

SERVICES COMMITTEE SUMMARY

SEPTEMBER 9, 2008

CM Ellinger chaired the committee meeting. The meeting was called to order at 1:00 p.m. Dr. Stevens and CM Gorton were present also.

1. Smoking Ban

Mike Sanner, Law Department, went over the changes in the draft revision of the smoking ban ordinance.

Peggy Miller, attorney with Greenebaum Doll & McDonald, spoke about additional changes in Section 14-97 relating to retail tobacco store.

Committee members asked questions regarding the changes to Section 14-97 relating to retail tobacco stores.

CM McChord asked if it will affect businesses that were not affected in the original ordinance.

Ms. Miller stated it would include businesses that weren't included in the scope of the previous ordinance because it includes work places. She stated there are some exemptions for a workplace that is in a dwelling.

CM McChord stated before changes are made they should know who all would be affected and how this will affect home based businesses.

CM Crosbie asked Ms. Miller to address the questions that she had previously submitted regarding the changes to the ordinance.

Ms. Miller went over the questions CM Crosbie had submitted.

CM Henson asked if there will be signs in businesses such as cigar bars that are open to the public that would state "smoking allowed".

Ms. Miller stated that is not in the original ordinance or the draft.

Dr. Ellen Hahn, UK College of Nursing, did a presentation to the committee regarding smoke free workplaces.

CM McChord asked if they have reached out to booster clubs and organizations that rely on the revenue from bingo clubs.

Dr. Hahn stated they have not.

CM McChord stated they need to talk to those booster clubs and organizations.

CM Crosbie asked for information on bingo halls with Fayette County removed from the mix.

Dr. Hahn stated they have that information and will send it to the committee members.

CM Lane asked about regulations prohibiting smoking in public transportation.

Dr. Hahn stated a lot of laws do cover all public transportation but our law does not.

CM Lane asked if they have an idea of the bingo locations, the number of people that attend these locations in Lexington and how many organizations are affected.

Dr. Hahn stated that information is available through the charitable gaming commission.

CM Lane asked for Ms. Hahn to provide that information to the committee.

CM Blevins stated he thinks we should extend our smoking ban to public transportation as well.

CM Lane asked why the definition of building was changed in Section 3.

Dr. Hahn stated they sent this to the Tobacco Control Legal Consortium in Minnesota to review. The consortium sent back some recommendations to clear up the language and she believes this is one of the recommendations.

Ms. Miller stated TCLC suggested the current ordinance uses "structure" and they thought that could be problematic because it is susceptible to more than one meaning. Also, the second sentence was not clear. They took the recommendations of the Tobacco Control Legal Consortium.

CM Lane asked for clarification of "open or closed" in Section 3.

Ms. Miller stated that relates to the 40% requirement. She stated it says if a window or sliding door can open the 40% does not change when the window or door is open.

CM Lane asked how many restaurants will be impacted by this change.

Ms. Miller stated they are not changing the requirements. She stated they combined the two for clarification.

CM Lane asked if they would be willing to add to the ordinance that any restaurants that have already made new structures will not be impacted by this ordinance.

Ms. Miller stated there would not be any impact because it is the same requirement as before.

CM Lane stated the definition of "public" should be included in the ordinance.

CM Crosbie stated in Section 3 (1) "open or closed" is by definition a material change to the current ordinance.

Ms. Miller stated that is correct "open or closed" is not in the current ordinance. However, she does not know that she agrees that it is a material change.

CM Crosbie asked if businesses that are currently compliant with the ordinance will be grandfathered in under the proposed ordinance.

Ms. Miller stated as a matter of interpretation and enforcement the citation officers have not made a distinction between open or closed. She stated maybe the solution would be to remove "open or closed".

Dr. Stevens stated they can place the wording of "grandfathering" in those businesses that are currently compliant in the proposed ordinance.

CM Ellinger stated they need to look at the issues of taxi enforcement, clarification on dwelling, definition of public and issue of removing "open or closed" before the next meeting.

CM Lane stated he would like for those who may be affected by the ordinance to speak at the meeting along with someone from the health department that does the enforcement.

Carol Reiker spoke about bingo halls.

CM McChord stated if they can show boosters and organizations some other alternatives to raise revenues they would listen.

Kathy Tabb, volunteer with American Cancer Society, spoke regarding the proposed ordinance. She stated there is great support in the community to strengthening this ordinance.

CM Ellinger asked the attorneys to address the issues of taxi enforcement, clarification on dwelling, definition of public and issue of removing "open or closed" at the next meeting. He also stated that if there is anyone opposed they could come to the next meeting as well. The issue of having a public meeting was discussed as well.

2. Items in Committee

A motion by CM DeCamp to table the newsrack ordinance until it is determined the self imposed enforcement by publishers is successful, if not, the issue can be brought back off the table, seconded by CM Beard, passed without dissent.

CM Lane recused from the vote.

The meeting adjourned at 2:36 pm.