

AGENDA SESSION
January 6, 2009
3:00 P.M.

Chairman Bennett called the Agenda Session to order with Councilpersons Berz, Benson, Rico, Page and Gilbert present. Councilman Pierce joined the meeting later. City Attorney Phil Noblett and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Lee Norris, Dennis Malone, Steve Leach, Greg Haynes, Jerry Stewart, Danny Thornton, Barry Bennett, Paul Page, Jim Templeton, Dan Johnson, Richard Beeland, Beverly Johnson, Fire Marshall Haney, Bill Payne, Chief Rowe and Chief Williams. Larry Zehnder, Daisy Madison, Donna Kelley, and Jean Smith joined the meeting later.

Chairman Bennett asked Mr. Johnson to go over agenda items. He began with purchases. The first purchase was for Information Services and was for the Annual Oracle Software Maintenance Agreement in the amount of \$115,975.23; the second purchase was for Public Works and was an Annual Requirements Contract for Water Cooling Towers & Hot Water Systems Maintenance from Superior Water Services, Inc. and was based on unit prices; the third purchase was for the Library and was for property insurance coverage for three years from BB&T Huffaker in the amount of \$26,747.00 per year; the fourth purchase was for Information Services for a Blanket Agreement of Network Endpoint Security Software Services from Insight Public Sector and was based on unit prices.

At this point Councilman Page asked what unit prices meant—was it per hour? Mr. Johnson confirmed that it was per hour.

Councilman Gilbert wanted to know how we advertised these bids? Mr. Johnson responded through the newspaper and website—that notices were sent out to “known” people and local people who have bid previously.

Chairman Bennett wanted to know if a business could register with the City? Paul Page answered that the City does not keep a register; that people could look on the website once a week.

Councilwoman Berz wanted to know how one makes it on the list of “regulars”? Mr. Page answered that this is determined by those who bid the last few times—that they had a list of these names.

Councilman Gilbert asked if these names could not be put on a data base and this could go out to a mass of people? Mr. Page responded that this changes so frequently, and we would have to hire extra people to do this—that it was not practical to keep up with it this way. Councilman Gilbert asked if the City did not used to have it this way and was told by Mr. Page that it was 8-10 years ago. Councilman Gilbert asked if this information was revised yearly? Mr. Page responded that we tried to use the State's list.

Chairman Bennett asked Councilman Page if he got the answer to his question? Councilman Page stated he was told that cost based on unit prices meant per hour, but he would like to know the hourly basis.

Mr. Johnson continued with Purchase #5—A Track Loaders Equipment for Public Works from Bobcat of Chattanooga in the amount of \$129,509.22. Purchase #6 was for Parks and Recreation and was for three utility vehicles from Dal-Kawa Cycle Center in the amount of \$23,844.72. The last purchase was for General Services for Property Insurance from Arthur J. Gallagher & Co., who we are currently using, in the amount of \$295,711.00.

Councilwoman Berz went back to the purchase of Oracle Corporation and asked if Oracle was working?

Mr. Johnson responded that it was working in some areas; that it was not fully implemented—that payroll is working and more items will be added January 1st and July 1st—that a big part will be added April 1st. He noted that nothing ever runs smoothly and that we have consulting arrangements with various consultants.

Chairman Bennett asked if there was any reason not to move forward with these purchases. There being none, Mr. Johnson proceeded with agenda items. Chairman Bennett explained that anything on the agenda in **Bold Print** is something that has been changed.

The first item was **Ordinance 6(a)**, amending the City Code so as to remove the restriction that a requirements contract not be let for a period in excess of one (1) year. Mr. Johnson explained that under the current code there is a 12-month limit, and this will change it to conform with State Law, which allows up to 60 months; that coming up every year, some things are getting overlooked—that they would still be on a one year basis and renewed on an annual basis.

Councilman Benson asked if they would be renewed on an annual basis on Council's approval—if not it would seem to him that we would be locked in for four more years.

Councilman Pierce questioned why, after five years, they would not be overlooked again?

Mr. Johnson stated that they were putting in controls to control this.

Councilman Benson stated that he had been reading the Auditor's Report of Quality Control, and we had had contracts extended without Council approval.

Mr. Johnson responded that they were trying to stop this—that when it is on an annual basis, it comes around so fast—that when the contract expires, they have to have a new contract.

Chairman Bennett noted that some things should have been performed; that the Audit provides oversight, and she wanted to know how we know we are on track—that once we have an Agreement, how do we know that it is moving forward in the way it should be moving?

Mr. Johnson responded that we are talking about Requirements Contracts—that we put the contract in a system and then people in various departments can buy against this contract.

Chairman Bennett asked for an example. Lee Norris responded that “fencing” is a good example—that when they need fencing they give it to the buyers in their department, and they write up the requirements and request—that Parks and Recreation does the same thing, and they both can use the same Requirements Contract.

Councilwoman Berz wanted to know if the price is locked in? Mr. Norris responded that it is locked in for the life of the contract—that there is a mutual agreement to continue or discontinue the contract.

Councilman Benson stated that if the price is locked in then this is good, using gasoline for an example. He questioned, however, if this would avert competition?

Mr. Norris responded that would not be the case because at the end of the first year, we could do away with the contract if we wanted to; that the good thing about extending this to 60 months was that if a company knew they could only get the contract for say, two years, they would be less likely to bid; that it gives the company some degree of reassurance if they have five years; that right now, every time a contract expires, it takes a lot of time to put out a bid package—that if we stretch it over five years, there is a lot less effort and with a longer extension, we get a better unit price—that it is a win-win situation for the City.

At this point, Councilman Page asked the definition of a Requirements Contract.

Mr. Paul Page explained that it was a contract to buy from a vendor and the City guarantees for the term of a contract—that during this term, the City can't go to another vendor.

Mr. Bill Payne stated that “computers” are another example of a Requirements Contract, where the City knows the price up front and the contract is used on an “as needed” basis; that if we had to go out and bid everything for fences and computers, we would have to have five to ten times more employees.

Councilman Gilbert confirmed that this type contract saves money in the long run.

Councilman Page stated that most things would fall under this definition—that any materials could fall under such a definition.

Councilman Gilbert questioned dealing with pricing up front with the manufacturer who actually makes the fencing. Mr. Norris explained that the difficulty in this would be that we don't always know how much fencing we will need.

Councilman Page stated that this made sense but asked when monitoring contracts, how do we assess if it is a good deal and we are getting the best price? Mr. Norris explained that the best price is derived when we first go into a contract; that after the first year, we can get out of the contract if the contractor is not performing as we wish.

Mr. Johnson noted that this is pointed out in the Internal Audit Report.

Councilman Page noted that if it is exceeding the cost limit and the contract expires February 1st; that on January 25th we could put out a release and on February 1st we would not pay the vendor and could extend the contract for 15 days in order to satisfy our requirements. He wanted to know if this option was unavailable at this point?

Councilman Benson stated that he would not be in a position to vote for something that would close down the open market for five years.

Mr. Johnson pointed out that it is 12 months now, with Councilman Benson asking if we wanted to go from a 12 month contract to a 48 month contract?

Councilman Page added that we did have an option, with Paul Page agreeing that we have an option every year and Councilman Benson wanting to know if it had to come back to the Council every year, with the answer being “no”.

Attorney Noblett stated that there were two options—that these provisions are coming out of State Law, with Chairman Bennett asking if we were trying to “mirror” State Law?

Councilwoman Berz summarized that we were taking out a limitation, but the Council can still set the limits; that right now we have a restriction in our City Code, and we are taking out that restriction and are not doing any damage. She reiterated that we were taking out a restriction and not doing any damage; however she stated that the Council needed more understating when the time comes in order to make an educated decision.

Mr. Norris agreed that the Council needed to understand the contract—that the contract is for one year with the understanding that it can go four additional years; that tonight we will be approving a contract for one year with the option for four more years; that the departments could automatically go into the next year without the Council’s approval.

Councilwoman Berz confirmed that the departments could do this without letting us know each year. She wanted to know if we could ask them to come back on a yearly basis to see how the contract was coming along.

Mr. Norris stated that if they had to get the Council’s approval every year that it would “jam” up everything.

Councilman Gilbert wanted to know if all bids had to meet the same specifications and was told “yes”.

Chairman Bennett wanted to know if everyone had had an opportunity to ask their questions?

Councilman Page stated that he had asked his questions concerning this—that it was onerous on us to monitor materials and purchasing, and he hoped that with Oracle we would be better able to do this.

Mr. Johnson continued with **Ordinances (b) thru (d)**, stating that these were zoning matters.

Resolution (a) recognizes and honors our former City Attorney, Randall Nelson.

Resolution (b) authorizes a Personal Services Contract with Townsend Atelier, LLC for Coordinator of Public Art Services in an amount not to exceed \$41,600.00, beginning January 1, 2009 through December 31, 2009, two-thirds of which is privately funded, with the option to renew the contract for one additional year.

Councilman Rico stated that he supports the Arts and thinks that art is great; however at a time like this, he could not support anything that is not essential when we have people losing their jobs and homes. He stated that he could not support this at this time but maybe could later on. He reiterated that he was for the Arts but believed that this sends a bad sign to taxpayers, as this is not an essential. He stated that the economy is one reason that he does not turn in any expenses for himself to the City as was reported in the newspaper—that as an elected official he tried to do everything he could to save the taxpayer money; that he thought it was unwise at this time to spend anything on something that was not an essential. He stated that this was just his opinion.

Chairman Bennett stated that this was what we had been talking about in April—that there were a lot of misconceptions.

Adm. Zehnder explained that he was just asking to extend a Contract that we had last year—that this is a new person; that this is being funded by 2/3rds of private foundation money; that the impact is only around \$14,000 of \$41,600; that Public Art contributes to the City of Chattanooga and without assistance of this position, we would not have had the success we have had; that you can't take this money and put it into "potholes"; that this is a small investment of 1/3 of a part-time position, and we are getting the benefit of over one million dollars worth of art; that this position establishes programs in each of the Council districts that citizens are interested in getting into their neighborhoods; that with grants from Lyndhurst, we can continue to take such programs to neighborhoods; that this is a small amount of money for a part-time salary which has benefits throughout the City that the City does not have to pay for; that the Council has already approved capital expenditures; that if we put off this item, we would be throwing out a Public Art Program, and this is only based on one-third of the salary as compared to the sizable returns we are getting. He reiterated that private dollars are being contributed and this person would be here to facilitate this.

Councilman Page confirmed that around \$14,000 is what the City would be paying.

Councilman Pierce confirmed that this is 1/3 of the basic salary, which is around \$42,000. He questioned if "his or her" job description would require \$42,000 and if there would be other benefits as far as travel is concerned?

Councilman Benson stated that as he read this, we would be paying travel and liability insurance. Adm. Zehnder stated that these would be expenses that they would have to take care of. Councilman Benson still maintained that as he understood this, it would be the City's responsibility.

Councilman Pierce mentioned the number of voluntary boards that we have—that \$42,000 is almost \$1,000 a week, and he felt a little on the high side, and he was leery of this; that it seemed we were always “buying” into anything where there is a match, and he was not sure this was the formula we should be going by. He questioned if this was a real necessity.

Adm. Zehnder stated that this City has tremendous assets and that this is an intangible that was talked about by the Volkswagen people; that an investment is being made with private dollars; that it is things like this that make us different and quality of life is directly related to these kind of details that make this City “sparkle”. He stated that this makes sense; that private foundations are doing it, and it is the very aspects like this that causes us to be successful—that this is an example; that if we start “picking apart things like this”, we would be doing our City a disservice.

Councilman Page stated that this item would be going to the Council floor; that after hearing Adm. Zehnder talk about this, that it is a broader issue we are dealing with and this leverage for a lot of dollars. He stated that after saying this, he would shut up.

Chairman Bennett stated that there would be a Pre-Budget meeting on the 22nd; that this would be the time to talk about being good stewards of the taxpayers’ money and making good decisions and setting priorities and not just take an “ax” on the front end.

Councilman Benson stated that Mr. Zehnder was very persuasive; however every time that a 501.C3 came up with a good match, we jump at it—that this seemed to be a good investment. He went on to say that he was scared of this economy; that this was a small amount, but we had to maintain such services as garbage collection and police protection; that we could let small drops take up all of our money; that he was not ready to vote on this until we had an understanding and set our priorities to take care of the basics; that he did not want to be forced into a tax increase during a time when people can’t afford to pay increased taxes. He asked that Administration not force us into a tax raise next June; that he would like some assurance that we are in enough of a good shape to do these kind of things without having a tax increase; that he would like to hold this up until we can identify that we can do these things without a tax increase.

Councilman Pierce stated that he did not need anyone to tell him the state of the economy; that if there are programs he wants, he would support them; that he could see what the economy is, and we need to wake up to the fact that our economy is not the same, and we all need to move on; that we might be looking at drops, but they add up over a period of time; that he was talking about the economy. He assured Chairman Bennett that we would talk about priorities—that it is something we need to talk about on a daily basis.

Chairman Bennett stated that we were trying to get ahead of the Budget in discussing these things with a Plan to address it now—that she thought we were moving in the right direction.

Councilman Rico suggested that we defer this item for a little while.

Adm. Zehnder stated that he had already suggested cuts in his department that were not priorities; however this item was left in because there were other cuts he could make; that this was a small investment that contributes back to the City. He stated that if we were going to make cuts, not to make these cuts on the back of the Public Arts Program.

Councilman Benson still questioned if we had to do this now?

Councilman Pierce stated that he thought this was already in place as of the first of January; however Adm. Zehnder assured him that this was not the case—that it expired on December 31st.

Councilman Gilbert stated that Chattanooga is a tourist town and when he visited a town as a tourist, he wanted to see something different; that we had spent millions of dollars on Volkswagen and still had no guarantee of jobs or if they would use people in Chattanooga—that we had already spent the money.

Adm. Zehnder stated that just this last September we had Public Art people come to Chattanooga, and they spent over \$380,000 here. He questioned why they would even come here if it were not for the quality of the community. He stated that we were doing the right things here and to throw them out did not make sense; that to do away with this position would do away with the program.

Councilman Pierce stated that our goal was to be like Portland, Oregon, but we can't do it. Chairman Bennett stated that our goal is to be "Chattanooga".

Councilwoman Berz stated that she was for this; that what Adm. Zehnder is saying is right; that there are certain drops in the bucket that we do not have to have, but this is not one of them. She stated that this was not "new" money and the only reason Adm. Zehnder is having to come before the Council is because the amount is over \$10,000. She stated that we should not second guess Administration; she reiterated that this was not "new" money and that the Council had questioned Adm. Zehnder about this at one time; that the real question was about us "nitpicking" this—that this money will engender money and is match funding; that Volkswagen had looked to see if we had a commitment to art and diversity. She urged the Council not to think narrowly.

Mr. Johnson stated that he could assure the Council that they were not just sitting back looking at the economy going down; that Daisy Madison heads up the Finance Dept. and watches this on a monthly basis—on a month by month basis; that she was trying to cut costs; that Chattanooga had not been hit as hard as the rest of the State; that the Hotel and Motel tax is higher than last year, which is a good thing; that he could assure the Council that Daisy is constantly watching this money and talking about how we can cut, short of cutting peoples' jobs. He stated that Daisy would recommend what needed to be done; that this turning new money into more for us.

Councilman Benson stated that he could go along with what has been said, but he wanted to make clear that even though this is not new money, it is money that has not been spent; that it had been allocated; that he was glad that Daisy was keeping up with this; however we need better communication and the communication needs to be more current; that if we keep spending drop after drop, next June we will have to have a tax increase; that we could continue with good investments. He stated that we had gone four years without a tax increase. Mr. Johnson reminded him that it had been seven years.

Councilman Pierce stated that Councilman Benson was sitting there talking about a tax raise; that people were losing their houses and not having enough to pay rent and Councilman Benson was wanting to talk about a tax raise; that just because Administration recommends something, we don't have to approve it.

Resolution © authorized an Environmental Protection Agency Grant in the amount of \$14,741.00 for the "Ride Don't Drive" Program for funding for four workshops with local business leaders and a continuation of the "Bike2Lunch" Program from July, 2009 to June, 2010, with a required in-kind match to be provided by private resources. Adm. Zehnder added that the salary of the coordinator is being used as a match for the Grant.

Resolution (d) authorized a quitclaim deed in favor of Provident Life and Accident Ins. Co. passed by the Council on October 2, 2008, closing and abandoning a portion of the former eastern right-of-way of the 400 Block of Cherry St. and the southern right-of-way of the 100 Block of E. 4th Street. Mr. Johnson stated that this had been talked about before.

Councilman Gilbert stated that he was not here when this was approved by the Council and asked if we were talking about closing a street? Mr. Leach stated that this was something separate; that the road closure goes before Planning next week.

Resolution (e) authorizes an amendment to the City's Management Agreement with CHA relative to Dogwood Manor Apartments.

Resolution (f) authorizes a grant from the City of Knoxville in the amount of \$35,000.00 to be used for the investigation and prosecution of gang and gun related crimes. Councilman Pierce asked if the grant was coming directly from Knoxville? Mr. Johnson explained that it passed through the City of Knoxville—that this is done quite a bit.

Resolution (g) authorizes Neighborhood Services and Community Development to allocate \$85,000.00 for Fiscal Year 2008-2009 Neighborhood Partners Projects. Mr. Johnson noted that Beverly Johnson had discussed this previously.

Resolution (h) authorizes the Department of Neighborhood Services and Community Development to enter into a partnership with the Chattanooga Girls Leadership Academy and the Young Women's Leadership Academy Foundation to implement the STEM Program for girls, requiring no appropriation of funds. This pertains to the new school for girls, with no expenditure.

Resolutions (i) through ® are all Public Works' related and will be discussed in the Public Works Committee.

Resolution (s) authorizes negotiation of the purchase or lease of property located at 332 East Martin Luther King Blvd. from M.L. King Boulevard Community Development Corp. Mr. Johnson explained that this would be a place to house our network—that we are moving our network, and it is close to Councilman Pierce's place.

Councilman Pierce wanted to know what network we were talking about and how much renovation would be involved?

Mr. Thornton explained that we would have to install air conditioning, which would probably be around \$120,000.

Councilman Pierce wanted to know if we had purchased the property. Mr. Page responded that we were looking at it both ways—whether to lease or purchase.

Because of time, it was decided to skip next week's agenda.

The meeting adjourned at 4:00 P.M.

