AGENDA SESSION  
SEPTEMBER 18, 2012  
3:00 P.M.

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


On motion of Councilman Gilbert, seconded by Councilman McGary, the minutes of a previous meeting were approved.

Mr. Johnson proceeded with the agenda, noting that there were two presentations—one would be presented by Richard Beeland and the other would be an introduction by Missy Crutchfield of Dr. Arun Gandhi.

Ordinance (a) Final Reading brings our Code into compliance with State Law. Ordinances (b) through (e) are zoning issues. Mr. Johnson noted that there was a change on Ordinance (d). Mr. Payne explained that this was Zoning Case 102, with a companion case of 101; there was one objection by the Fire Marshall concerning access to fire hydrants with the closing of Manning Street, and an additional condition had been added to Case 102, which says subject to a Site Plan being approved by the Fire Marshall. Attorney McMahan added that his secretary was drafting this amendment, and a motion to substitute would be needed tonight on second reading.

Ordinances—First Reading (a), (b), and (c) are Public Works’ items. Ordinance (d) converts a Resolution to an Ordinance because it involves market value services. Mr. Thornton explained that we have a five-year lease with Goodwill Industries for furniture and appliances for low-income; according to the Tennessee Attorney General, the value of what the lease is worth is $25,000, with a $1.00 a year for five years.

At this point, Councilwoman Scott wanted to go back to Ordinance (a) First Reading relative to historic zoning. She noted that the document she had received indicated that we would be going from five to nine members on the Historic Zoning Board. She pointed out that Section 10-13 talks about nine members and accounts for the naming of five members. Our Ordinance, as it stands, does not designate where the remaining four members will come from—as it stands now, one or two representatives will be residents; one from the Historical Organization, and
the other two will be a local architect and one from the Planning Commission, which totals five. She wanted to know how the other four will be appointed? Mr. Hilbert confirmed that three were listed as being a local architect, one from the Planning Commission and one from the Historical Organization; that the remaining six would come under the resident category. Councilwoman Scott pointed out that the Ordinance says one or two can come from the local Historic Districts. Mr. Hilbert noted that we have four Historic Districts—that four members would come from each district; the three named; and the other two would come from Historic Districts. Councilwoman Scott stated that the wording needed to be improved to explain this; that it looks like the members are appointed by the Mayor and then approved by the City Council—that the Mayor could appoint the person from the Planning Commission, the Historic Organization, and the Architect, but if the other six were to come from the Historic Districts, she thought it would be more appropriate for the Council to appoint these representatives.

Councilman Rico stated that his district, St. Elmo, was a historic district and that he had been asked about who should be appointed. Councilwoman Scott pointed out that the Ordinance does not say that the Council will “nominate”. Councilman Rico agreed that he just recommended. Councilwoman Scott contended that it should say that members from neighborhood Historic Districts would be nominated by the Councilmembers who have these districts; that she did not have a historic district, and if no one cared about this, we could just move on. Councilman Rico responded that he “cared”—that the representative should live in the Historic District.

Councilman McGary responded that it was not that he did not “care”, but he needed to think about this; that he had two Historic Districts and could appoint two members.

Attorney McMahan noted that six members would be residents from Historic Districts, and we have four districts—that the question is whether they should be nominated by the Mayor or the Council. Councilwoman Scott stated that this could be amended tonight. She went on to say that in talking about Historic Districts—that the Board could put a moratorium on and her question was should there be a reasonable amount of time for the decision to be made? She noted that nothing says anything about a timeframe, and there should be some defined timeframe for a moratorium—that the way it is now, it seems open-ended.

Councilman Rico stated that he agreed with Councilwoman Scott—that his concern was that a man in his district had a house that was falling apart, and he could not tear it down but had to fix it up—that he thought this was unfair to property owners.

Mr. Hilbert stated that they could defer this for a week and get with Attorney McMahan to straighten out these issues, and this could be on next week’s agenda.

Councilman Murphy had arrived by this time and explained that his tardiness was because of a significant landslide in his district.
Mr. Johnson continued with the Agenda. **Resolution (a)** concerns a blanket contract for a phone system. Mr. Johnson stated that IS feels that this contract is workable, and we can move forward.

**Resolution (b)** adopts administrative regulations for conduct of injury-on-duty hearings. Mr. Johnson noted that Susan DuBose and Valerie Maleug were here to explain this. Councilwoman Scott stated that she had sent some questions and wanted to know if there was a definition list somewhere else? Ms. Maleug responded that the list was in the Ordinance, itself. Councilwoman Scott pointed out that on page 2, it says “clerk”—that she thought it needed to say “City Council Clerk”. Ms. Maleug responded that they could say that—that this was just “mirrored” after the other one. Councilwoman Scott felt that this should be done for clarity purposes. She also had a legal question concerning hearings. She wanted to know if it were appropriate for a person that is not a witness to attend the hearing? She wanted to know if the hearings were public meetings? Attorney McMahan responded that it is a public meeting but is under the control of the ALJ and a person who is to be a witness would be excluded; that a person could also be excluded in regards to HIPPA. Councilwoman Scott asked if a witness should not be notified five days in advance? Ms. Maleug responded “yes”. Councilwoman Scott wanted to know whose job it is to notify a witness? Ms. Maleug responded that it would be the lawyer representing the City or the employee. Councilwoman Scott wanted to know what would happen if a witness was not notified? Ms. Maleug responded that the case could be “striken”—that it would be up to the ALJ. Councilwoman Scott explained that as a representative of the City, she attempted to go to a hearing and was told that she needed to leave—that she knew nothing about the situation and was told that she was listed as a witness, which was shocking to her. She stated that she thought it would be appropriate to tell people ahead of time if they are a witness—that this needed to be worked out. Attorney McMahan responded that it was the duty of the lawyer to put witnesses on a list and talk to them prior to the hearing. Ms. Maleug agreed that this was the policy of their office—that if a person was on the witness list, they were given notice and then talked to. Councilwoman Scott assured that this did not happen in her case. She wanted to know if the Council passed this Resolution what would be the rule? Attorney McMahan responded that this was standard legal practice.

Councilman Gilbert asked about the timeframe change for an appeal? Ms. Maleug answered that the I-O-D Ordinance had a different requirement—30 days instead of 15.

Councilman Rico stated that he attended the same hearing as Councilwoman Scott to observe and was told that he had to leave, too. Chairman Ladd questioned what was the best thing to do about this? She wanted to know if councilmembers were told to leave if it were up to the ALJ? Attorney McMahan responded that it was within the discretion of the ALJ—that if this happened again, he would ask that the councilperson have permission to call his office. Councilman Rico noted that it was the judge that asked him to leave.
Resolution (c) is a Parks and Recreation item and will be discussed in the Legal and Legislative Committee. Resolutions (d), (e), and (f) were discussed in Public Works’ committee last week.

Mr. Johnson stated that Attorney McMahan had asked for Resolution (g). Councilwoman Scott asked if there was any limit as to how long one could serve on the Health, Educational, and Housing Facility Board? She noted one had been on the Board for 30 years. Attorney McMahan responded that there was no limit; however, we might want to consider one; that these members were appointed pursuant to State Law. Councilman Murphy stated that he served on the County’s IDB Board and was appointed by the County Mayor; that they had a member who had been on the board since its inception. He stated the purpose of this was because of the institutional memory—that the members are unpaid, and it is a civic service, and this is probably the best way to go; however, fresh people might be worthwhile. Attorney McMahan noted that we have one vacancy on this Board, with Mr. Johnson adding that there are professional credentials required.

Mr. Johnson noted that the “blanks” had been filled in on Resolution (h). Mr. Malone explained that they had been working with the contractor, who is the low bidder, for the last several weeks, and we now had a price that we could move forward with; that $177,000 had been cut out, and we were collecting funds from other sources—some from Parks and Recreation and some from Public Works and funds had been re-allocated to this project. He mentioned $250,000 for Water Quality—that it was $384,000, and we had taken out $20,000, bringing it to $364,000. He explained that Water Quality is a retention basin to irrigate landscaping of the park itself, and if a storm comes, it can dump to the system. He noted that the Lyndhurst Foundation brought $27,000 to the table, and we have received other funds from Allied Arts.

Resolution (i) was added by the authority of Chairman Ladd; that it is a change order for contract with Chazler, Inc. to allow VCT tile to be installed for the Second Floor Build-Out located at 3410 Amnicola Highway for an increase of $2,158 for a total contract amount of $74,258.00. A captain from the Police Dept. explained that this was actually cost-effective; that the proposal had called for the floor to be sealed, and this is cheaper.

AGENDA FOR SEPTEMBER 25TH

Ordinance 6(a) First Reading will be covered in Public Works’ Committee next week. Ordinance 6(b) will be covered in the Legal and Legislative Committee. Ordinance 6(c) is an amendment to Ordinance No. 12626. Attorney McMahan explained that this is a CARTA issue that they had been working on with the Police Dept. and the City Court Clerk; that it was supposed to take effect October 1st, and this says October 15th; they want it delayed to October 21st because they are having a problem getting things lined up, and there are a couple of technical amendments. Councilwoman Scott stated that she had heard the rumor that all parking meters will go for 24
hours a day. Attorney McMahan responded that they could set the hours of operation, but he did not think they would be enforced 24 hours a day; that it is 9:00 p.m. now, and he thought this would continue; that they would have representatives here next week, and this could be clarified.

Resolution (a) authorizes the Planning Agency to amend the agreement with Terracon to complete the necessary assessments for the requirements of the EPA Brownfield Grant in order to increase the amount by more than $1,000, for a total project cost in the amount of $221,600.00. Yuen Lee explained that this $1,000 is to update Phase 1; that we have to update Phase 1 if it is over six months old before we complete; that there was a second amendment to the original Resolution in February of this year that increased it to $220,000, and now we are adding another $1,000. Councilwoman Scott noted that this was the third amendment.

Resolution (b) will be discussed in Public Works next week.

There was one purchase for the Police Dept. for training cartridges from Vance Outdoors in the amount of $20,362.00.

This meeting was adjourned at 3:30 P.M.