

LEGAL, LEGISLATIVE AND SAFETY COMMITTEE
SEPTEMBER 4, 2012
3:30 P.M.

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

Others present included Mayor Littlefield, Dennis Malone, Dan Johnson, Larry Zender, Lee Norris, Steve Leach, Marie Chinery, Vickie Haley, Richard Beeland, Chief Parker, Greg Haynes, Danny Thornton, Karen Walsh, David Long, Johnny Feagans, Bill Payne, Jim Templeton, and Jerry Stewart. John Bridger joined the meeting later.

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

ANIMAL CARE TRUST PRESENTATION

Chairman Murphy called on Karen Walsh, Executive Director of McKamey Animal Center, who introduced David Long, Director of Finance. She presented their Financial Report (which is made a part of this minute material) She mentioned that Councilman McGary had asked about grants and what would happen to their Staff if they went away, noting that they were always looking for pro-active ways, mentioning the program that targets pit bulls and their spaying and neutering program. She went over their Financial Report in detail, mentioning their advertising in the community and an I-Phone app. She also brought attention to a Pledge Form that was included.

Chairman Murphy thanked her for her support.

Councilman Benson stated that Ms. Walsh was doing a great job out there—that it had been said that you can't tame a feral cat but that he had taken a feral cat home, and it now slept in their bed—that it was a great compliment that you can tame a feral cat.

Councilwoman Ladd quipped “now if we could only tame Jack”! She also commended Ms. Walsh and her Staff and the center. She noted that when she first began her term, a big problem was the lack of services by McKamey and the length of time it took for response; that now, when fielding problems with barking dogs, it is not an issue—that people say that McKamey employees are polite and give great assistance—that they had done a magnificent job, and she wanted to personally commend Ms. Walsh and her Staff—that they were hardworking and professional. She gave personal congratulations to Ms. Walsh for her gubernatorial appointment to the Board of Veterinary Medical Examiners and also for her “Woman of Distinction” award. She expressed “kudos” for all she had done.

Ms. Walsh responded that it was a team effort.

Mayor Littlefield added his praise for Karen and her Staff; that Councilman Benson and Councilwoman Robinson were around when there was so much criticism that we were facing and asked that the Council now look at the pictures; that McKamey was a well-placed facility; that you could take anyone to the center—that he had taken his son, who left with a cat; he went on to say that a large part of this was marketing—that people were repelled by the old facility and asked that we look at the results over the years—that charts are higher year after year; that it is rare to see a dog on a chain, and if you do, it is quickly resolved. He noted that he was responsible for Ms. Walsh' appointment to the Board of Veterinary Medical Examiners; that Ms. Walsh had taken the facility and utilized fees so well that they came in under budget.

Councilwoman Robinson also wanted to share a story—three months ago she and her son found a terrified dog on E. Main St. that had escaped; that her son got the dog and called McKamey; that it was after hours and someone answered the phone, and they loaded the dog into the car and drove it to the center, and they received the dog with open arms. She commended Ms. Walsh and her Staff, stating that their concern meant the world to she and her son.

Chairman Murphy noted that the “praise train” continued.

Councilwoman Scott stated that Ms. Walsh was the “star” and “captain of the ship”; that three of the Council—Councilman Murphy, Councilwoman Ladd, and herself attended a Board meeting, and one would not see more diligent people; that they put a lot of work and effort into making things happen; she gave praise to the Board and the executive side.

Chairman Murphy also acknowledged that the Board was due a huge debt of gratitude and everyone applauded them.

SIDEWALK VENDING

Chairman Murphy noted that this topic had been pretty well covered.

CHARTER AMENDMENT RELATIVE TO CITIZEN INITIATIVES

Chairman Murphy stated that he would turn the floor over to Councilman McGary for this discussion; that a group of citizens wanted to do something with our zoning law, and he asked Councilman McGary to go first.

Councilman McGary thanked him, stating that he had received a document from the Westside Community asking us to consider changing the zoning laws—that the bottom line was when

something it torn down and remodeled that there be a one-to-one replacement with a new unit in an even swap; that he had asked Greg Haynes to ask John Bridger to be present for this conversation—that he was generally supportive of the language but was concerned with the timing; that it might be better to defer this for another week in the best interest of the Westside neighborhood.

Councilwoman Ladd stated that she supposed this could be deferred—that she did not understand all the dynamics and maybe this should come through the Housing Committee concerning extending the zone into a larger portion of downtown. She stated that she would support deferral because we did not have enough information.

Chairman Murphy stated that he had been asked to put this in his committee; that Councilwoman Robinson chairs the Housing Committee

Councilwoman Robinson responded that a week from today, Beverly Johnson would give a presentation; that this might be the appropriate time to have this discussed; that she had spoken to her today; that CHA is the entity that administers the program we are discussing—that they are the landlord and questioned to what extent we can weigh in; that we wanted to be a good partner with CHA, and we could invited a representative from CHA to be present at this meeting, as well. She stated that Ms. Johnson's report would be about 20 minutes at 2:00 a.m. next week; that we could have a question and answer session with her and also CHA.

Councilwoman Scott stated that she had a question about this, as well. She wanted to know who the proponent of the citizen initiative was and why they were a proponent of this? She stated that we had two issues linked together tonight with two different goals—one being a determination of what will happen with this initiative; that if this amends the Charter, it will apply to a lot of other things that are unrelated.

Chairman Murphy noted that the initiative was in this committee, today.

Councilwoman Berz stated that she heard three distinct issues, one being the citizen initiative, secondly the zoning issue; and thirdly, the issue of housing in general with the feeling that these people might be displaced. She stated that we needed a thorough discussion of all of this; that people are not being heard, and this is the reason for the Charter amendment. She went on to say that people should be heard, relative to the housing policy; that the initiative is different and should not be spoken of in a vacuum. She stated that people should be able to have a voice without amending the Charter; that she did not see amending the Charter just so people could be heard.

Chairman Murphy noted that there is a discrepancy between our Charter and State Law and the clock is ticking; that the housing initiative can be discussed next week in Councilwoman Robinson's committee, and she would be the one to determine the rules of order.

Councilman McGary gave a chronological account—He stated that the language that the Council saw before them is the zoning that was presented to him a month ago; that this zoning precedes the initiative; that the individuals from the Westside were seeking that this zoning issue be discussed in committee—that zoning would be discussed in the Legal and Legislative Committee; that if the Council felt that it was more appropriate to be heard in the Housing Committee, then they would welcome this. He noted that Mr. Bridger had now joined the meeting, but if the Council wished, they could defer this for a week.

Chairman Murphy questioned if they were pressing for this to be heard in this committee rather than Councilwoman Robinson's committee?

Councilwoman Berz urged to not disregard what this conversation is about; that there are several conversations; that the Report from Neighborhood Services would be a status report, and this is another conversation—that these people want to be heard about the change in zoning.

Councilman McGary agreed that there were two separate issues—that Westside wanted the Council to look at the zoning issue that had been presented to him; that the initiative related to the Hamilton County Election Commission, and Attorney Clem had an issue with the City Charter—that he was present at the meeting of the Election Commission and they said "Andre—fix this"; that they asked him to bring this up before a Council meeting so that they could move forward; that there had been a letter from the City Attorney and everyone had seen what he had seen. He noted that these were two separate issues, and the language is different.

Councilwoman Berz questioned if the Housing Committee would hear an initiative on anything in the City?

Chairman Murphy stated that we needed to bring clarity; that in regards to the initiative, we are not crystal clear as to the rules in the Charter—that there is a conflict between our Charter and State Law.

Councilwoman Robinson stated that we could have a good meeting next week—that there would be a report from Beverly Johnson.

Chairman Murphy urged that Councilman McGary get with Councilwoman Robinson and give her what he had.

Councilman McGary indicated that the City Attorney forwarded the document that he gave to the Council; that he would sit down with Councilwoman Robinson concerning what he had received from Westside and Mr. Bridger could prepare a statement and someone from Westside should also be available to address the issue.

Mr. Leroy Griffin asked to speak concerning one piece of data received from Chris Clem. He stated that he was the president of the Westside Association, and this was his responsibility concerning what had come from the City Attorney; that the question of the initiative would be decided at the Appellate Court level—that they would consider this matter; that the Appellate Court would make a decision.

Chairman Murphy indicated that if we don't discuss this today, it essentially can't get to the ballot—that it takes two readings to put this on the ballot to amend the Charter, even if the Appellate Court moves tomorrow.

At this point, Councilman McGary noted that some from Fort Wood were present concerning the parking issue and asked if we needed further discussion on parking? Chairman Murphy stated that he was not planning on discussing this—that they should be pleased that there would be no signs contrary to the Ordinance.

Councilwoman Ladd stated that if they wanted to address the Council, they could come back at 6:00 this evening and would be given an opportunity to speak at this point; that she thought all we needed to know had been "vetted". She returned to the discussion regarding the initiative, stating that she would like to know if we were trying to fix something that was broken? She noted that it was her concern that we were trying to fix something and change a process and she questioned "changing in the middle of the stream". She questioned what we were fixing?

Attorney McMahan explained that it was the issue regarding what Westside had submitted to the Election Commission having to do with housing and zoning on the Westside; that the Election Commission and Attorney Clem had raised the issue—and here we go again—that this is the same provision of the State Law that involved the recall of the Mayor and whether 15% of registered voters can put an initiative on the ballot for the vote of the people; that Westside had prepared an initiative to get on the ballot with the understanding of the City Charter, subject to 25% of those who voted in the last mayoral election—that there is a disconnect between our Charter and the State Law, and if we are seeking to follow the provisions of State Law, what Rev. Griffin has taken to the Election Commission would take 75 days to get signatures to go on the ballot.

Councilwoman Scott noted that because the same TCA Code applies to the recall and the initiative, the Appeals Court may render a decision saying our current Charter is fine—separate and apart from how they ruled on the petition on the dates; that it would seem that the Appeals Court could say that the Charter could be used and would not be in conflict with State

Law. Discussion ensued as to the decision that could be made in the Appeals Court and the ramifications. Councilwoman Scott indicated that she was not sure anything was wrong with our Charter, and there might be no reason to change it—that if we change it, it would make it more difficult to effect change.

Attorney McMahan stated that the Court would act soon, but we needed to pass this on first reading; that if we wait until the Appeals Court rules, we will have to put this off until the March election; that we might have to wait until January to see if we can get the Charter in line with the State law. Chairman Murphy felt that we should resolve this as quickly as possible—that so far there is no court ruling anyway; that if we stay within the lower court ruling, there is a conflict.

Councilman McGary stated that as he understood it, we need to conclude as a body today whether we want to change the City Charter to make it more in line with State Law. He asked if the Court “does not rule in our favor”, what direction do we go? He questioned what latitude we had if the ruling is not in our favor? Chairman Murphy clarified “in our favor” to be if “State Law trumps”?

Attorney McMahan discussed the ramifications of TN State Law and establishment of different numbers. Councilwoman Scott confirmed that TCA does allow us to choose the number required.

Chairman Murphy discussed avoiding future conflicts if State legislation changes. Councilman Benson did not feel it was a good practice to rush to judgment, stating that we needed more time; that we did not know about future repercussions; that he would like to delay this for the time being to see how everything falls in place and so that we can educate ourselves.

Councilwoman Berz stated that she thought we should be compliant with State Law; that this is a group of people who want a voice, and she felt that this need should be addressed; that this is putting a terrible burden on them; that we need to stand up for the rights of Westside and address their needs; that certainly there should be a better way of doing this; that their needs are not being addressed—that we are doing a “maypole” dance—that they simply want their needs addressed, and there is a better way than opening a door for all kinds of initiatives; that she wondered what we were doing here; that this could be solved in a better way, again stating that we should be compliant with State Law and questioned going this way to have their needs met.

Councilwoman Ladd stated that an excellent process to listen to their needs is to get this into the correct committee, and we had moved to do this; that Councilwoman Robinson would take this up; that this is a good process, and if we circumvent it, it gets muddy; that this is a real issue that needs a proper discussion in the proper committee; that some issues are not in the Council’s jurisdiction; that this will be “vetted” in committee.

Chairman Murphy noted that the agenda of the Legal and Legislative Committee had been jam-packed; that he knew Councilwoman Scott had been frustrated about not having issues brought forward in his committee.

Councilman McGary noted that the City Charter is under litigation and being disputed as we speak. Secondly, he noted, recall referendums are tools—that the order addressed did not support the recall but the right to recall; that the Appellate Court could not be in favor of our City Charter—that in the actual process, should the Council or the Election Commission come first? He stated that he did not think there would be a lot of contention at this point if the State says this is the way it should be. The other issue is the “meat” of this discussion—the number of signatures that are required—that we as a Council still have the authority to set this number; that his desire was that we, as a body, do as little as necessary to change this—change the process but do as little as we can to change the number of signatures—that this is not an issue with the State nor an issue with the City.

Councilman Benson stated that he agreed with everything Councilman McGary said but one thing—that State Law does have the right to change the number—that the Charter is tighter—25%. Attorney McMahan explained that we could change the number to be greater or smaller, with Councilman Benson asking if we could make it 90%? He added that it would save the taxpayers money if we stick with the State.

Councilwoman Berz still felt we should comply with the State and the way it is now.

Councilwoman Scott stated that she did not understand why staying with the State would save us money—that it would not get more cumbersome—that it will get more cumbersome if we go with the State; that she is satisfied with the number in the Charter and would not be for a change in this; that the signatures might have to be dated, and she would have no objection to this, but it should not be more difficult to get enough signatures.

Chairman Murphy noted that the process is determined by State Law—not the number.

Councilman Rico urged to keep it simple.

Chairman Murphy stated that this would subject to a vote tonight.

Mayor Littlefield stated that he would alert the Council—that there would be a discussion about the Animal Control Ordinance that would be brought to the committee within the next three weeks.

Adm. Zehnder noted that there was one Resolution on next week’s agenda that had been skipped over. **Resolution (f)** authorizing an agreement with March Adams & Associates for engineering services in the amount of \$3,560 and a contingency amount of \$1,000, for an

amount not to exceed \$4,560. Councilwoman Scott asked if this was engineering for the City's dock? Adm. Zehnder explained that we would be adding a slip according to the marina plan and specifications; that the bids were higher than we anticipated, and we rejected all bids. We then had to adjust our specifications to lower the cost, and this Resolution pays the engineer extra to re-do the drawings and to adjust the changes and specifications; that it costs additional money to make these adjustments.

This meeting adjourned at 4:30 P.M.