

## PERSONNEL AND AUDIT COMMITTEE

JUNE 21, 2011

4:15 P.M.

Councilwoman Scott, Chairman, called the meeting of the Personnel and Audit Committee to order with Councilmen Rico, Ladd, Gilbert, Robinson, Benson, Murphy and McGary present. City Attorneys Michael McMahan and Melinda Foster; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Paul Page, Johnny Feagans, Fire Marshall Whitmire, Daisy Madison, Larry Zehnder, Richard Beeland, John Bridger, Fredia Kitchen, Ulystein Oates, Randy Ray, Attorney Freiberg, Dickie Hutsell, Jim Templeton, Steve Leach, Gary Hilbert, John Lyons, Jerry Stewart, Mo Minkara, Dennis Malone, Lee Norris, Joachim Volz, Bill Payne, Tony Boyd, Stan Sewell, Justin Holland, David Johnson, and Chief Parker.

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

### CHATRESULTS UPDATE

Chairman Scott stated that there were two issues to cover. One was a presentation on ChattResults and then an Audit Review of Landfill Scale Operation and Conflict of Interest. She called on Fredia Kitchen to go over ChattResults.

Ms. Kitchen stated that if anything could go wrong today, it had—that right now she wished it was 8:00 p.m. and she was at home; that being a public speaker was not one of her favorite things to do, but here she was!

She stated that she had been asked to explain the “who, what, when and why” of ChattResults; that this process began in 2003 as an extension of the 311 program; that the 311 program was a one call for service and had been in effect since 2003; that everyone had done the Blue Pages, trying to find out who to call; that ChattResults was the outcome of 311; that calls come in and are handled by departments; that previously we had not had a central location. She mentioned that there was a periodic review process of departmental performance with the Executive Staff, Department Administrators, CARTA and the Chamber of Commerce—that it began monthly and was now on a quarterly basis; that these groups explored the data; that it is a management tool to help determine citizens’ priorities and where to direct resources more effectively and efficiently; that they determined whether departmental goals and objectives were being met—that they evaluated how goals and objectives had changed; that it was a learning process and goals did change, and they continued to make changes as they went along; that departments collaborate.

Ms. Kitchen then explained how this works; that the first thing they did was to identify key performance measurements—that they looked at department reports and got the data from various data bases; that they started with 311 calls for service and industry benchmarks. Another indicator was departmental goals and objectives. She stated that they were able to see all the indicators measured. Next, they developed reports and looked at the resolution time for 311 calls; that the Executive Staff and Finance look at this in conjunction with the service calls coming in and track the success and can see how departments are performing; that they track successes and see where we are falling behind—that sometimes weather causes us to fall behind or another anomaly. She explained that they then develop comparative data and trend data—that it is an evolving process. Next comes an analysis of the data and trying to look at the needs and what departments are asking for and collaboration. They reset priorities based on citizen service needs.

She stated that they researched and came up with 100 performance measures; that they looked at these, and some were not working for the City of Chattanooga—that measures change over time; that all of this gives us the opportunity to look at strengths and weaknesses, and they were always evaluating and looking at programs as holistically as they could so as not to duplicate efforts. She mentioned the accountability issue. She explained that performance measures are tools to measure inputs and outputs, such as people served, miles of roads paved and crime statistics, and they tried to balance both inputs and outputs. She stated that they continued to look at service goals and where we are to go from here; that Chattanooga is accountable to citizens, and we use this as a management tool to see how we are performing. We do an update as service needs change.

Ms. Kitchen went over indicators—that it was on a monthly basis, and this was very labor intensive, and they had tried to take it to a quarterly basis; that 2011 had been unusual; that indicators and changes are modified as we go along and see what is not working; that data is collected, and it is the responsibility of the department as to attendances and events and crime stats; that some things are citywide. Concerns about data accuracy are resolved by the Management and Budget Analysis Staff if something looks odd.

She went over the format of the Reports, which are quarterly, December of 2011 being the most recent. She stated that they looked at year to date, and there was some pretty interesting trend data. Some indicators/benchmarks are reported by all departments such as overtime, budget, and personnel.

Ms. Kitchen stated that typically they do one hour meetings with each department or agency presenting.

She next tried to answer “why” they do this—because the information is available and is never in one place. She noted that the Annual Budget Report is good data to look at. She stated that they defined goals consistent with the mission of the City; that this was a good management

tool and a very important budgeting tool; that they measures failures and successes of strategies, which lets citizens know that city employees are doing a good job.

Ms. Kitchen noted that the last 4-5 pages of the packet (which is made a part of the minute material) gives samples of the reporting of data.

Chairman Scott asked if there were any questions; that Ms. Kitchen had done a great job!

Councilman Murphy stated that in looking at the website, ChattResults is used by the Mayor and the Council; that he had no clue as to when meetings are happening; that it would be nice to know what is going on so that the Council could observe.

Ms. Kitchen asked if he was talking about Report distribution? He stated that he was not talking about what is on paper but the “give and take”—that he would like to watch and be invited sometime.

Chairman Scott mentioned the new website, stating that information needs to be shared—that this is a Quarterly Improvement Program that is alive and well!

Ms. Madison stated that giving this report took a lot of effort on the part of Ms. Kitchen and asked that she be given an applause. She then asked if the Council wanted to be invited to the meetings—if the entire Council wanted to come to in-house meetings. She asked if this was legally “okay”; that usually just the Chairman of a particular committee would be invited.

Councilman Murphy stated that he could be invited since his committee included the Police and Fire Department, when they were having discussions.

Ms. Madison assured that he would be invited. She still wanted to know if it would just be the Chairman of a committee on notice or the entire Council?

Chairman Scott asked if it was alright for the Council just to observe? Councilman Murphy stated “just to watch”. Attorney McMahan stated that “watching” was okay; that if there was deliberation, it would require a Public Notice.

Ms. Madison asked if she could address the Council on another matter. Chairman Scott made mention of the time, noting that she had another issue to discuss. Ms. Madison responded that it would only take a second. She asked Randy Ray to pass out a handout. She stated that we did not want to be out of compliance with State Law, and the Budget is on the verge of being overspent, and she wanted to amend this by way of an Ordinance; that there was an Ordinance to amend State Street Aid, and it is on the Agenda tonight. She presented a copy of the Ordinance that will be on the agenda tonight.

**LANDFILL SCALE OPERATION AND CONFLICT OF INTEREST**

Chairman Scott stated that the Council needed to deal with feedback to the Audit Committee. She had provided everyone with two packets with summary information and stated that she would like to get a summary consensus on whether to proceed or not to proceed. She stated that she would ask a question and get a consensus vote. She stated that first, Mr. Johnson would make a comment.

Mr. Johnson stated that he would explain their position; that the Internal Auditor makes many different audits, which are done primarily to promote efficient operation; when violations are found, they are pursued; that sometimes items are not right and there are violations, and it can be a slow process getting answers to them; that management solves internal issues; that the two audits in question have been addressed and implemented and Administration will let this drop.

Councilwoman Robinson stated that she knew a great deal of work had gone into the two packets that Chairman Scott had distributed, but Mr. Johnson had answered her question. She referenced an easement across a landfill in 1977 and also words in the Audit such as "It appears" and "No indication". She stated that she read concurrently the documentation that followed and our attorney did not feel like this rose to the level of improper handling. She stated that she did have a question as it relates to proper procedures and the Code of Ethics, asking if all employees signed a disclaimer and if all city employees understood the Code of Ethics and embraced it? She did have one question for Mr. Johnson concerning a memo from the Internal Audit Division in 2009 in reference to cash collections at the landfills—she wanted to know if all transactions are monitored digitally or if cash is collected? She stated that we might need to tighten our procedures.

Mr. Johnson responded that we have cash collections at the Landfill and other issues with fees; that the money is insignificant; that procedures were developed and a contract made with the current contractor; that this is checked on a daily basis; that we want to provide management oversight without hiring people.

Councilman Benson stated that he concurred with Councilwoman Robinson; that it seems like there are two areas, one being the landfill cash procedures and the other innuendos about the Code of Ethics violation; that we are dealing with one long-term employee and a conflict of interest—that members of his family were involved; that our Code of Ethics came into play in 2008, and it was for the Council and then extended to all employees, which is good; that some of the Councilmembers did not understand it and certainly not all of our employees; that he could not find where managers had given in-service training to employees concerning this, and there was a question of conflict of interest as to how it relates to siblings; that he would be willing to say that this employee was not instructed as to any implication of the Code of Ethics; that we should let all of our employees know about the conflict of interest issue and standards.

He went on to say that he knew the employee involved, he knew his father, and he knew his grandfather, and they had all contributed much to this City; that he was at one time the employee's principal and had to paddle him once, but he was one of the best students he ever had. He stated that he thought this was a "witch hunt" and would like for our City Attorney to respond.

Councilman Gilbert wanted to know what was in place as far as scales are concerned and if nothing, when will it happen?

Adm. Leach stated that their proposal was for one person, but it would actually take two people at \$50,000 per person; that this can be done by technology—to monitor cash receipts; that they would need two employees but thought there was a better, smarter way with technology; that they could hire two people, but it could be handled with technology.

Councilman Gilbert asked when the technology would be ready? Mr. Stewart stated that the procedures were in place. Adm. Leach stated it was a matter of turning on cameras—that they would have to interface with IS. Councilman Gilbert asked if the agreement would be Mr. Marler, and Adm. Leach stated that he was ready to go.

Councilman McGary noted that Administration was quick to point out that they had a process; that instead of paperwork, they had a process; that the Audit Committee is at our behest, and they are asking us to complete a process; that we have paperwork and need to go through the process; that we should go through the process and in the future look at the paperwork; that in order to close this out, we have to go through this; that the Council has its own process.

Attorney McMahan explained that the contract was bid and Public Works let all the bids and received the recommendation to go with Marler; that General Services made the decision to go a different way; that the participation by Mr. Templeton would not have resulted in any monetary gain to himself or his relatives; that Mr. Norris participated in this.

Chairman Scott asked the following question: **"Does the Council wish to allow use of City property by a private company after the contract has expired?"** Councilman Benson voted "no"; Councilman Gilbert voted "no"; Councilwoman Ladd voted "no"; Councilman McGary voted "no"; Councilman Rico voted "no". Councilwoman Robinson voted "yes and no". She qualified her voted by explaining that everything is not "black and white"—that there is a "gray" area; that the contract has expired, but this does not mean it was rejected; that it might have just "slipped through the cracks"; that it should have come before the Council but Administration can say "yes or no". She stated that just because something has lapsed does not necessarily mean we should do away with it or not renew; that if it is expired, it needs to be put on the Agenda and fully vetted.

Councilman Rico asked “what was the loss”? He stated that he felt like Councilwoman Robinson.

Chairman Scott stated that it was a general question—that if the contract has expired, do we wish to allow it to be continued?

Councilman Rico stated that it was a Public Works’ agreement, and there was not a “yes” or “no” answer.

Chairman Scott asked if the contract had now expired? Adm. Leach stated “in general”—“yes”.

Councilman Rico questioned why we don’t get a new contract? Adm. Leach responded that they were making an effort to get it renewed—that it was partly renewed.

Councilman Benson stated that he thought Chairman Scott’s question was unfair in asking the Council to vote “yes” or “no”; that we could have a contract concerning a fire and be in the middle of a fire, and they could not put it out because the fire contract had expired! He stated that he wanted to take his “no” vote back.

Councilwoman Ladd stated that she was hesitant when Chairman Scott asked the question and questioned why she was asking it; that we have more information and are ready to move on; that she disagreed with the question; that it was a blanket question, and the Council has specifics that they can read. She stated that she thought we had enough information; that “due process” had taken place, and we could tell the Audit Committee that improvements had been made, and we were ready to move on or not ready to move on. She reiterated that she was not comfortable with the question asked; that facts had been put out, and they are all here; that we need to say whether we accept that this has been properly researched or not.

Councilman Gilbert asked how long the contract had been out? Adm. Leach responded that the specific contract had been out for several years; that they needed to know whether to hire folks or use technology—that they were ready to go; that the dirt contract expires next month—that they were ready to go on but needed guidance as to whether to hire people or use technology.

Councilman McGary stated that he had no problem with the question; however he wanted to know if this question pertained to this specific contract or contracts in general. Chairman Scott responded that it relates to this specific incident—She again stated her question “**Does the Council wish to allow use of City property by a private company after the contract has expired**”? She stated that it was specifics here but should be considered on a regular basis. Councilman McGary stated that if looking at this specific situation or situations in general, he concurred, and his vote stayed the same.

Councilman Murphy stated that we needed to get on with the question; that he would go along with what Councilwoman Ladd had suggested and be done with this.

Chairman Scott asked the question again **“Does the Council wish to allow use of City property by a private company after the contract has expired?”** Councilman Gilbert voted “no”; Councilwoman Ladd voted “yes”; Councilman Murphy voted “yes”; Councilman McGary voted “no”; Councilwoman Robinson asked that the question be repeated. Chairman Scott responded it is whether to grant Administration authority to enter into such a contract without approval by the Council?

Councilwoman Robinson stated two things—that we had spent a lot of time on this; that this is a process and Adm. Leach needs direction from the Council on whether to use personnel or technology; that we should be working on these things; that her only concern concerning the contract would be the issue of liability—that it was not necessarily dishonest but a question of liability. She stated that she would like to ask Councilwoman Ladd to reshape her thoughts on this.

Chairman Scott asked Councilwoman Robinson what her answer to the question was? Councilwoman Robinson responded “I don’t know”. Chairman Rico quipped “her answer is yes”!

Councilman Benson asked for the question to be repeated again, stating that he did not like the question because in the event of an emergency, we would not be able to act; that his answer would have to remain “yes”.

Councilman Gilbert stated that he thought what Councilman Benson was saying was different from the question; that having a contract that had not been renewed for two or three years was an issue to him. Councilwoman Robinson still felt that it was a “gray” area.

Councilman Murphy asked for the time being, with no contract, what will we do? He wanted to know if we would order them off the premises, and how would we cover this? He stated that we would be spending \$100,000 a year to collect just a little—that he thought this was a “no brainer”. He stated that “yes” a contract can be continued unless there is a “death penalty”; that this happens in business all the time; that “yes”, we need a new contract, but we should not order them off the premises.

Councilman Gilbert stated that he agreed with both Councilman Benson and Councilman Murphy; that Public Works needs to come to us and tell us they need a contract, and it should not be expired for such a long period of time—one way or the other, it needs to be a reasonable time; that if we need to renew it, we need to vote on it.

Chairman Scott asked if he wanted a grace period to be implied as to the time they would have to come back to the Council? Councilman Gilbert responded that he wanted some kind of grace period.

Attorney McMahan noted that he saw that Mr. Marler was present; that Public Works believes that technology is better and to allow Mr. Marler to keep this open. He stated that Mr. Richardson had done a draft for July 12<sup>th</sup> and that would be his recommendation.

Chairman Scott questioned if we needed an outside opinion as to the question if this is a procurement of contracted collection services being paid via barter and if so, is this a violation of state purchasing laws?

Attorney McMahan stated that he had not researched the question, but it was not a violation of purchasing laws. Chairman Scott questioned if the Council needed a second opinion? Attorney McMahan stated that it was fine if the Council wanted to get a second opinion. Councilman Benson quickly said “no”—that there was no reason to think this City should spend money for a second opinion; that he had confidence in the City Attorney.

Chairman Scott proceeded to poll the Council as to the need for a second opinion. Councilman Benson voted “no”; Councilwoman Ladd voted “no”; Councilman Gilbert stated that he would have to think about this; Councilman Murphy voted “no”; Councilman McGary voted “no”; Councilwoman Robinson voted “no”; Councilman Rico voted “no”.

Chairman Scott next asked her question in regards to conflict of interest—**“Does Council want written follow-up report of disciplinary actions taken or not taken, subsequent to Auditor and/or Audit Committee’s Review Findings?”** Councilman McGary voted “yes”; Councilman Murphy voted “no”; Councilwoman Robinson voted “no”; Councilman Rico voted “no”; Councilman Benson voted “no”; Councilwoman Ladd voted “no”; Councilman Gilbert had a question, stating that he thought Councilwoman Ladd had formed the right words—that it was really up to Public Works if they want to go forward. He stated that his answer would also be “no”.

Chairman Scott asked if we wanted written feedback as to actions taken to ensure the integrity of the contract relationship between the City and the Ray Marler companies? Councilman Murphy voted “yes”; Councilwoman Robinson stated that she did not understand the question. Chairman Scott explained that three separate companies were involved and how should the City of Chattanooga determine to make sure that there were no conflicts within our control; whether there was a conflict of interest between those entities and Mr. Templeton; and how on future contracts, we will have no issue with this? Councilwoman Robinson responded that she would have to look to the City Attorney’s office for her answer—that she thought the answer is in Administration and the Attorney’s complete examination, where they say that nothing rose to the level of any advantage being taken by Mr. Templeton—that there was no

dishonest action. Chairman Scott stated to Councilwoman Robinson—"Then your answer is "no"; to which Councilwoman Robinson responded "yes".

Councilman Rico voted "no"; Councilman Benson voted "no"; Councilwoman Ladd voted "no"; Councilman Gilbert stated that he thought that we had solved this; that Mr. Leach had two options; that he would look at future contracts closely.

Adm. Leach explained that Mr. Templeton's position at that time and his participation had no influence on Mr. Marler's company; that we could take Mr. Templeton out of this decision; that he was not part of this decision that was made.

Councilman Gilbert then voted "no".

Councilman McGary stated that he had no problem with the document, and he would vote "yes"; that he desired documentation.

The meeting was adjourned at 5:30 P.M.