

Charles C. G. Evans, Esq., City Solicitor (cont'd)

proposed amendments to the Zoning Ordinance, that it might be helpful if I wrote you in regard to Mr. Lang's letter, in which suggestion I concurred.

Theoretically, I think the suggestion of Mr. Lang and Captain O'Connell is sound, as it seems entirely reasonable that the citizen who desires the privileges obtained as a result of a modification of the Zoning Ordinance should bear the costs of that change, rather than the general public.

I have given the matter consideration from a number of points of view, both legal and practical.

Legally, there is no way in which the City Council may bind any subsequent City Council or, indeed, any way in which the City Council may bind itself so far as restricting the right of any member to introduce an ordinance which he deems to be in the public interest. See Davidson vs. Mayor and City Council of Baltimore, et al., 96 Md. 509 (1903). In this case the Court of Appeals said at page 511:

"Their power with reference to the premises could not be limited by their own ordinance. The terms of the charter and the Acts of Assembly (if there were any) determined what should be the measure of their power and duty, and these could not be amended or altered by their own act."

The present City Council could amend its rules to require the deposit of a certain sum of money by an applicant for an amendment to the Zoning Ordinance which would serve a purely private purpose, but, of course, this rule could be changed at any time, and if the rule were disregarded by the City Council, it seems to me that it would be an amendment of the rule pre hoc vice. Legally, this is as far as the City Council may go in binding itself and its members in regard to the introduction of ordinances.

Generally speaking, I think an amendment of rules would effectively accomplish the purpose which Mr. Lang and Captain O'Connell have in mind, but the practical difficulties are even more substantial than the legal ones. At the present time the applicant is required to pay the advertising costs and to furnish two copies of a plat showing the proposed change. It would be very difficult, indeed, as a practical