

**AGENDA SESSION**  
**August 28, 2012**  
**3:00 p.m.**

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

Others present included Dan Johnson, Daisy Madison, Steve Leach, Gary Hilbert, Larry Zehnder, Jim Templeton, Lee Norris, Richard Beeland, John Bridger and John Van Winkle.

**On motion of Councilman Rico, seconded by Councilwoman Robinson, the minutes of the previous meeting were approved as published.**

Dan Johnson stated the ordinance on final reading, **Walnut Commons**, was previously discussed in Public Works Committee. Ordinances on first reading included an **(a) amendment to the Code relative to a restricted on-street parking area.**

Chairman Ladd stated a group of residents are present wanting to address the ordinance.

**Janice Heath** of 928 Oak Street stated the City Council, City Traffic Engineer and Fort Wood residents agree parking is critical in this area extending to Central Avenue; that the differences arise with enforcement issues related to the one hour grace period. She stated the message she is receiving from residents in the 800 block of Oak, Vine and Fort Wood and the 500 block of Fort Wood Place is the grace period does not work; that residents pay \$25 for a residential parking permit and there is still no available parking by their homes. She stated they have been encouraged to give CARTA an opportunity to better enforce the grace period when they take responsibility for parking enforcement on October 1; that she specifically asked CARTA representatives if they thought they could adequately enforce even a 30 minute grace period and they stated it would be difficult. She stated several were at a meeting on Friday and the suggestion was made with reference to multi-space meters to be installed with a 30 minute maximum time limit enabling CARTA to better enforce unpermitted parking. She stated there are different views among Fort Wood residents about that, but the majority of the response she received expressed strong concern over the aesthetic impact of the meters in the historic district; that the meters would be a significant cost to the city and most non-residents visiting the Fort Wood neighborhood for social or business purposes would need parking for more than 30 minutes. She stated they would not use the meters but rely on guest placards provided to residents; that the city would receive very little revenue in return for the investment cost of meters. She stated a much more cost effective solution would be to eliminate the grace period which would solve the enforcement issues, provide adequate space of residential permit parking and enable visitors of residents to park with a guest placard. She emphasized the crucial component of the guest placards by stating they are currently being used in the existing restricted parking areas of Fort Wood and are an effective means of protecting visitors from being ticketed.

Ms. Heath stated as President of the Association her responsibility is to represent the expressed will of the residents and the original petition signed by over two-thirds of Fort Wood residents includes three elements: expansion of restricted parking area, expansion of hours of coverage and removal of the one hour grace period which are interdependent for the success of the ordinances. She requested the Council's consideration of the entire petition request.

**Cynthia Rice** of 822 Vine Street stated she has lived in the Fort Wood area since 1999 and during her research the original ordinance approved in December 1994 and a lot of things have changed since then; that the only thing that represents the neighborhood is the petition presented in the first original resolution. She stated the problem is the grace period and what she is saying differently from Ms. Heath is that she does not see deferring and discussing will change the outcome; that she requests this be put to a vote today as it has been going on for two years; that Traffic Engineering asked first for a survey, then a petition and is now asking for something different from the petition. She stated all the discussions have presented non-binding agreements from Trafficking Engineering of the half hour grace period and CARTA kiosks. She stated not unlike the Fort Wood Neighborhood Association asking the Council to vote according to the petition, but asked that the Council not to vote on what is in front of them; that she wants to go on record that Traffic Engineering has said they could continue to have the temporary parking placards that is very essential.

Councilwoman Berz stated she does not have a clear cogent reason why their request should not be granted.

John Van Winkle stated he received a petition with the three provisions and sent it to the City Attorney's office and the only one that really requires a change is the limits of the boundaries of the zones; that the others are discretionary and can be changed if the Council wishes to change the ordinance to impose the specifics on that and that can be done or just do it by administrative change in policy by changing the signs. He stated it could be enforced according to whatever the sign says; that the reason it is felt it would be proper to wait until CARTA has had an opportunity to do the enforcement is it may not be necessary to impose the other restrictions until they have had an opportunity; that everybody understands and agrees that the police department has done what they could but they really have not been able to enforce it to the degree it would be necessary to change driver behavior. He stated the neighborhood is very convinced it is not working; that the next proper step would be to give CARTA an opportunity to see what they can do, noting Brent Matthews of CARTA is present if there are questions. He stated if the Council feels they would like to go ahead and change the ordinance that is the Council's priority.

Councilwoman Berz stated she is unclear that as of October 1 the problems would still be present but now with more enforcement; that she is not getting her "arms around" waiting for CARTA to do what.

Mr. Van Winkle stated CARTA has a plan that will be much more aggressive as far as enforcement; that everybody accepts the fact enforcement has only been occasional and has not been as thorough as it should be.

Mr. Van Winkle stated the police department has not had the staff to commit to Fort Wood on the level that it really warranted which is why it is his belief CARTA has indicated they can step up enforcement to a level that would be much more effective and that will be the next logical step rather than changing the ordinance when it may or may not be necessary. He stated he advised the neighborhood if it turned out the CARTA enforcement really still did not do it then would be the time to consider changing the term limit of hours; that CARTA is committed to do enforcement from 7 a.m. until 11 p.m. which can be changed by changing the signs as they do not have to change the ordinance to do that. He stated that would help address some of the problems the neighborhood has with evening events and meetings that go on into the night; that if enforcement can go to 11 p.m. give it a chance to see how CARTA's enforcement could manage to address the problems.

Councilman Rico asked if the ordinance eliminates the grace period. Mr. Van Winkle stated the ordinance does not have a specific grace period but is more or less at his discretion and he could eliminate that and change the sign with no grace period or park without a sticker for a maximum of an hour and can just drop that part of the sign and it is done and does not requires an ordinance change. He stated that is why the City Attorney did not include that in the proposed ordinance change.

City Attorney McMahan stated the ordinance as it currently exists provides there is no parking between 7 a.m. and 6 p.m., Monday through Friday; that there is nothing in the ordinance as it currently exists about the grace period so we would not add a grace period to an ordinance when there is not one there already. He stated if signs are posted to suggest there is a grace period all that has to be done is to take the signs down or change them because the grace period was not written into the original draft of the ordinance.

Councilwoman Scott stated the boundary would be expanded as listed in the ordinance and then the restrictions would expand time for parking.

Mr. Van Winkle stated the wording indicates the study would be between those hours but does not say it shall be those times.

Councilwoman Scott stated the other issue is the city has delegated parking to CARTA and then CARTA is delegating parking duties to Republic which leads her to wonder if not only are we waiting for CARTA but these residents may also be waiting for Republic to make its change.

City Attorney McMahan stated we are not working on this problem with Republic; that Mr. Matthews is formerly employed by Republic and is now employed as Director of Parking by CARTA.

Councilwoman Scott clarified Republic parking has nothing to do with city parking.

City Attorney McMahan responded "no"; they do not have not currently have a contract with us on any of our facilities.

Councilwoman Scott stated it seems pretty simple; that if the grace period is not in the *Code* and up to Mr. Van Winkle to eliminate, he can eliminate that by putting a sign up and put the times and then CARTA goes to work enforcing it and the residents then begin to park. She asked if it is more complicated than that.

Mr. Van Winkle stated that is what he believes; that if there are still problems with the stepped up enforcement then they could address it at that point; that it would be proper to give CARTA a chance to see how they could address the problem and if measures they take are effective there is no need to take any further action as far as legislation.

Councilwoman Scott asked if the CARTA person were present to tell exactly when and what will be accomplished.

**Brent Matthews** stated they are going to add more checks; that currently the police force is stretched over there; that in the meeting held on Friday we discussed checking it three-to-four times a day at a minimum and willing to check at night after hours as there have been issues with night classes. He stated they agreed to check after hours also.

Councilwoman Scott asked if it would be a good idea if this could be completely implemented soon and then revisit this and see if it is working.

Mr. Matthews stated they discussed implementing it on October 1 and looking at it again in January which is how they left it after Friday's meeting.

Ms. Heath stated the argument she is hearing is to wait and give CARTA a chance; that it was just stated they would be able to come three-to-four times a day; that if the current ordinance is left as it stands as far as the grace period that is not enough time to come back and recheck as it means coming back every hour to check. She stated she previously mentioned the current one hour grace period does allow students to park legally for one year and many students on Monday, Wednesday and Friday have 50 minute classes and they may park there, get to their class and come back maybe 15 minutes late, but they are not getting caught. She stated she does not think what CARTA is telling us how often they will be able to come through will solve that problem.

Chairman Ladd stated when this matter comes up this evening three speakers can readdress the Council for three minutes each. By a show of hands several were in attendance on this issue.

Mr. Johnson continued with the agenda noting **Ordinance (b) is an amendment to the Charter regarding the Internal Auditor. Resolutions (a) – (c)** are Parks and Recreation matters that were discussed last week; **(d) – (f)** are Public Works Matters that will be discussed in later in Committee; **(g) – (h)** are safety items that were discussed last week in Legal and Legislative Committee. He stated **(i) is for payment to Dr. Gandhi**, an amount that has been donated and is no debt cost to the city. Councilman Benson clarified that it is “pass through” money.

**Resolution (j) is to adopt a new flag.** Councilwoman Scott stated she was curious if Council members have had feedback on this.

Councilman Benson stated the feedback he has had was based on inadequate information; that people do not know how it came about as it started in 1997. He asked David Crockett to explain in sequence what took place as far as vetting.

Councilman Rico stated he had feedback and a couple against it, yet overall it was good after people found out what the symbolism was and appreciation was expressed for what we have come up with.

Councilman Murphy stated the only feedback he has gotten was one person who appreciated the history of our current flag and did not want it changed; that another thought the proposed flag was hideous!

Councilwoman Ladd stated she has had a great amount of feedback and every one has been a different idea and a whole different approach and does not think we would ever get to the end of people's opinion on this.

**David Crockett** stated this did not start out as anything about a flag; that it was trying to create a positive identity for the city; that we started the conversation in the paper in 1994. He stated they were looking for something that could be used to promote all that had been to clean up the riverfront, all the downtown projects we were just beginning to do, and all the things we had done to clean up the air in the downtown area. He stated the group involved presidents of the Chamber, RiverCity Company and the Chattanooga Visitors Bureau; that we talked about putting signs up on the bridge to celebrate what the city had done and its outdoor themes and the scenic values of the mountains and rivers. He stated they were not so interested in a flag but by accident found out the city didn't use their flag and they dug through the archives and found articles through the 40's and 50's of the flag never being used and never more than a few copies of it. He stated it was a beautiful flag and has never been used. He stated it was suggested they would take the right colors and design and a lot graphic artists did a hundred iterations to try to create something that would evoke the thought of rivers and mountains and use the seal which had been adopted in 1975 by both the city and county. He stated it was suggested to use two green stripes and the city's seal and with each element having a meaning that could tell the story of Chattanooga and give us an identity. He stated they studied flags from all over the country, corporate logos and traditional logos and came up with the criteria that it should be unique and not be confused it as it is now, it is recognized and the seal makes it recognizable, informative and dignified. He stated the main thing is the meaning of the flag; that this flag could not be confused with anything else; that it was brought up in 1994 and 2001 and should have passed it at that time as the resolution was adopted and it was suggested the matter be passed to the next Council. He stated the thought was it would be on every office building and in neighborhoods.

Councilwoman Robinson asked if Mr. Crockett could be given a few minutes longer. Chairman Ladd clarified if Mr. Crockett's time is extended others will expect it also.

Mr. Crockett stated the purpose was to establish an identity and marketing for the city and the idea was people would use it all over.

Chairman Ladd reminded Council members of the bound copy of everything shown by Power Point during Mr. Crockett's presentation.

Councilman Benson stated Mr. Crockett has been using the word "we" and asked who was involved in the vetting of this because there are implications that we are just throwing something on the public brand new.

Mr. Crockett stated there was a group of people in the early nineties including the president of the Chamber of Commerce and showed it to hundreds of people and used it as a symbol, but there were all kinds of graphic arts that were pro bono, as well as the RPA, the Design Studio and various members of the Chamber who volunteered their services and produced a hundred iterations of it. He stated the main thing is the concept: two green stripes and one blue stripe and the city seal; that if the concept is approved let the graphic artists do their job. He stated the history should be published.

**Taylor Thomas** of 876 Oak Street and a student at UTC stated we have a bad tendency to dismiss parts of our history; that we see this especially in the preservation of old buildings as we are prone to tear them down in favor of something new and contemporary. He viewed the flag issue as something along those lines; that the old city flag does not represent us is incorrect because Chattanooga is the old city of East Tennessee and there are three grand divisions and the similarities between the city flag and state flag are intentional as the state flag has three stars and the city flag has one representing East Tennessee; that there is also a laurel of dogwood emblematic of this region and the gentility of the people here. He stated to eradicate something simply for the fact it is from a long time ago is counter intuitive; that we should preserve our history. He stated design wise there are criteria for flag design and this does not meet it; that he is hesitant to get rid of a piece of our history that represents us as a region.

**Mayor Littlefield** previously warned Council members that this matter would be more controversial than they thought it would be and expressed remembrance when the discussion was going on but was not on the Council at the time. He stated from time-to-time he would "rib" Mr. Crockett and others about the flag issue because it was a prominent thing publicly and all the suggestions that came forth. He stated he remembers when the new seal was adopted for Chattanooga and Hamilton County and they went through a process; that a number of people submitted ideas and a panel of judges chose the one designed by artist George Little, now deceased. He stated the seal has changed a little bit over time but displaying our seal is something we should do and the flag is one of the opportunities we have to display our seal noting the pennants and flags of our Sister Cities bear their seals. He stated green and blue are very appropriate as we have become a very "green" city and our river is once again a blue body of water; that if we think of the recent Volkswagen campaign they were talking about green cars and a green city and then they changed to blue, so there are real connections not only with our history as a city that has come very far but one that has attracted an international manufacturer because of the principles we subscribe to and they also subscribe to.

Mayor Littlefield stated the old flag is part of our history and nothing will change that and it will continue to be displayed but it is time for us to step up and do something distinctive. He stated he looks forward to seeing this new flag hanging outside the Mayor's office and when people come they will know it is the city flag and not just two state flags hanging side-by-side.

Chairman Ladd stated we will see if this flies tonight!

Mr. Johnson continued with the agenda by stating **Resolution (k) is a special exceptions permit for Meo Mio's** on Cummings High property when it was previously before the Council.

Councilwoman Scott inquired as to whether Mr. Boyd were present; the response was "no".

Councilwoman Berz stated we had a very thorough discussion about this when the original owners had this and asked if we would go through this again every time there is a new owner.

**John Bridger**, Executive Director of the Regional Planning Agency, stated they apply and as new owners they have a right; that unless the City Attorney advises otherwise, they can apply for the late night entertainment permit.

City Attorney McMahan responded "yes" as it is now written, but obviously that probably is not a good process to keep bringing it back-and-back-and-back but as it is now written there is no prohibition. He stated we might think about adopting a six month, year or some material change in circumstance; that the reason it failed last time was because it was 75 feet from the nearest resident and it probably has not changed.

Councilwoman Berz stated this and some of the other laws at Beer Board they probably need to look at because every time there is a new owner we have to go through this "stuff" again and the basic premises have not changed at all.

City Attorney McMahan asked Mr. Bridger to suggest a change that can be brought back before the Council.

Councilman Benson stated the way he understands it there may be a loop hole in our zoning law; we don't let anyone to come back more than once a year on a zoning request and we should do the same thing on a piece of property for a special exceptions permit.

Mr. Bridger asked if that is the will of the Council not to come back for a year. The response was affirmative.

#### **AGENDA: SEPTEMBER 4, 2012**

Mr. Johnson stated the first ordinance on first reading should not have appeared on the agenda as action has already been taken. City Attorney McMahan explained this is the first week of electronic showing of the agenda online and we cannot renumber "a, b, c" every week like we did previously because there are so many folders set up on the Internet.

City Attorney McMahan stated he is not sure how this will be addressed; that it was a mistake and we will figure it out and try to correct it next time.

Mr. Johnson referenced **Ordinance (b) regarding a Charter change for citizen initiatives** wherein Chairman Ladd indicated this would be discussed in next week's Legal and Legislative Committee. Ordinance (c) is an amendment to the Code relative to sidewalk vendors. Admin. Zehnder stated this will need to be "massaged" in a committee meeting at some point as the language referencing parks and recreation specifically addresses the waterfront park areas they have vending control on; that somewhere in the Code revision there needs to be established that Parks and Recreation is the entity in this city that is going to be governing and setting the rules and regulations and permitting process along with the Treasurer's Office and somewhere in the ordinance that needs to be developed. He stated right now it is still a little bit unclear as it could be. City Attorney McMahan asked Mr. Zehnder to connect with Kenneth Fritz to "massage" the matter between now and next Tuesday for discussion in Legal and Legislative Committee.

Councilwoman Scott stated on pages three and four of the document it says "... *the administrator of parks and recreation may grant or deny a permit in his discretion; the administrator may revoke a permit previously granted if the vendor fails to maintain all required licenses, permits, fails to properly pay the city, change his equipment, products and prices without the approval of the administrator or fails to maintain reasonable hours of operation or become subject to citizens complaints about the operation of the business . . .*" She stated when she thought about that she wondered when we look at the special exceptions permit for the vendors or restaurants that have the license to be able to sell between 11 p.m. and 3 a.m. we really have some very, very specific things and wondered legally if it would be okay for the administrator of parks and recreation to deny based on citizen complaints about the operation of a business, could we not have the same privilege on revocation of special permits even when they become . . .

City Attorney McMahan stated there are sidewalk vendors in general downtown and sidewalk vendors actually operating within our parks system operating pursuant to a request for proposal and basically working at our discretion; that if they do not go a good job it is like they are breaching the contract with us. He stated it is different with respect to people working downtown in general; that we do need to separate those two concepts in this ordinance and expressed agreement with Mr. Zehnder on that. He stated we will look at it; that we cannot exercise absolute discretion in taking away anybody's privileges to do business except if they contract with us they have standards they have to meet.

Mr. Johnson continued with **Resolution (a) contract with Mac Source Communications** that was deferred last week for two weeks noting that the conditions on which it was deferred still have been unresolved at this point. Chairman Ladd asked if it needs to be deferred again this evening. Mr. Johnson stated it is on next week's agenda and we can wait until next week. **Resolution (b) has to do with granting tax incentives for development of downtown housing** with a change in description on what downtown area is to be covered which was discussed last week.

City Attorney McMahan stated administration has drafted significant changes to the version drafted by RiverCity which needs to be openly discussed again before voting. He asked that it be discussed in a meeting of the Economic Development Committee on next Tuesday.

Councilwoman Scott stated the second version received had essentially the decision making happening within the Health, Education and Facilities Board (HEB) on whether there would be a PILOT accepted or not and actually the last part of it said if the City Council had a problem with it they could object within 21 days of that. She stated her understanding was it was going to come to us and she is not clear; that she thought it would be the Council's decision on whether the PILOTS would be done. She stated as far as she knows this is the only board where the city delegates the tax abatement to another board and we do not do that for the Industrial Development Board (IDB) as they make recommendations to us and we either vote it up or down and then it goes forward if it is voted up. She stated she is uncomfortable with the delegation of it the way it is and for three or four people who are governed by the Sunshine Law to get together and object to come back one at a time to object in any number that would come to five is a little hard to accomplish. She stated it does not feel well tied up and is outside of the authority of what a normal board would be.

City Attorney McMahan stated the city and county signed onto this and the county has already. He stated it is one of the changes made at the county that it must be approved as currently drafted by both the City Council and the County Commission, in other words the Council will make the decision. He assured her the HEB does not want to be in a position making those kinds of decisions; if taxes are to be abated it should be made by the governing body.

Councilwoman Scott stated the wording on Friday still had it; that it was a little different from the first but still included that and asked if that is incorrect. City Attorney McMahan responded "yes".

**Resolution (c) involves a volunteer annexation** to which City Attorney McMahan stated this involves a small tract of land less than a half acre; that a commercial development is going up in front of the Honors Golf Course on Old Lee High; that some of the building is split between the city limit line and are basically extending it on so the whole building will be in the city.

Councilwoman Scott expressed concern about this; that part of it is lack of understanding about it. She stated it looks like the property was zoned M-1 and asked what it is likely to be as she could not tell by looking at it. She stated she would like to see a cost analysis of what we would have to do to annex it noting it is not within the growth boundary and is outside which is a little different. She stated the last time we annexed by a voluntary annexation was in her district and she asked what it would cost to annex and it was very, very little because it was completely vacant land and the next thing she knew we are doing a TIF for \$9 million to build a road up to it! She stated she would like to know if there have been any discussions about doing a TIF because she saw roads that looked prospective in there and would like to know before she votes to annex that there are no TIFs anticipated with this project.

Admin. Leach stated he did not know about any proposal for a TIF as this does not have any harsh topography to deal with. He stated the reason it is zoned industrial is it was an old TNT plant site at one time and the area included a horse track with an interesting history; that there should be no cost to the city as half of the building is in the city and the other half is in the county and they were having issues about what *Code* to follow. He stated it is a development being done by a developer for a mixed use development; that the front area is in the city and the rear is still in the county and they are trying to straighten an issue with a building permit because of the *Code* compliance nature of splitting a building between two jurisdictions which is the whole reason for this. He stated they suggested annexing that portion of the building that is in the county; that the City Attorney mentioned that it is a convenience to our *Code* and will not cost any more as the developer is putting in the infrastructure and roads and will be a neo-traditional type with housing in the rear and the first portion commercial.

Councilman Benson stated this is in his district and did not think there would be any controversy at all as it “flew” through Planning. He stated it is the developer’s desire and to the city’s profit and there is not anything he can see badly about it as it is mixed use with a good developer and no complaints from anyone.

Councilwoman Robinson stated this sounds good and inquired as to the housing. Admin. Leach stated that is in the county portion and is an oddly shaped lot.

Councilwoman Robinson asked how much property is involved for the whole project. Councilman Benson stated it is over ten acres and has to be to be mixed use. John Bridger stated it is at least 30 acres for the residential portion.

Councilwoman Scott expressed appreciation for the answers but stated she would like to have something in writing that it costs nothing and there is no TIF involved.

Mr. Johnson stated **Resolutions (d) – (r)** are all public works items and will be discussed in Public Works Committee.

### **PURCHASES**

Mr. Johnson stated all purchase requests are Public Works Matters and reported a request to reject all bids for four Vacuum Regulators which will be rebid; a blanket contract for LED Traffic Signal Inserts awarded to Southern Lighting and Traffic Systems, Inc. for an estimated \$30,000 annually’ and a blanket contract for Bulk Cement awarded to CEMEX, Inc. for an estimated \$25,000 annually.

### **BUDGETARY REQUESTS**

Councilwoman Berz reported that the time has come for budget preparation again and one of the questions she has is that letters are to be sent within a month-or-so to the agencies and asked if she is to assume the Council wants to continue with the social service agencies working with United Way and whether there is a need to have a meeting about that.

Councilwoman Berz stated she pretty much knows the answers and the Council will see a copy of the letter with all the input that has been given this year. She asked if she could go forward with getting the form letter ready to go out noting everything will be electronic and transparent on the Web. She stated she does not see the need for a Finance Committee meeting however if the Council wants one she can call one.

Chairman Ladd asked if there is any opposition to continuing the way this has been laid out; there was no opposition.

Councilman Murphy stated he is not volunteering to get in the middle of it but thinks some of the hurdles we put in front of folks became a little bit more paper work and bureaucratic than ideal and if there is some way to streamline all the non-profits as their financials are public record anyway; that it seems we are “killing a lot of trees”. He expressed appreciation that it is electronic; that in respect to United Way he would take anybody’s input and does not know if he would put the United Way ahead of Metropolitan Ministries or Catholic Charities or anybody else in terms of what they would recommend that we do.

Councilwoman Berz stated the Council will receive a report in November as accountability was a big issue, as well as another report in January from United Way relative to the social service agencies. She stated nothing will happen without the Council receiving copies of everything and having input; that she wanted permission to go forward with the United Way aspect.

The meeting was adjourned.