

City Council Building
Chattanooga, Tennessee
January 15, 2013
6:00 p.m.

Chairman Ladd called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Michael McMahan, Management Analyst/Auditor Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Murphy gave the invocation for the evening.

MINUTE APPROVAL

On motion of Councilwoman Robinson, seconded by Councilman Gilbert, the minutes of the previous meeting were approved as published and signed in open meeting.

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE SECTION 10-33, WHICH ADOPTED THE 2009 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, SECTION 402.4.2, REGARDING AIR SEALING AND INSULATION
passed second and final reading and was signed in open meeting.

AMEND CITY CODE

On motion of Councilman Rico, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, DIVISION 5, SECTION 38-84, R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE TO PROVIDE CLARITY TO SETBACK REQUIREMENTS OUTSIDE AND WITHIN THE URBAN OVERLAY ZONE
passed second and final reading and was signed in open meeting;
Councilwoman Scott voted "no".

REZONING

2012-156: City of Chattanooga/Regional Planning Agency

On motion of Councilman Benson, seconded by Councilwoman Scott,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED IN THE 9300 BLOCK OF LEE HIGHWAY, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE (TEMPORARY
ZONE) TO URBAN GENERAL COMMERCIAL (PERMANENT ZONE),
SUBJECT TO CERTAIN CONDITIONS**

passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2012-150: J. R. Realty, LLC c/o James E. Vincent, Sr.

On motion of Councilman Benson, seconded by Councilman Murphy,
**AN ORDINANCE CLOSING AND ABANDONING TWO UNUSED RIGHTS-
OF-WAY LOCATED IN THE 6400 BLOCK OF OLD HIXSON PIKE FOR THE
PURPOSES OF COMBINING EXISTING LOTS AS PART OF AN OVERALL
RE-SUBDIVISION OF PROPERTY, MORE PARTICULARLY DESCRIBED
HEREIN**

passed second and final reading and was signed in open meeting.

RECOGNITION OF JIM VINCENT

Chairman Ladd acknowledged the presence of former State Representative Jim Vincent and his wife, Marilyn Vincent.

AMEND CITY CODE

On motion of Councilman Benson, seconded by Councilman Gilbert,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 18, GARBAGE AND REFUSE RELATING TO SERVICE
LOCATIONS AND SPECIAL CONTAINERS**

was deferred two weeks (January 29).

WAIVE RENT

Councilman McGary made the motion to amend the Resolution to incorporate “a waiver pertaining to each two day license agreement for rental”; Councilman Rico seconded the motion; the motion carried.

On motion of Councilman Rico, seconded by Councilman Murphy,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF EDUCATION, ARTS AND CULTURE TO WAIVE THE FIRST DAY OF RENT PERTAINING TO EACH TWO DAY LICENSE AGREEMENT FOR RENTAL OF THE COMMUNITY THEATER FOR THE 2013 CALENDAR YEAR BEGINNING MARCH 1, 2013

was adopted; Councilmen Ladd and Scott voted “no”.

EXTEND CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Scott,

A RESOLUTION AUTHORIZING AN EXTENSION OF A CONTRACT WITH THE HARTFORD FOR GROUP LIFE AND ACCIDENTAL DEATH AND DISMEMBERMENT (AD&D) AND LONG TERM DISABILITY INSURANCE THROUGH JUNE 30, 2013

was adopted.

APPOINTMENT: ADMINISTRATOR OF PERSONNEL

Councilwoman Scott stated her vote is no reflection on Ms. Dubose who is a very fine person; that we have a new administration coming in about seven-to-eight weeks. She stated the position should be an “acting” position pending the naming of the new administrator by the new Mayor, whoever that might be, and confirmed by the new City Council.

On motion of Councilwoman Robinson, seconded by Councilman McGary,

A RESOLUTION TO CONFIRM THE APPOINTMENT OF SUSAN DUBOSE AS THE ADMINISTRATOR OF THE PERSONNEL DEPARTMENT FOR THE CITY OF CHATTANOOGA, TENNESSEE

was adopted; Councilwoman Scott voted “no”.

CHANGE ORDER

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR HAZEN AND SAWYER, P.C. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-11-012-101, DESIGN AND CONSTRUCTION OF BAR SCREEN AND FINE SCREEN REPLACEMENTS FOR MOCCASIN BEND WASTEWATER TREATMENT PLANT, FOR AN INCREASED AMOUNT OF EIGHTY-ONE THOUSAND FIVE HUNDRED DOLLARS (\$81,500.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED SEVEN HUNDRED TWENTY-THREE THOUSAND FIVE HUNDRED DOLLARS (\$723,500.00)
was adopted.

CONTRACT

On motion of councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO ENTER INTO A CONTRACT WITH RIVER STREET ARCHITECTURE, LLC FOR THE DESIGN OF FIRE STATION NO. 11, FOR THE ARCHITECT'S BASIC FEE IN THE AMOUNT OF ONE HUNDRED SEVEN THOUSAND SIX HUNDRED NINETY-NINE AND 29/100 DOLLARS (\$107,699.29), PLUS A CONTINGENCY OF TEN (10%) PERCENT IN THE AMOUNT OF TEN THOUSAND SEVEN HUNDRED SEVENTY DOLLARS (\$10,770.00), FOR REIMBURSABLE EXPENSES IN THE AMOUNT OF ONE HUNDRED EIGHTEEN THOUSAND FOUR HUNDRED SIXTY-NINE AND 29/100 DOLLARS (\$118,469.29)
was deferred one week.

AGREEMENT

On motion of Councilman Benson, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A MUTUAL OPERATING AGREEMENT WITH SANTEK ENVIRONMENTAL, INC. FOR THE OPERATION OF A SCALE HOUSE AT BIRCHWOOD LANDFILL
was adopted; Councilwoman Scott voted "no".

OVERTIME

Overtime for the week ending January 10, 2013 totaled \$40,491.98.

PERSONNEL

The following personnel matters were reported for the various departments:

GENERAL SERVICES:

- **JACK EDWARDS** – Retirement, General Supervisor, effective December 31, 2012.
- **WILLIE HARDWICK** – Retirement, Equipment Mechanic 1, effective January 1, 2013.
- **STUART WHITMIRE** – Resignation, Electronics Com. Technician 1, effective December 21, 2012.

OFFICE OF MULTICULTURAL AFFAIRS:

- **RENEE WHEELER** – Resignation, Compliance Officer, effective December 28, 2012.

INFORMATION SERVICES:

- **CAROL BROWN** – Retirement, IT Specialist, effective December 31, 2012.
- **TIMOTHY TAYLOR** – Retirement, Programmer 2, effective December 31, 2012.

PUBLIC WORKS DEPARTMENT:

- **AZURE BOTTS** – Resignation, Combination Inspector 1, Land Development, effective January 18, 2013.
- **JIM LUEBBERING** – Hire, Assistant City Engineer, Engineering, Range 28, \$76,000.00 annually, effective January 7, 2013.
- **C. WAYNE BOYD** – Retirement, Water Quality Specialist 1, Engineering, effective December 31, 2012.

PERSONNEL (Continued)

- **CALVIN TOY** – Suspension (1 day without pay), Crew Worker 3, City Wide Services, effective January 7, 2013.

CHATTANOOGA FIRE DEPARTMENT:

- **WILLIAM ANDREWS, JOHN IVES** – Promotion, Fire Captain, Range F4A, \$49,725.90 annually, effective January 11, 2013.
- **ROBERT BATES** – Promotion, Fire Captain, Range F4A, \$49,132.00 annually, effective January 11, 2013.
- **RICHARD BOATWRIGHT, LESLEY MORGAN** – Promotion, Fire Battalion Chief, Range F5A, \$60,756.00 annually, effective January 11, 2013.
- **JEFFERY ELDRIDGE** – Promotion, Fire Battalion Chief, Range F5A, \$61,038.60 annually, effective January 11, 2013.
- **JAMES MORGAN, NICHOLAS SEWELL, ROBERT SHEETS** – Promotion, Fire Lieutenant, Range F3A, \$43,358.00 annually, effective January 11, 2013.
- **MICHELLE THORN** – Promotion, Fire Captain, Range F4A, \$51,825.90 annually, effective January 11, 2013.
- **DARWIN SANDERS** – Promotion, Fire Lieutenant, Range F3A, \$46,082.14 annually, effective January 11, 2013.
- **CHARLES PARKS** – Resignation, Firefighter Senior, effective January 11, 2013.

CHATTANOOGA POLICE DEPARTMENT:

- **LINDA BASS** – Resignation, School Patrol Officer, effective January 7, 2013.
- **JACQUES WEARY** – Suspension (2 days without pay), Police Officer 3, effective January 19, 2013.

PERSONNEL (Continued)

FINANCE DEPARTMENT:

- **MEGHAN PETTY** – Return to duty from FMLA, Internal Auditor 1, effective January 2, 2013.

DONATION

Admin. Zehnder duly reported the donation of equipment for the softball programs for youth at Washington Hills, Glenwood, Brainerd and East Lake from Frank Reed at UTC in the amount of \$2,000.

BIKE PROGRAM

Admin. Zehnder reported that there have been questions in reference to the bike program and noted from July 23 through December 31 there was a total of 12,000 trips which continues to increase in opportunity and usage. He reported 52 percent used it during a 24 hour period and 49 percent were annual members through season tickets.

Councilman Benson inquired as to the bottom line as far as cost to the city. Admin Zehnder responded all of the costs, including the bikes, have been provided through a grant from the Department of Energy.

Councilwoman Scott inquired as to the cost. Admin Zehnder responded that he did not have that figure.

Councilwoman Scott noted there was a return of \$3,400 in revenue. Admin. Zehnder stated the revenue is very complicated; that Auto Bike actually operates the program at no cost to the city; that after a period of time all of the assets will become the property of the City of Chattanooga including revenue, noting it is his thought it is after five years.

Councilwoman Scott asked if it is about a million; Admin. Zehnder noted that it is over a million.

Councilwoman Robinson stated she works in the downtown area and has been watching the bike program to see how well it would be received as it had a slow start but is so popular, now.

BIKE PROGRAM (Continued)

Councilwoman Robinson stated unless it is raining or really cold there are lots and lots of people doing this; that people working downtown use the bicycles in the middle of the day, as well as visitors who use them for fun!

Admin. Zehnder stated a group from Geneva will be coming into town tomorrow to take a look at what we are doing, noting what is going on in Chattanooga is being reviewed by the entire world.

Councilman McGary inquired as to when the program was first implemented. Admin. Zehnder responded "July".

Councilman McGary stated it would be very pertinent to allow a year to review the data; that it is very incumbent upon us to look at all behavioral and life style choices and do all within our power to put forth an incentive to encourage everyone to take advantage.

CERTIFICATION ACHIEVEMENTS

Admin. Zehnder reported that several employees within the Parks and Recreation Department have achieved professional certification, noting five Aquatics Facilities Operators were certified in December with certification that is good for five years: **Courtland Smythe (Parks) Stuart Holley (Parks), Clarence McCray (Recreation), Peggy Grall (Recreation) and Glenn Sheppard (Parks)**. He stated **Robert Greever** is currently certified, as well, and is due to recertify this year.

Admin. Zehnder reported two Playground Safety Inspectors were certified in June of 2012 with certification that is good for three years: **Stuart Holley and Glenn Sheppard**, both in Parks. He stated they routinely inspect the playgrounds and are now Certified Playground Safety Inspectors which is very good news to share!

DISCOUNTS

Admin. Zehnder stated Councilman Benson has inquired about discounts for residents and shared with the Council that the golf courses started in July 2012 implementing a program of discounts for city residents.

DISCOUNTS (Continued)

Admin. Zehnder stated 5,266 discounts have been given to city residents; that when people purchase season passes 46 percent of the annual passes were discounted for city residents.

Councilman Benson stated Mr. Zehnder did not lower the greens fee but increased the non-discount rates. Admin. Zehnder stated we are not losing money.

Councilman Benson stated he wanted non-city residents to pay a little bit more. Admin. Zehnder stated that is exactly what is happening; that it depends on how it is said.

Councilman Benson again expressed his thought that we are losing money. Admin. Zehnder stated he would prefer not to use the term "non-resident fees"; that he uses a term called "discounting for city residents".

Councilman Murphy jokingly asked if we are offering city residents a discounted canoe and kayaking rental right now at Brown Acres! Admin. Zehnder responded "absolutely"!

REFUND

On motion of Councilman McGary, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refund of property taxes due to overpayment:

RAWTER REALTY LIMITED PARTNERSHIP \$1,241.66

EMERGENCY PURCHASE

The emergency purchase of Title Search Services for Finance and Administration in the amount of \$29,400.00 was duly reported and signed in open meeting.

Admin. Madison explained that title searches are solicited by fifteen-to-sixteen companies; that the judge sets the rate to be paid each title company at \$75 per title search; that the city does not have discretion as to how much is paid; that the rate is set to essentially "spread the wealth" and the business is divided between all the companies. She stated they did not realize it would be over \$10,000 when commitments were made; however it is now over \$10,000 and the matter had to be brought before the Council for approval as commitments have already been made.

PURCHASES

On motion of Councilman Murphy, seconded by Councilman Rico, the following purchases were approved for use by the various departments:

EDUCATION, ARTS AND CULTURE:

J.M. STEWART CORPORATION (STEWART SIGNS) (Lowest bid)
R69832

Supply and Install Marquee Sign

\$13,730.00

PUBLIC WORKS DEPARTMENT:

TAG GRINDING SERVICES INC. (Lowest bid)
R68922

Blanket Contract for Wood Chip Hauling Services

\$22,000.00 – Annual estimation

CHATTANOOGA FIRE DEPARTMENT:

ENERGY SYSTEMS SOUTHEAST (Lowest and best bid)
R69359/302375

Purchase of a Diesel Generator

\$28,395.00

CHATTANOOGA POLICE DEPARTMENT:

TENNESSEE FIRE EQUIPMENT (Best bid)
R68464/302364

Blanket Contract for Police & School Patrol Uniforms

\$300,000.00 – Annual estimation

PURCHASES (Continued)

Councilwoman Scott inquired as to whether the school patrol people were funded directly out of the city jointly with the county. Mr. Johnson responded "we fund the school patrol people".

AGENCY FUNDING

Councilman Murphy stated Orange Grove Center, a fine institution in his district, was impacted last week by the vote the Council took regarding agency funding; that he was not on the prevailing side of the vote and asked someone who was on the other side to reconsider the decision about the hardness and fastness of deadlines; that representatives from Orange Grove Center are present to provide an explanation should the Council desire.

Councilman Benson stated he talked to the representative from Orange Grove and did not know whom we were ruling out when we refused to extend the deadline but knows the reasons why we could not afford to extend the deadline and set that precedent. He stated there is a situation; that if United Way would recommend that we reopen this he could go along with that, but other than just extending the deadline, we will have two or three others come in and it will go on and on when we do not honor our deadline.

Councilman Rico stated he was one who said a "deadline is a deadline" but after reconsideration it is his thought he was wrong and we should go case-by-case because we never know when something like this comes up; that he spoke before he thought. He **made the motion to reconsider; Councilman Murphy seconded the motion.**

Councilwoman Scott stated "case by case" is "hey, I like this one" and "I don't think I like that one as much" and that bothers her as it is using a double standard which she does not think is a place we need to go or a place we need to start.

Councilman Rico stated he did not mean case-by-case as they are all worthy of support; that sometimes things happen and we should at least know who it is and why.

Councilman McGary stated Councilman Rico asked that this matter for Orange Grove be reconsidered. He asked that the representatives from Orange Grove come forward and enlighten the Council as to why they missed the deadline.

AGENCY FUNDING (Continued)

Kyle Hauth, Executive Director at Orange Grove, spoke at this time and introduced Tom Greenholtz, Secretary of the Board of Directors. He expressed his apologies noting this is not indicative of the way Orange Grove behaves; that they have been in the community serving individuals with development disabilities now for 60 years and have had a long standing relationship with the city and other funding sources. He stated they always meet deadlines; always respond according noting there were peculiar circumstances that put them in this vulnerable situation which started off with a change in positions with the person that normally completes the application which was compounded by a staff member who received the e-mail, understood they were responsible but misunderstood and thought it was connected to the reporting requirements they were performing. He stated once it was realized the mistake had been made they submitted the application which was late as it was received on January 11; that if the Council speaks with anyone at United Way they will indicate they always meet deadlines and is one of the impeccable agencies; that after Councilman Benson made his comment regarding how United Way would feel, he placed a call to Ross Schram, the Allocations Chair for United Way, and asked if he would allow him (Hauth) to make a statement on his behalf who said he could. He stated Mr. Schram indicated they do not make that decision as the Council does, but also indicated he could say Orange Grove does meet all of its deadlines, has a great reputation for doing that and if given an opportunity to allow them to submit a late application he (Schram) would definitely support that.

Tom Greenholtz stated as a lawyer he understands meeting deadlines is critical and is how things get done. He stated rarely does he come across a deadline that is so hard and fast that under the right set of circumstances the deadline can be excused; that he submits to the Council having already taken the vote the hard deadline would be imposed; that the Council should look to the circumstance of this very special case and if there is some type of penalty to be exacted for those who file late, please let it be something other than diminishing the valuable services Orange Grove gives to the people it serves. He stated this community has been served by Orange Grove for 60 years this year; that the support the Council provides is invaluable to that mission. He stated Orange Grove has only slightly missed the deadline as it has been approximately a week and implored the Council to please have some forgiveness in this one situation and please continue the support that city has shown and given Orange Grove over the years. He stated if there has to be some other penalty let it be enacted in some other way rather than letting the people that they serve suffer because of it.

AGENCY FUNDING (Continued)

Councilwoman Berz stated her concern is if the Council is saying they are changing the rules to do a case-by-case basis she needs some direction because we have "waffled" on this a couple times and had this discussion in October. She stated the Finance Department will suggest to the Mayor and the Mayor will come back for social services agencies with a lump sum not delineated which is where United Way can allocate funds; that it is at that point any other group can be included. She stated she understands from Mr. Benson that they do not want to go that way noting that would be a win-win; that the Council would not be in a position of being arbitrary for some other agencies we said "no" to and yet their concerns could be addressed noting she has not read the application. She asked if their hesitation is going the United Way route.

Mr. Hauth stated it is their understanding there are finite funds, there are many organizations that are petitioning those funds and their concern is to be placed in a category that would be after the fact, after those that have already submitted. He stated they understand there are complications with this but asked that they keep in mind Orange Grove has been funded through this program for many, many years. He stated their concern is what they have received in the past is \$32,000 and those funds that are local can be used to leverage additional dollars.

Councilwoman Berz stated she is not arguing the worthiness; that no funds are guaranteed any agency and are evaluated solely on their own merit. She stated instead of bending the rules for Orange Grove, who are worthy of the \$32,000, her thought is when we start looking at the "total picture" it may be that Orange Grove's request can come through United Way's recommendations.

Mr. Hauth stated they understand; that they would prefer to come before the Council mainly due to the long term partnership with the city.

Councilwoman Berz stated it is United Way's recommendation to the City Council; that the Council then modifies some of it; that it would be a way that it would come in and we would not be going against what we have been dealing with. She stated she wanted to make sure, asking if they want it their way or no way.

**(AT THIS POINT CHAIRMAN LADD EXCHANGED
THE GAVEL WITH VICE CHAIRMAN MURPHY)**

AGENCY FUNDING (Continued)

Mr. Hauth responded "no"; that they are not trying to be contrary. He stated their concern is the organizations that would come after the fact would be considered on a second basis and with limited resources they could understand that they may have worthy requests but they would not be considered because of the lack of resources.

Councilman Benson stated there is not a Council person who does not sincerely appreciate and value what Orange Grove is doing as many have had loved ones there. He stated the Council wants them to have the money but does not want them to tear up the system of how this money is distributed; that there are solutions around this which is to go to United Way and see if they will put them on the list for recommending the \$32,000. He stated the Council has commissioned them to recommend and it is a more businesslike approach rather than coming to the meeting for a decision. He stated another way is to come back to the Council and show the need "down the road"; that maybe someone will make a motion to give it out of the operational budget. He stated one way is to go back to United Way and see if they will put them on a list recommending consideration even though they missed the deadline.

Mr. Hauth stated it is his thought United Way will have the same difficulty and will say there needs to be some decision made or a rule which is why they are pleading their case with the Council; that it is a unique circumstance and they understand someone else can come with unique circumstances which is why Mr. Greenholtz suggested the possibility for levying a fine; that maybe other organizations would not be so inclined but they would. He stated if the Council would consider indicating those organizations who have only been funded in the past through that long relationship with a 66 year taxation program or if there were some other determining factors that could be used that the Council would be equitable considering any other organization that would come and request consideration and possibly allow any other late applications received as of this date.

Councilwoman Ladd stated unfortunately she will take a hard stand and an unpopular one; that last week we had a request come to us from an unknown agency that missed the deadline and the majority voted not to allow that group and we do not know who they were, still do not know who they are and does not want to know. She stated the Council voted not to even let them come and approach the Council and offer an explanation as to why the deadline was missed.

AGENCY FUNDING (Continued)

Councilwoman Ladd stated at least five on the Council said at that point that they believe the deadline needs to stay in place because we will open up Pandora's Box as all have a different situation. She stated every agency does a good job and a necessary job for our city; that they all deserve and need funding. She stated it is hard every year deciding who to give funding to which is why United Way was asked to look at it as it was felt they could give it a more professional view because that is what they do -- that is their job to vet organizations that request funding. She stated the Council set a standard and rule and it is not the job of United Way to decide if we are going to follow our rules or not and if an organization can approach them and ask them to circumvent our rules as that decision needs to be settled with this Council. She stated because we have already said "no" to an unknown request -- even though she knows this one and loves them -- we need to stay with our procedures and stay the course on what we set out as the way we are going to handle requests as it gets harried every year and now we have a problem where we have one we would love to give money to but now have a whole set of options proposed to do "this or that" which sounds dysfunctional. She stated the Council set a course of action and because it involves so many different organizations that are all wonderful and all serve a fantastic purpose that we would all love to support, we have to "stick to our guns"; that she will say "no" we cannot consider this or any other that came before us that missed the deadline.

(AT THIS POINT VICE CHAIRMAN MURPHY RETURNED THE GAVEL TO CHAIRMAN LADD)

Councilwoman Robinson stated she was the lone voice that said she would like to be reasonable and try to work through these things; that this is a fairly new process that the Council has come up with. She stated these are organizations that have been applying to the Council for years and years, even decades; that it is her thought the process was changed last year and does not remember in her twelve years on the Council having situations where our funded organizations came and told us they had missed the deadline for one reason or another; that it has just been since we got high tech and paperless and doing it in an efficient good way. She stated Ross Schram is someone we all know and has spent countless hours on our behalf vetting these organizations and he encouraged them to come and speak to us; that this is the Council's responsibility and United Way is serving as citizens and volunteers in our city for these good causes.

AGENCY FUNDING (Continued)

Councilwoman Robinson stated we have appointed United Way to review and recommend to us but at the end of the day it is not their decision, it is the Council's; that this is the Council's responsibility and she pled for another year, just this year noting the rules can be changed next year and "draw a line in the sand" and say we will never do it again! She stated as a long time grant writer who ran a lot of organizations like this in her previous careers, mercy, please!

Councilman Rico stated one thing this body does have is discretion – we make the rules, we change the rules and do it all the time! He referenced the clients and group homes of Orange Grove and noted this is a special organization; that this is a totally different ball game. He stated some of the clients cannot help themselves and expressed appreciation for all the people who help them as it takes special people to help these special people. He stated there are consequences that we don't like sometimes and suggested we not put something "in stone" regarding these organizations because we do need compassion and discretion.

Councilman Murphy stated he was the Chair last time and did not get to address this but voted with Councilwoman Robinson in the first instance. He stated there is "no ship that sailed from a dock" on this deadline; that this deadline was a picked date because it was one day of many days on the calendar -- could have picked another date and did not. He stated there is no compelling reason to show rigidity in this situation; further, with all the talk about United Way and our process, another Mayor is coming into office, that Mayor is not bound by this process, that Mayor may include the funding for Orange Grove or may triple it, we do not know as it is totally up to the next Mayor. He stated this process has some relevance but not all to what the next Mayor proposes in this budget; that we all know when we talk about social service agencies there are none of them we funded that are not doing good work so it comes really hard for the Council to say "no". He stated we put this funding in for Orange Grove but they did not meet the deadline, a date we picked out of 365 we could have picked. He again stated there is "no ship in the middle of the Atlantic" on this; no reason to say they missed it and cannot "get on the boat". He urged Council members to show flexibility and compassion in this situation rather than rigid adherence to arbitrary deadlines picked by us and can be changed by us.

Councilman McGary stated having heard both sides he certainly understands the need for the Council to establish rules and abide by them; that the Council makes binding laws that are voted on so it certainly makes sense to abide by them.

AGENCY FUNDING (Continued)

Councilman McGary stated at the same time having heard the explanation given, short of having an appeal process we are placed in a bind which is the force of his suggestion that Councilman Murphy be the leader in the process of creating an appeals process; that Councilman Ladd raises a good point if we reopen the issue it is only fair we allow the same opportunity to the other organization. He suggested there are extenuating circumstances that need to be brought into the equation and considered; that this body should consider if there is an existing relationship or has been with certain organizations and to flatten the considerations does a disservice to this body and the organization. He stated he has difficulty extending mercy outside of a process and thinks it is incumbent upon this body that we not be capricious and not in any way deciding one over the other without some standard. He stated if this body were to create an appeals process in writing or whatever, he would be more comfortable extending mercy, as it is being called, knowing it is being done in a fair manner.

Councilman Benson stated he has a problem with what is being thrown out as the lack of mercy or compassion; that he does not think there is anyone on the Council that does not sincerely feel they should not have this money and more. He stated he does not know who the other organization is, whether they will come back and whether it will open Pandora's Box or not. He state we have a responsibility to exercise good judgment for people we are representing and when we make a statement there is a deadline and it is extenuating circumstances, let's go through the process of getting the extenuating circumstances in place and see if United Way will come back and recommend this like. He stated we made a pledge to the people we would follow a process and asked if United Way recommends they receive the money.

Councilwoman Berz stated they have not said anything.

Councilman Benson stated they have not said anything about Orange Grove and it is their job to look into these agencies; that it is not good judgment or good business to consider opening up this "Box" without following the due process of equity to everyone and that means the people who wanted to be reconsidered last week and the people that want to be reconsidered for a late application next week and asked where is it going to stop!

Councilman Gilbert expressed agreement with Councilman McGary noting if we open the "Box" we need to have a standard; that if we do not it is not fair to whoever else comes behind that.

AGENCY FUNDING (Continued)

Councilman Gilbert stated who is it to say the next group will not be a great organization in the future; that if we do, it should be the standard we set and go with from that point. He also expressed agreement with Councilwoman Ladd that we have made a rule and we have to stick to it.

Councilman McGary made the motion to defer the matter one week for discussion in Legal and Legislative Committee; Councilwoman Robinson seconded the motion.

Councilwoman Berz stated the Council said a couple things; that we had long standing relationships with a lot of agencies but from here on out we would be using the concept of zero based budgeting and that came from taxpayers saying there was a lot of discussion about how much social services money should go from government and how much should they garner from the public themselves. She stated the Council put a lot of time and effort in what was on that page one and given their direction we went forward; then it was asked what would be done about late people and that is when the vote was taken nothing late would be accepted. She stated we have a habit of making rules and taking them back and does not mind that, but she is a policy person and we have to be very firm about what our policy is and be careful it is not one way until it hits somebody that we do not like and then we change the laws; that we have to be really careful about that. She stated she will implement whatever the Council wants but to make sure what it is they want because we may have to open the whole process again as there are a number of good agencies in town that respected the process. She stated she will go with whatever the Council wants; however please be firm in what it is they want and asked why it goes into Legal and Legislative Committee for an appeals process noting it needs to be firm.

Councilman Murphy stated he does not know if it could be worked out in the next few minutes here and is happy to take it in committee next week. He suggested one of the things that could put some "teeth" in it and show flexibility would be to establish the standard of long standing funding relationship and extenuating circumstances expressed truthfully and perhaps an escalating application fee for the time after the deadline missed, such as if late a week pay an extra \$100, if late every business day after that maybe \$100 a day noting that would tend to keep away the complete "Johnny come lately's" from the process and folks that were never funded before. He stated it is just a thought in keeping with some of the sentiment expressed by Messrs. Greenholtz and Hauth; that the reason Councilman McGary made the suggestion is his (Murphy's) committee meets next week.

AGENCY FUNDING (Continued)

Councilwoman Berz asked for clarification if that means we are open or not open for applications. Councilman Murphy stated that has not been decided, yet. Chairman Ladd stated that is the discussion for next week.

Councilman McGary asked that the Council go through the process of considering what an appeals process would look like prior to making a decision. He stated zero based budgeting means it is a process of allocations and all he is asking for is what acceptance means. He stated there should be a process about having a dialogue about what it means to have an appeals process and if we come to a conclusion it would be right to have a standard if we are going to have an appeal.

Councilwoman Robinson expressed agreement with Councilmen Gilbert and McGary noting we are not open for business for receiving applications as that process is closed. She stated what we are talking about specifically are the two organizations that we are aware of that missed a deadline; that is all we are talking about and how we are going to deal with that now.

At this time the vote was taken on the motion to table the matter for discussion in Legal and Legislative Committee next week. On roll call vote:

SCOTT	NO
ROBINSON	YES
BENSON	NO
GILBERT	YES
BERZ	NO
RICO	YES
MCGARY	YES
MURPHY	YES
LADD	NO

The motion carried: 5-Yes; 4-No.

COMMITTEES

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee for Tuesday, January 22** immediately following the Agenda Session to discuss the appeals process or penalty with regard to non-profit funding.

Councilwoman Berz stated the budget educational sessions are to begin on February 5 and thought she would bring it up again to make sure that is still what the Council wants to do, noting the sessions would be held on Tuesdays from 1:00 p.m. – 2:30 p.m. and would be through at 2:45 p.m.

Councilman Murphy stated he would like for the record to reflect his thought that we should wait a month.

Councilwoman Berz made the motion to keep the schedule as has been discussed beginning with February 5; Councilman McGary seconded the motion.

Councilwoman Robinson stated she had suggested waiting until after the elections and accelerate the process after most of the new Council is on board; that it is the will of the Council that the earlier schedule be enacted and in respect to her colleagues who will be on the Council after she is gone, she would vote to support.

On roll call vote on Councilmen Berz and McGary's motion:

ROBINSON	YES
BENSON	YES
GILBERT	YES
BERZ	YES
RICO	YES
MCGARY	YES
MURPHY	NO
SCOTT	YES
LADD	YES

NEXT WEEK'S AGENDA: JANUARY 22, 2013

Chairman Ladd referred to next week's agenda and inquired as to whether there were questions; being none, the meeting continued.

KARL EPPERSON

Karl Epperson stated he rode through the rain in an effort to speak tonight noting that he learns something when he comes to the meetings. He stated when the "Don't Chop the Hilltop" people were here in opposition it opened his eyes and he realized he and others of the Westside Community Association had submitted an inclusionary zoning ordinance to members of the Council; that one of the members of the audience said they did not trust the developer to keep his promises. He stated several of the Council members said if the developer said he was going to do something to do so; that in the inclusionary zoning ordinance they asked that it be mandatory that a certain amount of apartments for housing be considered for people of low income and Chairman Ladd stated "we do not need that, they can be voluntary and they will do it". He stated Councilwoman Berz stated last week "if it is not in writing it does not exist"; that going back to the inclusionary housing ordinance if it is not in writing it does not exist; that if it is thought the developers will voluntarily do that and help them it will not happen.

Mr. Epperson continued by stating on a personal note that he should have the rights of any citizen regardless of being in a wheelchair; that during the meeting he had to use the restroom and when he attempted to get back in the aisle was blocked with people. He stated he came to the front door and started to come in and the police officer standing there told him to go to the rear door and he told him he could not get through because the aisle was blocked.

Chairman Ladd stated she wanted to correct something noting that Mr. Epperson quoted her and did not quote her correctly indicating that she knows he did not do that deliberately. She stated she never said that the developers would voluntarily do that, again reiterating that she never said that; that she has been to meetings and have said she would like for all to sit down and find a way to address the housing shortage. She stated RPA has done a study and are doing an additional study and will come back with results and we will have a task force; that it may not happen until the new Council takes place but that is where she pushed this to go. She stated it is an opportunity for the developers, investors, the residents, CNE and CHA and anyone else that has "skin in this game" to come together and put a package together that works for Chattanooga, not necessarily a law that has been used in a different city.

KARL EPPERSON (Continued)

Chairman Ladd stated she does not recall ever saying that she believed the developers will just voluntarily do that on their own.

Mr. Epperson asked if she recalls when both Mayors were out of town and she appeared on the WTCI program. Chairman Ladd responded "I do".

Mr. Epperson stated at that time they asked her a question and she stated "I do not think we need an ordinance, that I think it should be voluntary".

Chairman Ladd stated she does not recall saying "voluntary". Mr. Epperson stated he has it on tape at home and will bring it to show her.

Chairman Ladd stated that is not what she meant and not what she stands on; that we do not need it to be mandatory by law; that we can figure something out and that is why she would like to push it to go. She stated if she said voluntary she meant voluntarily we will sit down and talk about it, but she cannot talk what somebody else will do or not do as that is their action and she would never speak to that. She stated if she said that that was not her intention if that is how it came across.

Chief Parker expressed apology to Mr. Epperson noting he was at the door when Mr. Epperson came to it last week; that the door was locked due to over capacity. He stated he did not see him come to the door and apologized as he should have been allowed to come in and that accommodation made for him. He stated he stood by Councilman Benson and did not see him when he came to the door; that a couple people came to the door and knocked and were directed to the other door, again apologizing to him. He added Hamilton County Schools will be delayed two hours tomorrow and the child care open normal hours for anyone with school children.

Chairman Ladd also apologized as it should never have happened. She stated in addition to what Chief Parker said she will make sure the Police Chief is aware of it since Mr. Epperson's direction came from an officer. She stated they should have known better and assisted him; that she she hates that happened and again apologized. She stated she will make sure the Chief is aware and is certain he will be quick to instruct his officers to act more responsibly.

Mr. Epperson expressed appreciation and stated he does not think it was intentional. He asked that the Council take into consideration Councilwoman Berz's comments "if it is not in writing it does not exist".

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, January 22, 2013 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

(A full digital audio of the Council meeting of this date is filed in
the Clerk of Council's Office)

(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS FILED
WITH MINUTE MATERIAL OF THIS DATE)