

**LEGAL AND LEGISLATIVE AND SAFETY COMMITTEE**  
**DECEMBER 13, 2011**  
**4:20 P.M.**

Councilman Murphy, Chairman, called the meeting of the Legal and Legislative and Safety Committee to order with Councilmen Rico, Benson, Scott, Robinson, Berz, and Gilbert present. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, John Bridger, Richard Beeland, Attorney Keith Reisman, Daisy Madison and Randy Ray.

**On motion of Councilwoman Scott, seconded by Councilman Gilbert, the minutes of the previous meeting were approved as published.**

Chairman Murphy stated that he had planned to take up Charter changes due to the Recall and discuss any problems.

**REDISTRICTING PLAN**

Chairman Murphy noted that there was a suggested alternative to the Redistricting Plan. He asked if anyone wanted to make a public comment at this time; that the Council's Plan is on the table; that the public would have an opportunity to address the Council later in the meeting.

**Mr. Joe Rowe of 1204 Talley Rd.** wished to speak. He stated that he was here tonight on behalf of Concerned Citizens to present a proposal; that every ten years a new Redistricting Plan has to be submitted with "one person—one vote"; that the population had increased from 155,000+ to 167,000+. He stated that their Plan, today, showed nine districts with equal population; that under Federal Law it has to be under 10% (18,630)--that their Plan is an 8.9% deviation with the greater amount of people in District 8 and the lowest amount in District 1. He stated that this would satisfy the Federal Constitutional Requirement of one person-one vote; that Districts 5, 7, 8, and 9 would be Minority-Majority Districts; that Section 2 says it is unlawful if redistricting results in discrimination; that the Majority-Minority District reflects tenants of the Voting Rights Act. He mentioned the population percentages of the nine districts in 2000—that the benchmark in the 2000 Plan was to maintain these four districts; that the Plan they proposed preserved these four districts and exceeded the 50% set by the Supreme Court; that Districts 5, 7, 8 and 9 following tradition with an overall deviation of 8.97%; that for the basis of comparison, they were recommending that the City Council adopt this Plan.

Councilwoman Scott asked how "compactness" was defined in a district? Mr. Rowe responded that it was the makeup of the people in the district—not being split and being contiguous. Councilwoman Scott indicated that she knew what contiguous meant but compactness was different. Attorney McMahan explained that compactness is a geographical concept—

redistricting compactness and respect for previously drawn boundaries and the concept of the least change.

Councilwoman Scott questioned if under this Plan, District 6 would meet the definition of compactness and also District 9; that this was not clear to her. She mentioned the “stars” in connection with Districts 7 and 8. Chairman Murphy explained that the stars represented the residence of the incumbent in that district. Councilwoman Scott questioned if Councilman McGary would be in District 7 or 8? Mr. Rowe responded that they did not cut anyone out of their district.

Councilman Rico stated that every week Mr. Rowe had been coming here, and we had made the changes he wanted. He questioned if this was just change for change’s sake? He stated that the Council took a consensus vote last week; that this Plan today is gerrymandering and District 9 and 8 does not make any sense; that this has been changing every week; that we agreed last week to go with what Randy Burns and Councilman Murphy had come up with.

Chairman Murphy stated that he had a question for Mr. Rowe; that during the Thanksgiving break he was trying to bring District 7 over the 50% Black population number, and he had worked on this and in doing that District 8 went below 60% and Mr. Rowe had said not to do this. He questioned if Mr. Rowe had changed his mind.

Mr. Rowe stated that their adopted Proposal was on the table; that Chairman Murphy had come up with three Majority-Minority Districts, and his group had talked to other people—that this Plan B would enable them to accomplish their objectives; that they felt this Plan was in the best interest of the African-American community.

Chairman Murphy reminded Mr. Rowe that we had stopped going in the direction of bringing District 8 below 60% in order to get District 7 over 50% but District 8 would come down.

Mr. Rowe still maintained that they preferred their proposal.

Councilman Gilbert asked between what we voted on last week and what is before us today, which fits the law? Mr. Rowe responded that the Council was retrogressing—that they reached a consensus on three districts when we had always had four districts; that to reduce this number down is retrogression; that what they were offering now was more consistent with the law.

Attorney McMahan stated that he disagreed with Mr. Rowe; that he was saying that the Black population has a right for preferential treatment—that redistricting is supposed to be race neutral; that he did not want retrogression; that we had three districts in 1990 and one swing district; that there was essentially three strong Minority-Majority districts—that that is where we were in 1990.

Councilman Gilbert asked if Mr. Rowe's Plan fits the law? Attorney McMahan responded that the proposal by Chairman Murphy is a better Plan with all parameters; that Mr. Rowe's Plan is better for Black voting representation; that it is the Council's vote, and they are the ones to make the legislative decision; that compactness is something to think about.

Councilwoman Berz stated that she had a great deal of respect for Joe Rowe and his friends that were in the audience; that looking at contiguousness—her District worked “hands on”—that it was minorities and non-minorities working together; that we needed to think about people working together and there were never any folks that had been disenfranchised; that the assumption is being made that once we cross the freeway into the East Brainerd area that it is a community of like interests—that this is reverse discrimination—that this Plan would take away the “heart” of projects in her district that had been going on for a long time; that last week she and Councilman Gilbert met long and hard to try to “up” his minority population and now she was finding that this was not enough—that this was saying that only White people think alike and that Minorities think alike, and this was a bit of an insult to her; that this week she was seeing a district that was very gerrymandered; that she had represented those who were in her district and represented them well, regardless of their race or creed; that to try to re-do districts that are working together and give preferential treatment to race, that she had to question this.

Councilman Rico stated that with this Plan, the councilman from District 8 would be representing people he had never represented before and would be people who are now in District 9; that this was not fair to our people and because of a race issue to take the peoples' council person away; that Councilman McGary would be representing people he had never represented before and this was not fair to constituents; that there were neighborhoods being put together that had nothing in common under Mr. Rowe's Plan.

Councilman Gilbert stated that he would bring up something that had been brought up several times—that is new annexation. He asked if Mr. Rowe's map showed any new annexed areas? Mr. Rowe responded that to do this, he would have to go back to the very beginning to determine the average and then redraw lines; that we might need more councilmembers; that we could increase the number of councilmembers—that this would be the Council's decision; that 6,000 families could come into a community who might be supportive of the majority and not Blacks. He went on to say that every elected official has an opportunity to renew their contract—that there was no guarantee that those sitting on this Council would be sitting on the next Council; that we might have to bring more into the political process.

Councilman Benson stated that he was disappointed with what Mr. Rowe had brought before us; that we had worked long and hard to assimilate cultures; that we can't do it completely and have to do what is best for the citizens of Chattanooga. He stated that in his District, he had Land Use Plans and under this Plan he pointed out that the property that I-Hop is wanting

would be in Councilwoman Berz' district; that this Plan would be going into the "heart" of his district; that we had to look at services to the community—that with Whites and Blacks we have to have a compassion for serving; that this Plan would destroy all the plans that are in place in districts, and the districts would be fragmented. He stated that he could not go along with this—that it "gutted" his district.

Mr. Rowe responded that the entire U.S. Constitution requires redistricting every ten years; that redistricting is to improve the future and not hold on to the past; that there has been re-gentrification downtown, mentioning the number in the county jail and college students; that we need to look forward in the ten years and not hold on to where we have been; that every ten years we are forced to look forward and not look backwards; that this is about the people and not about elected officials.

Councilman Rico stated that it is about the people and not politicians; that Mr. Rowe is looking at the past and asking White people to make what has gone wrong, right; that he is saying the Whites are taking advantage and people have bent over backwards for them (Blacks)—that elected officials are to serve all, and if they are not willing and able to serve all, then they should not be voted in; that he served everyone in his district and was not worrying about being re-elected; that this race thing was getting out of hand, and he resented this.

Mr. Rowe responded that there were injustices to Black people and Councilman Rico was ignoring this.

Chairman Murphy stated that we previously had a number of objectives; that we had found a way to move District 7 over 50% Voting Age African American, but it caused District 8 to go below 60% and Mr. Rowe had said not to do that. Now there is a map with only one district above 60% of Black Voting Age. He mentioned the millions of dollars in District 8 that had been spent on the Hispanic Outreach; that by 2013, we may not be able to have District 8 to be Majority-Minority under Mr. Rowe's map; that Mr. Rowe told him not to do this in the interest of maximizing minority districts to elect a preferred representative. He asked Mr. Rowe if it was his way or the highway?

Mr. Rowe responded that they supported the Proposal that he had made; that the college needed to be taken out; that the Council's Plan failed to recognize the impact of college students and the jail; that the Council told them they were running out of time, and they felt it was necessary to get a professional to help out here today; that what is presented today is good for the entire community.

Councilman Gilbert stated that the one he wanted to address had left the room; that racism is still here; that we have not arrived; that February is Black History month; that we have not arrived, and it needs to be understood that the Blacks still need certain things in place; that he did not like what Councilman Rico said; that both Blacks and Whites had fought for Black

opportunities and for Blacks to have a fair shake—that we were not there yet, and there was still a need; that one day things might change but until then we need things in place to give opportunities and the government needs to enforce laws.

Councilman Benson stated that what we did last week was for a united community; that the group here today needed to spend their time in getting voter ID Suppression repealed or annulled; that this would take a concentrated effort—that this would cause them to lose many more voters than redistricting would; that the proposed plan was tearing up unity and plans.

**Ms. Maxine Cousin** spoke next. She was from the Sheridan community. She thanked the Council for giving her the opportunity to speak; she stated that she was a plaintiff in the 1987 lawsuit challenging Chattanooga’s at-large system of electing the City Council, and she had remained active in the community since then. She stated that she currently resides in City Council District 9 and was here today to testify in favor of the plan that was presented by Joe Rowe; that the Plan that Joe Rowe presented on behalf of herself and other concerned citizens maintains the core and general configuration of the existing city council districts, and leaves all incumbents in their current districts. It follows all traditional redistricting principles. In addition, she stated, it gives the minority community in Chattanooga an opportunity to elect candidates of its choice in four city council districts. It acknowledges changes in population that have occurred over the past twenty-five years and anticipates more changes that will occur in the next ten years. She stated that it was a fair plan for all parties, keeping districts competitive and preserving communities of interest. She ended by saying that this Plan is in the spirit of the Voting Rights Act and would be a great step forward for our community, and she urged the committee and the full City Council to adopt this proposed redistricting plan. She added that Councilman Rico had talked about racism and said that White people have bent over backwards; that there are things that have never been addressed.

**Corliss Kilpatrick of 510 Kilmer Street** was the next speaker. He talked about the work that had gone into this Plan; that citizens had taken part in this work without the benefit of information; that they had met and fought about this; that he understood that the Council had worked hard, but it was their obligation to hear comments from citizens; that they wanted what was best for their community and asked that the Council respect them and their wishes. He stated that he was concerned about the next ten years and 20-30 years as it impacts their representation in this city. He urged that the Council go along with the Plan today.

**Steve Erley of E. 13<sup>th</sup> St.** spoke next. He stated that Councilman McGary was his representative, and he hoped he was having fun in Germany. He stated that he was feeling out of sorts—that he was a citizen of Chattanooga and no one had asked him his opinion about redistricting; that he commended the City’s transparent job and the consensus taken last week; that the work with the County’s redistricting was all done in the back chambers. He stated that we could not go forward with Mr. Rowe’s Plan—that it would keep us behind, and we needed to go forward; that with the City’s Plan we could still maintain “one person-one vote”; that the

Plan described last week does this, and he would urge that the Council go forward with this Plan. He thanked the Council.

**Sherman Matthews of 2808 Terry Court** was the next speaker. He stated that every ten years we go through this. He mentioned a book that had been published that talked about most politicians looking at self-interest; that the districts should be maintained and their legislators should vote for them. He stated that he had a great concern that democracy was being jeopardized; that we think we are free, but the Public does not understand—that the general public don't know what districting is and don't understand these shenanigans; that the people who hold the key to democracy are elected officials such as the Council—that they are the ones that determine what is right for the people and not what is right just for themselves. He asked that the Council keep this in mind when making their decision. He stated that Black people are doing well—that there are more poor Whites than Blacks; that everyone should be included in this democracy, and it is up to the Council to make sure this happens.

Chairman Murphy thanked everyone for working on this. He then asked if it were the Council's pleasure to move on to the topic of the City Charter at this time, noting that we only had six members present.

Councilwoman Robinson suggested traveling light and waiting for this discussion—that she did not think it was controversial. Chairman Murphy noted that it would not become controversial until the Council proposes what to do about this.

Councilman Gilbert stated that he thought we decided to talk about pulling out the 10% out of the public hearing issue. He wanted to know what date we would do this?

Attorney McMahan explained that the Fire and Police policy is covered under the Charter; that the rest is set by Ordinance; that he thought the Council needed to listen to Personnel and Administration on this issue.

Councilwoman Scott stated that it was her understanding that Attorney McMahan was working on a proposal concerning this. Attorney McMahan responded that he was working on this along with the Personnel Office, "yes", but they were not there yet; that he could bring something by the first of the year. Councilwoman Scott indicated that she had two meetings set for January through the 31<sup>st</sup>; that if we take it up before then, we would have to come up with another whole day to get it on schedule; that she would like to have the City Attorney draft something before we have a discussion.

Chairman Murphy offered that one way to get to it sooner would be to put it in his committee. Councilwoman Scott indicated that she would be happy for him to do this.

Attorney McMahan stated that this had been in the Ordinance for an untold number of years; that the City had never come close to approaching 10%; that we start with a three-day suspension and then a five-day; that people subject to this policy are on the lower end of the 10% range.

Councilman Gilbert stated that management stresses the 10% to employees; that in some cases employees had wanted to come for a hearing but could not because of the 10%; that there are cases like this; that all employees should have the same rights when it comes to grievances; that to tell employees they have to give up money to voice an opinion is not fair; that the 10% stuff should be out.

Chairman Murphy noted that Councilwoman Scott had indicated that this could be in the Legal and Legislative Committee; that he would take it up at the first meeting in the new year.

Councilman Benson stated that he was not for two classes of citizens among employees. Chairman Murphy asked that Councilpersons reserve their opinions until the committee meeting.

Chairman Murphy mentioned the issue of the Recall Charter and it not being controversial, stating that some were not happy, and he did not want to take this up with only five members present.

This meeting was adjourned at 5:10 P.M.