

**AGENDA SESSION**  
**JANUARY 17, 2012**  
**3:00 P.M.**

Chairman Ladd called the Agenda Session to order with Councilpersons Robinson, Rico, Gilbert, Scott, Benson, and Berz present. Councilman McGary joined the meeting later. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dennis Malone, Dan Johnson, Larry Zehnder, Jerry Stewart, Chief Dodd, Capt. Snyder, Steve Leach, Jim Templeton, Gary Hilbert, Richard Beeland, John Van Winkle, Lee Norris, Danny Thornton, Daisy Madison, Dickie Hutsell, Chief Parker, Chief Maffett, Stan Sewell and David DiStefano.

Dan Johnson proceeded to go over agenda items, beginning with **Ordinances (a) and (b)** that deal with annexation. These were discussed last week. Mr. Johnson indicated that Attorney McMahan could handle any further questions. **Ordinances (c) through (j)** were zoning matters.

**Ordinance 6(a)** establishing an independent Office of Internal Audit, Audit Committee, and City Auditor will be discussed in committee meeting later.

**Resolutions (a) and (b)** are Parks and Recreation issues and will be discussed at the end of the Public Works' Committee. **Resolutions (c) through (g)** are Public Works' items and will be discussed later in committee.

**AGENDA ITEMS FOR JANUARY 24<sup>TH</sup>**

**Ordinance 6(a)** is relative to Personnel Appeal Hearings. Attorney McMahan stated that he and Chairman Ladd and the Union representative had met, and this would be discussed in the next Legal and Legislative Committee meeting.

**Resolution (a)** is a Public Works' issue.

**Resolution (b)** relates to a Ray Moss Development Inc. PILOT with the Health, Education, and Housing Facility Board. Councilman Benson stated that he had looked at the Agenda for committees and had asked two weeks ago for an Economic Development Committee meeting concerning this proposed PILOT. He noted that it was not on the committee listing, and he asked Attorney McMahan how this should be handled.

Chairman Ladd explained to Councilman Benson that the discussion could happen now because the parties are present. Councilman Benson questioned it being on the agenda without going to committee? Chairman Ladd called on Attorney Alfred Smith.

Mr. Smith stated that this was a very exciting project for the downtown area; that he had spent his entire life downtown with the exception of the few years he was away at college and law school; that he had worked in his father's clothing store as a young man. He stated that this PILOT was a positive move in the right direction and was the most exciting thing that had happened downtown since Lovemans was restored. He stated that Chairman Ladd had asked them to be present. He explained a January 6<sup>th</sup> Tax Freeze Program; that the Health, Education and Housing Facility Board of the City of Chattanooga had approved this, and it would allow Moss Development, Inc. to acquire this building, and they were putting \$7 million dollars into the Chattanooga Bank Building—that there would be apartments on floors 2-10, retail on the first floor, and office space on the 11<sup>th</sup> floor. This is doable because of the Downtown Tax Freeze Program, and he explained that they were in quite a rush; that this program was adopted January 8, of 2002 with a "sunset" in ten years, which would be January 8, 2012; that a grandfather clause had been added to the Resolution that stipulated if an application is filed prior to the sunset date, the applicant would be entitled to the program; that they came within the terms of this grandfather clause; that they got a call the Friday before Christmas, and he had called Phil Noblett about setting up a meeting of the Health, Education, and Housing Facility Board before the end of the year. This was not possible, and the meeting was held on January 6<sup>th</sup>. He explained that the developer was depending on this Program for their plans; that this would just encompass the rental housing—that there would be no tax break on the other floors; that a parking facility was needed, and they were working on this and would amend the application to the Health and Education Board to add the parking facility. He noted that the smallest apartment would rent at \$1100 a month—that this was moderately priced, and there was a desperate need for this type housing in the downtown area. He noted that Kim White of RiverCity was present and that she was excited about this program; that he would answer any questions on the legal side, and at this time turned the meeting over to Kim White.

Councilwoman Robinson stated that she would like to weigh in before this discussion got going so that she could give her early support; that RiverCity took a lead in downtown development in the 1990's and revitalization was a part of this—that this was huge, and she would like to know more about how this idea came together; that we need housing for young professionals now, and she could not wait to hear the rest of this.

Ms. White stated that she was real excited; that we need more density downtown, and there is such a demand; that this building had sat here for years, and it is a beautiful downtown building; that this would catapult more development. She stated that she was excited about Trey Moss and his company and that this would play a big role in the 700 Block.

Councilman Benson asked Ms. White if this would not put the downtown area in a better position to get a full-service grocery store? She responded “absolutely”.

Councilwoman Scott inquired as to the cost of the apartment per square foot and wanted to know if there was any Section 8 property in this facility? Ms. White responded “no”. Councilwoman Scott asked about the provisions for sewage with all of the issues we have downtown with our combined sewer? Ms. White stated that Trey Moss could talk about this; that it was being upgraded. Mr. Moss noted that this building had been looked at for hotel development; that there was a 10,000 gallon holding tank in the basement that would hold stormwater; that they would have less stormwater flow than the previously planned hotel. Councilwoman Scott indicated that she was talking about sanitary sewage; that with our combined sewer system, everything has to be treated at Moccasin Bend. Mr. Moss indicated that with their provisions of stormwater, they would be able to handle the sewage. She asked if rain water would be combined with sewage? He responded “no”—that there was no issue with sewerage. Councilwoman Scott still maintained that what goes into the Sanitary Sewer System has to be treated; that she could see what he was saying about the stormwater, but she was not clear about the downtown sewerage.

Councilwoman Scott went on to say that she had done calculations for low to moderate income, and she wanted to know what the income level would be? Attorney Smith responded that she was asking a question about low to moderate income. He wanted to know which Statutory she was looking at—that the Federal Law has tight guidelines such as those of HUD; that in this case, we are not dealing with Federal Law but the Health, Education and Housing Facility Board and are actually using this as a mechanism to take title—that it is a Property Tax Freeze; that the Housing portion means Multi-family of low and/or moderate income level; and/or handicapped; and/or Senior; that any one of these three categories would qualify, and they met all three categories; that this was not an income level issue; that the apartments started at \$1100 a month, and the Health and Education Board made the finding that this was within the low and/or moderate income range; that it is handicapped-accessible and would also be attractive to seniors. Councilwoman Scott responded that there was a great difference in her understanding of low income housing, but the parameters for low income is indicated by the City of Chattanooga according to the Ochs Center, and the average metro mortgage is \$1124, and the average rental rate is \$650+. She stated that this did not sound like low income, and it was not moderate either—that \$657 is the medium and when you go into two-bedroom rental the rate is \$716.; that the medium income for Chattanooga is around \$35,000, give or take; that the City of Chattanooga giving a tax abatement for a \$1100 a month small apartment, that she had a difficulty with this and it being a tax abatement issue; that we have a “glut” surrounding us in housing and apartments that are not in the middle of downtown with granite countertops; that she probably would not support this because she did not feel it justified a tax abatement as she understood it.

Councilman Gilbert asked if any federal money would be involved? Mr. Smith responded “no”; however it was possible this building is on the National Historic Register, and they could get pre-approval by the State as Historic Rehabilitation and could come under the Federal Law and be able to obtain Federal Income Tax credits—that it was not subsidized housing. Councilman Gilbert asked about a DBE program. Mr. Smith indicated that he was not aware if this would apply—that he was no expert on this program; that he did not think it would be the case but was not certain. Councilman Gilbert asked that he let him know.

Councilwoman Berz stated that these goals were very important for downtown development; that her main concern was the PILOT; that her question was for Mr. Moss, who was doing this development. She asked if the title would be turned over to some other entity and wanted to know what was in it for him? Mr. Moss responded that he was a big fan of Historic Buildings and that he would share the 11<sup>th</sup> Floor for office space; that he enjoyed seeing the building revitalized. Councilwoman Berz stated “we are talking about tax dollars”. Mr. Moss responded that this would barely work with the PILOT Program—that there would not be a big financial gain. She wanted to know how much he would save in taxes? He responded that that was a good question, probably about \$200,000 a year or more in the range of \$150,000 a year. Councilwoman Berz asked him if he was doing this because he was a great fan of downtown Chattanooga and would have a place for his office; that he would be making this investment without paying taxes for a number of years. She asked if there was any other advantage? She went on to say that she believed this would happen but was concerned about Mr. Moss not paying taxes.

Ms. White explained that there would be increased taxes, with the rental property, the retail and the office space. Also, this would give the opportunity to develop the 700 Block, and there would be taxes on this; that this building is deteriorating, and the taxes would be increased by this development.

Councilwoman Berz responded that we may lose \$200,000 worth of taxes and wanted to know what we will be getting.

Ms. White responded we would be getting residences downtown; that the property value of this building has been decreasing because of the vacancy; that apartments are different today, and we have a great need for apartments in the downtown area; that it will bring more vibrancy and retail will follow.

Councilwoman Berz stated that Councilwoman Scott is correct. She questioned why we would be doing this without tax credits downtown? Ms. White responded that Urban Development is different, and this building had sat here for 12-15 years; that it was hard to get financing and for two developers to make this happen is a real boost.

Councilman McGary stated that he would hope we would have more discussion on this; that it needed more thought and conversation; that his questions had not been answered, and there needed to be more conversation around the language—that the language says low end and/or moderate housing—that this was not low housing. Ms. White responded “correct”. Councilman McGary questioned the eligibility for this tax abatement; that if we were looking at moderate only, why was low income included as well? Ms. White responded that this goes back to salary. Councilman McGary stated that he thought \$1100 a month was more than just moderate. He wanted to know if the initial planning phase consisted of low income. Mr. Smith stated that he thought we were getting the cart before the horse; that they looked at the building to see what size apartments it would accommodate; that they hired someone from marketing to look at it to see a way they could build this number of apartments of this size; that marketing came up with an acceptable monthly rental rate and hoped that the numbers will fit the definition under the Statute; that it says low and/or moderate; and/or handicapped; and/or senior. He explained that all of this was determined by the Health and Education Board and was according to their discretion; that it had nothing to do with income but was just viewed as being within low and/or moderate. Councilman McGary stated that his question concerning low and/or moderate income was who are we targeting—low or moderate? Mr. Smith responded that \$1100 a month is closer to moderate than low income.

Chairman Ladd reminded that this is on next week’s agenda, and we have time for more conversation.

Mr. Smith stated that he would put out something to the City Attorney concerning the way the Tax Freeze downtown was set up in 2002 and if it were approved by the Health and Education Board and RiverCity within the guidelines of the program then it did not require Council approval; that it went before the Health and Education Board on January 6<sup>th</sup>—that as he understood it, then the Mayor and City Council have the right to veto this for 14 days, which would be coming up this Friday; that if the Council considers this next week, it would be too late to exercise a veto.

Attorney McMahan stated that he agreed with Mr. Smith and thought that this should be on the agenda tonight; that this Resolution came to us in 2002, and this was a last minute thing; that the Council has the right to veto it if they don’t approve it; that if some need further time to discuss this, then they should veto it tonight and then approve to bring it back up. (Mr. Smith stated I’m sorry I asked you!!).

Chairman Ladd asked if the Council voted to defer this, would it give us the right to bring it back later? Attorney McMahan stated that his office could draft an amendment to the Resolution of 2002 to be able to extend this for 30 days. Chairman Ladd clarified that if this came to the Council tonight, it would be in the form of a Resolution to extend?

Councilman Benson stated that this is not something new; that we have been talking about developing this building for 10-11 years; that this is a great opportunity and hoped members of the Council could get more information to realize how good this is; that it would put a viable occupant in this building and would spread across the street; that this would give an incentive to bring in more moderate housing, and we have a great need for it; that apartments like these are not available. He asked Ms. White if it was correct that we would not lose any money? Ms. White responded that we would get more than we are getting today, plus the retail and the office space on the 11<sup>th</sup> floor and anything else that happens across the street; that this has been very difficult and due diligence has been done.

Councilman Benson stated that we needed more good citizens downtown; that there is security and comfort in numbers; that it would make it easier to live downtown and would get us closer to getting a grocery store. He stated that he was willing to stay in session all night if it were needed to get additional information.

Councilwoman Scott indicated that there was something she would like to know—that she thought all of these boards worked with the authority of the Council; that she was being given the impression that we do not question this Board making a decision, and we must fall in line and either veto or let it go forward; that she did not think a tax abatement was right for anything other than low income; that this would set a precedent, and we would have to explain how we don't do this for everyone; that it did not make any sense to do this right now.

Chairman Ladd spoke of deferral as being a way to keep this ball in the air and asked about the time-frame. Attorney McMahan stated that he had called Phil Noblett and asked him to prepare something for the Council's consideration; that there would be more information to allow us to extend this for another 30 days and have the right to veto for another 30 days.

Mr. Smith asked the Council to think differently about this program and those PILOTS for industrial use; that there was a need to understand the Health and Education Facility Board's Act; that the legislative body can delegate to those entities—once and for all on a project by project basis and each one come separately for a vote; that the Downtown Housing Tax Freeze is a different type project; that for ten years we were doing housing, and the County and City Council established a program with guidelines.

Councilwoman Scott responded that she had read this information and was familiar with this; that this was a ten year plan in effect, and in her mind it had already expired; that the economic situation is different now and housing is different. Mr. Smith questioned if she had read what he was referring to? She responded that she had read every document given to her within the last ten days; that the application process did not have all the answers; that she did not understand the reticence to answer questions about the legal status and also criminal indictment.

Mr. Smith responded that these questions have been answered and delivered to the City Attorney's office—that one was an oversight. Mr. Moss stated that he had put in N/A—not applicable. Councilwoman Scott stated “that was not good”.

Councilwoman Berz stated that her colleague had done a good job and Mr. Smith instructing her colleague was not appropriate. She stated that this was a good project; that she did not realize we were on a deadline and did not like to be held hostage; that she would be in favor of deferral but did not think we needed 30 days. She stated that this was a really, really good project and not a “fait accompli”; that she thought it was on next week's agenda; that she did not like them saying that the Council would lose a right; that we needed time to look at this and see how we would explain it; that Ms. White says we will not be losing taxes; that we are becoming more and more aware of the emphasis being placed on downtown while others go wanting.

Councilman McGary noted that Councilman Benson had spoken to the need downtown for low/moderate housing; that he was not for or against this; that it might be putting the cart before the horse; that he was trying to understand the scope; that based on what he had read and the criteria of the program concerning a partial freeze, and he read from a certain document regarding requirements. He stated that he saw nothing about language that this is tied to moderate and/or low income. He asked to what degree this PILOT is tied to moderate and/or low income housing?

Mr. Smith responded that it must meet requirements of the Health and Education Board to be a project; that the project includes housing, handicapped, or senior. Councilman McGary asked if they met the requirements of any of these three, then they were eligible? Mr. Smith responded that this is the Project under the Health and Education Board's Act. Councilman McGary confirmed that to be a project, it must meet the requirements of the Health and Education Board. He inquired as to PILOTS as being rehabilitation or new construction. Mr. Smith responded that he thought there were other requirements in the Resolution; that RiverCity had vetted the application and had been very thorough and consistent in doing this; that they were the City's agent to do this.

Councilwoman Robinson stated that she was glad to learn that this is something we can continue to discuss without losing the opportunity; that she was fully informed in her own mind and had no questions; that she thought due diligence had been done by RiverCity, and she was confident they were bringing to us something that would pass muster. She stated that she had been a long-time proponent of downtown; that we almost did not get the Aquarium because of so much skepticism; that since the Aquarium had opened, we have re-invented ourselves and gotten jobs and millions of tax dollars to run our government and our nine districts; that downtown is the economic engine and the center of who we are; that this is not about districts—that we all represent downtown. She stated that she knew she was speaking with passion about this; that this is something that has been in the works for three decades, and we can't miss an opportunity like this; that this building has been vacant for 15 years, and this is the right mix; that EPB had built an entire block; that this is an old building that has been a problem, and we have a young developer who wants to put muscle into this; that this is not a "cash cow" but a labor of love, and she applauded him for taking this on and hoped and prayed we would have five votes and hopefully nine for Chattanooga's future.

Chairman Ladd handed the chairmanship over to Councilman Benson so that she could speak. She stated that we missed a serious bullet when TVA were contemplating not occupying their space; that Blue Cross had just vacated and put their new facility on the hill; that in talking about employment downtown, she did not know how close we came to losing our whole downtown; that it took a lot of negotiations with TVA to get them to stay; that other things had begun to happen; that we had a lot of empty downtown for a number of years, and it would deteriorate; that there had not been many opportunities for someone to invest in it; that we have a huge need for more livable space downtown; that we can turn around empty space downtown; that the 700 Block has become a blight; that we have an opportunity now, and this is a wonderful opportunity; that if we squander this, it will not reappear; that this will add beauty and value to downtown, and this is critical; that she would encourage everyone to "flesh" out answers and think outside the box; that she did support this project. She then took back chairmanship and stated that she saw no lights.

Mr. Smith stated that he apologized if what he did was instructing the Council but that was what he got paid to do; that he was afraid he did not have a choice. He read from an amendment to the Resolution that provides that any applicant shall be entitled even after the date; that it was not a stretch to interpret this as meaning if the Health and Education Board approves the application, we can avail the rights of the benefits of the program.

Councilman Benson claimed knowledge that the top floor would be the headquarters for a major company that would bring a lot of employment back to downtown; that we had hoped to get a hotel here, but this is an even better use.

This remark prompted Councilwoman Scott to ask how many people on this Council had been apprised about the details regarding this project? Councilman Benson stated that his knowledge was because he was the Chairman of the Economic Development Committee; that people talked to him in generalities; that they came to him. Councilwoman Scott asked if Councilman Benson was the only person with this knowledge? Chairman Ladd stated that she had discussions. Councilwoman Robinson stated that she was aware this was going to be very strong in general terms concerning downtown.

Chairman Ladd thanked everyone, stating that we would have a vote this evening.

Mr. Johnson proceeded with the Agenda, stating that **Resolution ©** authorizes the Fire Chief to execute a MOU with Hamilton County for the Fire Department to provide First Responder Services in the City limits of Chattanooga. Chief Parker explained that it was basically the same contract but a lot of the Fire Chiefs had changed, and they wanted to look at this again, and he was told by the City Attorney that this needed to go before the Council before he could sign it.

Mr. Johnson indicated that there were no purchases for tonight.

**On motion of Councilman Rico, seconded by Councilman McGary, the minutes of the previous meeting were approved.**

This meeting adjourned at 4:00 P.M.