

LEGAL AND LEGISLATIVE COMMITTEE
January 12, 2010
4:00 P.M.

Councilman Murphy, Chairman, called the meeting of the Legal and Legislative Committee to order with Councilmen Benson, McGary, Ladd, Scott, Rico, Robinson, Berz, and Gilbert present. City Attorney Valerie Malueg and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Solomon Hatch, Mark Keil, Jana Lowery, Larry Zehnder, Barry Bennett, Chief Parker, Greg Haynes, Daisy Madison, Steve Leach, Lee Norris, Mayor Littlefield, and Richard Beeland.

Chairman Murphy noted that there was nothing on tonight's agenda that needed discussing; however Mr. Leach had a verbiage change in Ordinance First Reading (a) on next week's agenda.

Councilwoman Berz asked the status of the Animal Ordinance? Chairman Murphy stated that it would be delayed another week.

Ordinance 6(a) on next week's agenda amends Chattanooga City Code, Part II, Chapter 2, Section 2-553 relative to local preference. Adm. Leach stated that he would rather the word "equivalent" be used than "comparable"; that he thought this was a better term and more distinct, and they would be more comfortable with this. Attorney Malueg stated that Mike McMahan had drafted this—not her; that if the intent was to make it "equivalent", which might be a better description, that this could be done. Councilwoman Berz stated that we would have to define what "equivalent" means. Adm. Leach stated that it means "matching or co-equal" Councilwoman Berz stated that wording is sensitive—that "equivalent" means equal and things were not always equal—such as the lowest and most responsive bid. Councilman Murphy stated that he thought at this point it would have already gone through "lowest and most responsive" and now it was time for the "coin flip"; that we could send an e-mail to Counsel to come up with the best word or words.

Councilwoman Scott wanted to know how "local" is defined. Chairman Murphy responded that it isn't defined right now—that's what we are fixing. Councilwoman Berz stated that local really means "regional"; that the definition of "local" is more "regional"; that we were discussing what "local" means and the other word is "equivalent"—that we have to be careful.

Councilman McGary stated that he thought the word "comparable" works—that "equivalent" puts us in a straightjacket. He also asked to insert "and/or labor". Councilwoman Berz stated that she also liked "comparable"; however Adm. Leach felt that this was too much of a gray area.

Councilwoman Berz stated that what was bothering her was the case where there was a \$2,000 difference and tended to think “equivalent” would not work as well as “comparable”.

Mr. Johnson stated that the big issue was purchasing “widgets” versus construction contracts; that it would “kill” local contractors if they could not do any work outside of this area; that in construction, businesses have to go elsewhere to survive and get work; that there is a difference between purchasing and construction contracts; that if we have an out-of-town contractor, they usually hire local people; that we were treading on dangerous territory.

Councilman Benson stated that we had been down this path before and asked if there was any opposition to this being in place, noting that Roger Tudor was present.

Mr. Tudor stated that he had just read it; that contractors often “sub” labor out and the labor force already exists. He stated he needed time to digest this—that bidding on “widgets” was one thing and construction work something else; that we needed to have some dialog. Chairman Murphy stated that this would be taken up again next week.

Chairman Murphy mentioned a seminar being conducted by the U.S. Attorney’s Office in regards to a “Gang Program”. This will be held March 10th, and he felt it would be beneficial to the City; that the Mayor will be there. He stated that councilmembers would not be obligated for the entire day.

Councilman McGary wished to discuss an Open Government Resolution. He explained that he was initiating Open Government that had been initiated at the Federal level; that there was a lot of information on this, and he wanted to show how it could work for the City. He stated that this is public data and on our server; that this data can be put in the public’s hands. He stated that he had drafted a Resolution, which is made a part of this minute material, and Mark Keil was present if concerns were raised. He invited Mr. Keil to the table.

Mr. Keil began by saying that this initiative is not an unfunded Federal mandate; that any new software purchased would allow data to be put out to the public; that some information has legal attributes and can’t go straight to the public. He explained that the general public could take this information and do their own analysis; that we could provide large blocks of data, and they could see what is going on; that public awards could be given for “aps”, which would become part of our website. He noted that this could show government’s inefficiencies because we would be opening ourselves up, but it would also show that we do have integrity; that this would not happen overnight.

Chairman Murphy asked that Mr. Keil give us an example of information that could be put on the server. Mr. Keil responded crime analysis could go out; that we already work with the Sheriff's Dept. and are semi-metro; that legal matters can't be put out such as business licenses data.

Councilman Rico asked how much this would cost? Mr. Keil responded that they were asking for no funding; that there was no work at this point; that they could do some things without a Resolution in so far as any new software they would purchase—that they could give directions and our goal.

Councilwoman Berz stated that she supported open information and government; that we could pass a Resolution saying that this is the direction and right now, as we order new software, we could build this function in; that any information in the public domain is classified in category. She asked about protected information. Mr. Keil responded that would be ongoing investigations, HIPPA, and business licenses; that there is a lot we could give out to the public, but it would have to be vetted.

Mr. Johnson noted that the State already has an Open Records Law and when you told someone to go to the computer to get information, they would say that was not proper; that the City employee needed to go to the computer and give them the information. Mr. Keil stated that this does not replace the Open Records Law.

Councilman Gilbert mentioned that bids go out in the newspaper but not on the website. Mr. Keil explained that this was not what we were talking about here—that that would be under the Bidding Procedures Manual, and this is mass data, which would be there for research—something like a “Data Warehouse”.

Chairman Murphy used as an example someone who might be interested in how many of their neighbors were engaging in curbside recycling and brush collection; that right now this would put extra work on staff or city employees. Mr. Keil stated that he thought Chairman Murphy was making an argument for this; that they had data “coming out of their ears” and did not have time to look this up for everybody; that it could be put out in data format. Chairman Murphy stated that then the public could download this data. Mr. Keil stated that there might be a small purchase fee to download, and this would not add to staff time. Chairman Murphy questioned if this available data would show mass marketing who the best environmentally conscious people are and could make mailing lists available. Mr. Keil stated that this would be a downside to open records; that we would have to have proper vetting.

Councilman McGary stated that this was a direction; that it would give citizens a chance to utilize government data; that other cities are doing wonderful things such as showing the sort of crimes that are taking place. He noted that he had put a Resolution together and asked that Councilmembers look at it to see if they thought it would be something that could be beneficial.

Mr. Keil stated that we could decide what data we have that can go out and what can't go out; that they would not push hard for anything that had a cost.

Attorney Malueg noted that the Open Records Act is complex, and it is not so simple as to say yes or no; that there would have to be safeguards in place. Mr. Keil stated that this was what he dealt with every day. She asked about software to see how this process works, and Councilman McGary mentioned two websites.

Councilwoman Scott stated that this was a great area to explore; that data can be put out there for good and bad; that citizens have a keen ability to see if something could be done better; that with Open Government, they could look at what we are doing; that this was a wonderful direction.

At this point, Councilman Benson stated that next week we will have to recess the Council meeting and not adjourn.

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

The meeting adjourned at 5:00 p.m.