

LEGAL AND LEGISLATIVE COMMITTEE

April 13, 2010

3:30 P.M.

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

Others present included Ass't Chief Maffett, Officer Kennedy, Frank Hamilton, Steve Leach, Gary Hilbert, Dickie Hutsell, Greg Haynes, Dennis Malone, Dan Johnson, Lee Norris, Bill Payne, Karen Rennich, Barry Bennett, Chief Parker, Larry Zehnder, Daisy Madison, John Wall, Jerry Stewart and Officer John Collins.

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

RECOMMENDATIONS FROM BEER AND WRECKER BOARD

Attorney Noblett stated that John Collins was here to tell the Council about the problem—towing from private property not initiated by owner; that the suggested rate is \$125 an hour for towing in the daytime and \$135 per hour for towing at night and on the weekends. He added that this was consistent with Nashville and Knoxville. He turned the meeting over to Officer Collins.

Mr. Collins stated that he would present to the Council the proposed changes in private property laws; that right now there are no regulations, and they can charge anything—that there could be \$300 and up towing bills, which presents a hardship. He stated that he looked into Knoxville and Nashville—that they allowed extra charges for winches and dollies; however it was easier not to count in extra charges for miscellaneous, and the recommendation was \$125 per hour during the day and \$135 an hour at night and on the weekends. He stated that this was presented to the Beer and Wrecker Board, and they agreed. He mentioned a DROP Fee posted on trucks—that it could be \$75.00 depending on the size of the truck. Attorney Noblett agreed that there could be larger rates for larger vehicles and stated that this had been approved by the Beer and Wrecker Board. Mr. Collins added that Attorney Ken Fritz also approved of this.

Chairman Murphy stated that we had folks present today who wanted to talk.

Mr. Les Cantrell of S&H Towing came to the table. He stated that most of his towing was in Brainerd, and he towed under all kinds of conditions. He urged to keep the rate at \$250 an hour and no storage fee, citing the cost of fuel and the cost of insurance. He stated that \$135 was not enough, and he also mentioned that under these new regulations, a vehicle could not be moved for three days.

Chairman Murphy mentioned the difference between normal Police Dispatch towing and private.

Mr. Cantrell stated that they would make more off of police calls if this passes; that all property is owned by somebody, and they could post signs and people could read them.

Councilman Benson stated that we had crossed this bridge before, and we hoped that the market place would be reasonable; however some had not been reasonable. He questioned why the rates in Nashville and Knoxville could have this ceiling, and we can't do it in Chattanooga?

Mr. Cantrell responded that we have at least 70 towing companies in Chattanooga and in Nashville and Knoxville there are only one or two, and they get more calls than us.

Councilwoman Ladd stated that she had been a property manager of acres of parking during Riverbend; that people pulled on to the lots that were non-consensual, and they made the lots free to Riverbend with the stipulation they not park in flower beds or block aisles; that they still had to tow because people would park in flower beds and block aisles; that there was a multiple amount of damage and those responsible only had to pay the towing fee. She stated that the towing companies were worth what they were asking because a majority of the people they have to deal with present tough situations; that they have to use additional equipment and time, and this cap is way too low if they want to stay in business; that with this small fee it would not be worth their effort because they have to deal with all kinds of issues on property where parking is illegal; that if it is not profitable enough, it will be leaving property owners to have to deal with this problem on their own. She stated that these gentlemen deserve fair rates.

Councilwoman Berz stated that Mr. Cantrell's towing is in her district; that these are posted lots that say "Don't Park Here". She suggested that the amount of the towing be listed as well. She stated that she agreed with Councilwoman Ladd that we need to help private businesses with damage. She asked Mr. Cantrell what fee he had come up with that would work, and it was \$150 an hour during the day and \$250 an hour at night and on weekends, noting that the Brainerd area could be a party zone. Councilwoman Berz stated that they wanted restaurants like Chilis and Applebees to stay in the area. Mr. Cantrell stated that restaurants such as these have their own officers and guards. Councilwoman Berz mentioned that Starbucks had had windows broken and their shrubbery torn up.

Councilwoman Scott stated that she knew there were a broad range of charges in Chattanooga from \$150 an hour to \$450 an hour. She stated that she did not have a feel for storage charges. Mr. Cantrell reminded that he offered free storage. Councilwoman Scott stated that we could set a fee and storage could be included; that it would be significantly more than the base rate without storage. Attorney Noblett noted that storage was usually \$20 a day and \$35 at tops. Mr. Cantrell stated that most people pick up their vehicle the next morning. Councilwoman Scott noted that towing companies charging a fee of \$450 made other towing companies look bad. Mr. Cantrell stated they just wanted a good figure and could put their rate on the sign.

Councilman Gilbert stated that his area was also Brainerd and that he agreed with Councilwoman Ladd that \$125 was too low and that also a ceiling needed to be posted. He asked Mr. Cantrell if people were ever violent, and Mr. Cantrell responded “all the time”. He went on to say that windows had been knocked out of his office and there were people with pistols in their laps, and he had received death threats, and he could not do this for \$135 an hour because people do get violent.

Councilwoman Robinson stated that she was concerned about the posting of the parking lot towing fee—that the rates could be different for different companies and how could you let people know. Mr. Cantrell stated that they would agree to put a cap on it; however \$135 an hour was not feasible.

Councilman Benson stated if all towing companies were like Mr. Cantrell there would be no problem; that the Beer and Wrecker Board had worked a long time on this.

Mr. Cantrell suggested \$150 an hour during the day and \$250 at night and on the weekends. He also noted that if a letter is not sent three days before to the City, they could not move a car.

Officer Collins mentioned first the difference between city calls and private calls. He stated that going up to \$125 an hour during the day was the highest in the State; that some require more insurance; that Mr. Cantrell does not tow for the City of Chattanooga and is not on the list and does not have to meet our requirements; that rates are higher on Police calls because of the added cost; that Mr. Cantrell is saying that rates should be higher on private because of the risks. He stated that rates started at \$75 an hour.

Councilwoman Scott asked about the three days or 72 hours, wanting to know the background and how this works, mentioning a car abandoned on a front yard.

Attorney Noblett explained that this was so someone in the Police Dept. would know who would have authority to go on certain property; that with three day’s notice it would be on file in the Police Dept.

Officer Collins added that this was taken from other cities in order to have an authorized agent to sign a receipt by saying in advance that it is on file. He went on to say that his main concern was in reaching a cap. He noted that an officer on the scene and the three day notice could be waived.

Councilwoman Berz noted that Knoxville was one of the cities where there were only a few towing companies. She asked if a comparison was made with other cities like us?

Officer Collins explained that Knoxville bids out for police calls from one company—that this is police calls. Mr. Cantrell contended that they do the same thing for private towings as well—that they don't have 70 companies.

Councilwoman Berz stated that she wanted to compare “apples to apples”.

Officer Collins stated that he talked to Atlanta, and their highest fee is \$115 an hour; that Memphis is working on a cap; that Nashville has several wrecking companies and their Police List is smaller, but they have as many private wrecking companies as we do.

Councilwoman Berz stated that she wanted to support private businesses but had a problem with the lack of full notice.

Chairman Murphy stated that the cap could be between \$250 an hour and \$350.

Councilwoman Berz still maintained that we needed to protect private businesses.

Officer Collins stated that the Beer and Wrecker Board feels that \$125 is strict enough and people could lose their cars if it is too high.

Councilman Gilbert asked about residential property where he might have a house and his driveway would be blocked? Mr. Cantrell maintained that the car could not be moved for three days if this is passed.

Chairman Murphy stated that this was subject to a motion tonight.

He then went on to agenda items, beginning with **Resolution (c)** authorizing a partial amnesty period for outstanding fines and costs that are owed to the City by reducing the amount owed by 25% from April 19, 2010, until May 28, 2010. He asked how much was owed to the City for a ten year period.? Ms. Madison responded that \$12.3 million was outstanding. Chairman Murphy stated that there had been a meeting concerning this with the City Court Judge and a consensus was reached concerning the amnesty period, and we have a Resolution to vote on this tonight.

Ms. Madison stated that this was our third amnesty period; that there were fines outstanding, and we charged interest, and we waived the interest and people just had to pay the fine itself; that at the urging of Chairman Murphy, we have agreed to do another amnesty with a 25% discount, which should be enough incentive to make people pay their fines and yet not too much of a concession on the City's part; that 75% is better than none; however 100% would be better. She went on to say that it has been discussed that if people don't pay during the amnesty period, then there will be more stringent collecting measures such as booting and garnishments.

Chairman Murphy stated that this is the last shot before we come after people.

Councilman Gilbert asked if people had to pay all at once or if they could set up payments? Ms. Madison responded that we don't assess interest on the account; that the motivation is to get them to pay off the entire amount.

Councilwoman Ladd asked how we got this far out of control? She noted that if we had done what was necessary as the violations occurred, we would have gotten 100%. She questioned how we let this go? She stated that this was habitual and still wanted to know how we got to this place.

Ms. Madison responded that the City is a business and will have a certain amount of bad debt; that some of the violations were from out of town and some were people who were incarcerated; there is also a certain amount of cost for collections; that we hired a collection agency but have not been as vigorous in collecting as we could have been; that the City has a 95% collection rate, which is not too bad; that some people are habitual offenders, and there is no explanation.

Councilwoman Berz asked of the \$12 million dollars, what is collectible? Ms. Madison responded that she would have to ask the collection agency; that we would see during the coming months; that she could not answer this. Councilwoman Berz stated that it would probably be pretty low. She asked if there was a plan to not get into this position again? Ms. Madison responded that we would monitor higher accounts sooner rather than later; that some are not cost effective. Councilwoman Berz asked if in the future we have told the collection agency not to use the soft glove approach? Ms. Madison responded that we had.

Councilwoman Robinson stated that she assumed it was a paper ticket; that officers should know who the chronic offenders are and who it ticketed a lot; that these officers should be empowered to call for a boot.

Mr. Johnson stated that this was a good point and something we would like to get to; that we are talking to a company about the booting system; that there would have to be a change in our Code; that it currently requires a Judge's order, which is impractical. He stated that we knew the problem now but would have to change the Code.

Chairman Murphy stated that there was only a handful of flagrant violators; that if we go to the indigent people, we can't see money; that they could be in jail or even dead; that we can't hope for much higher than 95%--that a vast portion is not collectible—that he thought it might be 10% and now he thought it might be 7%, but we would see. He stated that this was the first step—mercy before the hammer.

Ms. Madison noted that technology has changed as to booting; that there are now portable tag readers and a portable boot; that there can be a number to call and people can pay by credit card and get their car "unbooted".

Councilwoman Robinson stated that some people might not return the boot and there should be a charge for people who "unboot" their cars and don't return the boot; that we need to change the code so we can implement this as quickly as possible before July 1st.

The meeting adjourned at 4:15 p.m.