem asked if we were just going to leave this hanging? Mr. Pace stated that they would give the Council some better ideas to work with.

### **BEER BOARD**

Councilman Pierce asked if the Beer Board was separate from all other boards. Chairman Benson asked if Councilman Pierce was advocating that the Beer Board be the only board that a non-resident status should apply. Councilman Pierce explained that he was asking that the Beer Board be made uniform with the other boards. Attorney Nelson stated that he had drafted something in regards to this. This can be discussed next week. Attorney Nelson stated that he would make copies.

The meeting adjourned at 4:00 P.M.