

**AGENDA SESSION**  
**JUNE 19, 2012**  
**3:00 P.M.**

Chairman Ladd called the meeting of the Agenda Session to order with Councilmen McGary, Rico, Scott, Berz, Murphy, Benson, Gilbert and Robinson present. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Johnny Feagans, Daisy Madison, Greg Anderson, Dan Johnson, Mark Keil, Jana Lowery, Gary Hilbert, Vickie Haley, Dennis Malone, Tony Boyd, Gene Hyde, Lee Norris, Jerry Stewart, Mike Patrick, Jim Templeton, Fredia Kitchen, Richard Beeland, Mo Minkara, Bill Payne, Ron Swafford, and Tony Sammons. Chief Parker joined the meeting later.

Mr. Johnson noted that there would be a Special Presentation by Parks and Recreation at tonight's meeting.

The first three Ordinances on final reading were zoning issues. **Ordinance (d)** is a Franchise for Liberty Tower, LLC and was discussed in Public Works last week.

**Ordinance (b) First Reading** was discussed in Legal and Legislative Committee last week. **Ordinance (c)** was discussed in Public Works last week. **Ordinances (d) thru (e)** were also discussed in Public Works. **Ordinance (f)** is the Budget Ordinance and has been discussed in great detail.

**Resolutions (a) and (b)** are Public Works' items. **Resolution (c)** writes off \$25,000 receivable from CHA and authorizes the closing of the Urban Renewal SCBD Fund and transfer of remaining balance of \$472.06 to the General Fund. This has been ongoing since 1984 and clears up the books. **Resolution (d)** authorizes Arbitrage Compliance Specialists, Inc. to provide arbitrage rebate computation and opinion services and is something that is done every couple of years.

**Resolution (e)** approves an economic impact plan for Black Creek Mountain area. Councilman Benson stated that this needed some extensive discussion; that new questions have arisen, and he felt we needed some of these questions answered right now; that the principals involved were present.

Chairman Ladd noted that we may opt to defer this.

Councilman McGary expressed that he thought this item needed to be more extensively discussed and that we needed to separate the TIF concept from the project in question; that we

now have the two connected and needed to first discuss what a TIF is and should it apply to this project. He noted that there are separate concerns about TIF's in general and then we can have a conversation about the project; that this would give us a solid way to understand TIF's. In summary, he said, he would choose not to discuss this now and have it included in a committee because we need to get basic information concerning TIF's and then we can discuss this project.

Councilman Benson stated he had no problem with learning more about TIF's at all but was concerned if there is time pressure on this; that Doug Stein is present and things had been passed around; that this being a road to Marion County was mentioned and also that one-half of the houses are in Marion County.

Chairman Ladd asked if the Council voted to defer this, would it throw Mr. Stein's plans awry?

Mr. Stein responded that it would hurt their schedule; that they were late, already, and deferring this would have an impact. He explained that this piece of land was annexed into the City two years ago and that they had had no services since then and could not receive services without this road, and they had been paying taxes; that they were told they needed to hire an expert Bond Counsel to study the terms of the Statute, which they had done; that George Masterson, out of Nashville, was here last week and spoke before the committee. He explained that he was not able to be present last week but wished he had been here. He stated that he thought we were "shadow boxing" in talking about a road going to Marion County—that this information did not come from them and was not of a factual nature. He went on to say that this project meets all the qualifications of the Statute and has been approved by the IDB and also the County Commission and if not passed by the City, it would have a chilling effect on developers with TIF's—that TIFs were being utilized in Nashville, Knoxville, and Memphis, and it is a commonly used tool; that he was afraid if this gets turned down in Chattanooga it will send the message that we are not "open for business".

Councilman McGary stated that Mr. Stein had summarized his argument; that the Council needed a clear understanding of how TIF's work and on what grounds we would approve or disapprove a TIF; that we needed to know if other communities had **not** awarded a TIF; that there needs to be a clear process as to what TIF's are and what they are not; that he thought pressure was being applied by saying this had been approved by IDB and the Planning Commission. He mentioned a lady, Helen Sharp, who had talked about certain criteria—two different criteria, and it would be interesting to hear what the criteria is for approving this TIF. He questioned if it were for the public good? He stated that he knew it was personally in the best interest of the developers, and we needed to see if all criteria applied and to take a week to examine TIF's.

Councilwoman Berz asked if any TIFs that met all the legal requirements of law had been turned down? Mr. Stein responded that he was not aware of any; that they did not wish to engage in a public debate; that questions needed to be asked and answered to the Council's satisfaction. He went on to mention three separate TIF rules or statutes; that not all TIFs apply to urban blight; that they had engaged the best Bond Counsel that was knowledgeable concerning Tennessee law, and they met the statutes. Councilwoman Berz again asked if there was no information about TIFs being turned down that did not meet the requirements of the Law? Mr. Stein went on to explain that the Industrial Development Board's standard was one criteria; that this was not a blighted area; that in 2004 State Law had added the stipulation in regards to the Industrial Development Board and that this does not require Ms. Helen Sharp's "mixed metaphors"; that there is legislation that amends the IDB Statute with a "vertical" portion; that TIFs that are turned down are TIFs where there is some crossover from public infrastructure and the idea of TIFs went into "vertical" construction. He went on to say that 26 States have TIF Statutes, mentioning the three criteria of Blight, IDB, and Urban Brownfields. He stated that it all depends which Statute you are traveling under. He added that in 2011 they asked their Bond Counsel to give them their opinion as to whether a "spine road" would meet the criteria of the IDB portion and that George Masterson had confirmed that it did; that this had been affirmed by legislation and fits under the Statutes. He noted that this is a simple TIF with one dimension—public infrastructure and no buildings—that all is "horizontal"; that this fits squarely within the Statute and to wait on this is superfluous; that they were asked to bring in an expert, and they did that.

Councilman Murphy stated that this fitting the Statute is "fine"; that it is not a question of this meeting the Statute; that the question is "should" this Council vote for this—that this is what matters.

Mike Mallen stated that this is only a "spine" road and—that if the City does not do this one—there is **none** they would do.

Councilman McGary stated that for clarification, it is correct that there are three different criteria for TIFs; that this is the first time this body has approached a TIF, and we need a clear distinction between enabling and rationale; that this is not meant to penalize this client; that we were only approached with this last week; that we need a definition of a TIF and in any given situation and to study the cost of the public good versus the good of the developer; that there will be the cost of services over 20 years, and there are questions that need to be asked around the board so that we will know what we are signing up for.

Councilman Benson acknowledged that there are a lot of questions and one is that the City would not be in any jeopardy to lose a single penny. Mr. Mallen confirmed that the developer is buying the bonds. Councilman Benson noted that if they go “belly-up”, they lose money. Mr. Mallen confirmed that there is no risk to the City. Councilman Benson stated that another question was some have been told that some of these houses are in Marion County. Mr. Mallen stated that the answer to this was “no”. Councilman Benson asked about the road going to Marion County? Mr. Mallen responded that the planned area is all within the City limits of Chattanooga. Mr. Stein added that what is paid for by the TIF is only the spine road with no driveways; that eventually the road might go to Marion County. Councilman Benson went on to say that if this is developed without a TIF, with the old road, that the government will have to build a road. Mr. Stein agreed that right now it is a public road that does not meeting specifications. Councilman Benson went on to say that if they start building, citizens will demand that this road be replaced, and the government will have to pay for that. He added that this really seems like something that will greatly improve the economy of Chattanooga; that the only thing wrong is that we will have to provide services of Police, Fire, and garbage collection and will not be getting any money for this right now. Mr. Stein noted that they are paying city taxes now on the mountain property, and it is inaccessible. Councilman Benson confirmed that they would be paying the full school tax.

Mr. Stein stated that if the development is a huge success, with tons of constituents that need services of Police, Fire, and Garbage collection, there would be a very quick retirement of the bonds and a huge increase in taxes—that if no one buys, then no services would be needed. He stated that there was not a downside to this; that if it should go bankrupt and the road is not finished, the city would still have a road that is one-half way up there; that there is no downside.

Councilwoman Scott stated that the road is actually a State road and questioned if the citizens in her district wanted this—that the overwhelming number do not think this is a good idea. She stated that she had great respect for Mr. Stein—that he knew how to do a development, but she questioned the amount of strength with the financial investors; that if there is one house on the mountain, it will obligate the City to start services for that area right then, and there could be ten or ten thousand trucks and policing of that area until the TIF is paid off. She noted that the individual purchasing the land will pay off the TIF; that this is an unusual type of financing; that the person investing is taking \$9 million dollars out to buy bonds, and this is the same person to claim the money the bonds are sold for to make improvements; that the people there will be paying taxes, which will be diverted to paying off by the same entity. She stated that this was very complicated; that in Knoxville the policy and procedure says for re-

development and does not encompass 2200 acres of land that does not need to be re-developed. She went on to say that people will be repaying money borrowed, and the rest of the citizens will be paying for the services going up there, and we will be spreading things thinner; that the taxes on the land now is based on 2200 acres of vacant land, with not a lot of expense, but when you start construction, this is all different.

Councilwoman Scott stated that she would like to share with the Council something that is very important—that she had no objection to the development happening but General Fund dollars from other taxpayers will be used here, and the other citizens will be put “second”—that before this gets done, this is going to happen. She stated that property needed to be set aside for public structures, and we do not need to be adding more to the system. She went on to say that if this is not completed, to “trust her”, if they don’t complete, services will not be completed, and the bond issue will default and result in bankruptcy; that this has been done by one of the main “bank rollers” of this project; that if we decide we want to do a TIF, it should be with someone with a wonderful track record; that there is enough funding from them to do this without partially completing a road that we will have to keep safe and to also service.

She went on to mention the State of Arkansas and went over how these projects get started and then go “bad”—starting in 2005 and going until 2012. She urged her colleagues to take into consideration this complex issue in trying to do this; that the only people who will suffer will be our citizens when things go wrong.

Mr. Stein responded that under the TIF Statute, people are protected; that if they put the road up there and only three houses will have to have services, it will be paid for in increased taxes by the homeowners and the land owners will pay the rest of it. He stated that property taxes would be sufficient to pay for services. He stated that he appreciated what Councilwoman Scott had said about him and stated that he would like to point out things that have been done by this group of developers. He mentioned the Longstreet Landfill, stating that they bought the landfill that was purchased by Fed-Ex, who are paying taxes; that the Chazens bought U.S Pipe and Wheland—that they were all concerned about what is best for this city; that the Chazens and himself did a concentrated search to find the best development partners, and they were requesting that this be granted because it is great for this city.

Chairman Ladd stated that it is on the agenda to be voted on tonight.

**Resolution (f)** authorizes the Director of General Services to execute a MOU for participation in communication system between the U.S. Marshalls Service and the Tennessee Valley Regional Communication System. **Resolution (g)** will be covered by Public Works.

**AGENDA ITEMS FOR JUNE 26, 2012**

**Ordinances (a) and (b) First Reading** will be discussed in Legal and Legislative Committee next week.

**Resolution (a)** is a Public Works' item. **Resolutions (b) and (c)** are Parks and Recreation items. Resolution (b) authorizes the waiver of fees for certain facilities and programs as an incentive for participants to complete a survey for Chattanooga Plays, in the amount of \$664.00. Resolution (c) authorizes an Agreement with Chazler Const. for the replacement on existing pipe and tube railings; wall-mounted handrail with stainless steel curved pipe handrail; and replacement of in-grade walkway lights with LED models at the Tennessee Aquarium for an amount not to exceed \$153,428.00. Councilman McGary wanted to know about the fees that were being waived. Mr. Zehnder explained that these fees are an incentive to the 2008 Master Plan Update and RPA is using this as an incentive to complete the survey; that this will increase the number of surveys. Chairman Ladd pointed out that Hamilton County will be sharing the cost outlined in Resolution (c) on a one-half basis.

**Resolution (d)** authorizes the appointment of a special unarmed police officer for Neighborhood Services.

**Resolution (e)** authorizes intervention in the pending rate increase filed by Tennessee-American Water Co., and Attorney McMahan stated that there was a meeting scheduled at 2:30 next Tuesday to discuss this matter.

**Resolution (f)** authorizes an agreement with Innovative Construction for the roof repair or replacement and related services, for an amount not to exceed \$44,000, including contingences for six roofs.

Mr. Johnson called on Daisy Madison to go over **Resolution (g)** authorizing a release of the guaranty from CNE in favor of the City of Chattanooga, relating to a \$2.6 million dollar loan for Dogwood Manor, LLC, contingent upon closing the transfer of the Dogwood Manor property to CHA. Ms. Madison noted that the Council had already voted on the land swap; that this \$2.6 million dollars is Accounts Receivable through CNE, who is the holder of the note for the city; as part of management, CNE secured a bank loan to renovate the property, and the City of Chattanooga refinanced and took possession of the note; that the swap necessitates this action.

Councilman Murphy stated that he did not want to over simply this—that this is being removed because they are not able to pay it back, confirming that this is a “sunk cost”.

**Resolutions (h) and (i)** are Public Works' items.

Attorney McMahan asked that **Resolution (j)** be added to the agenda concerning the Consent Decree with EPA—that we are the last ones to sign, and this needs to be approved next week. The Council agreed to this addition.

Mr. Johnson went over the purchases on tonight's agenda (made a part of the minute material).

The meeting adjourned at 3:50 P.M.