

PUBLIC WORKS COMMITTEE

January 5, 2010

3:45 P.M.

Councilman Rico, Chairman, called the meeting of the Public Works Committee to order with Councilmen Benson, Scott, McGary, Gilbert, Ladd, Murphy, Berz and Robinson present. City Attorney Valerie Malueg and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Karen Walsh, Larry Zehnder, Bill Payne, Danny Thornton, Daisy Madison, Lee Norris, Dennis Malone, Jim Templeton, Dan Johnson, Beverly Johnson, Kathie Fulghum, Jerry Stewart, Richard Beeland, Adm. Leach, and Marie Chinery. Mayor Littlefield joined the meeting later.

Adm. Leach asked if there were any questions regarding **Ordinance 5(a)**. He then proceeded to **Resolution (m)** declaring a moratorium of 120 days on new building permits relative to a proposed multi-unit development located on Fairmont Avenue until appropriate studies can be done to determine the need for new zoning regulations to protect the public safety and welfare. He stated that he would like to make a suggestion that we be more specific in the wording and say rezone from R-3 to RT-Z; that we need to be specific that we are talking about rezoning the property; that he did not want us to trip up on a technicality. He stated that he did not feel comfortable with this language.

He then went back to **Ordinances (b) and (c)** which are closures and abandonments; the first being an unopened alley located in the west line of 3600 Block of Dorris Street. This will allow a church to expand their parking lot. Councilwoman Robinson stated that this is a perfect example of a church being pro-active in regards to stormwater. **Ordinance (c)** is for Mario Forte, closing and abandoning the right-of-way of an alley which intersects with the 2700 Block of Bryant Road and the 4600 Block of Charlotte Drive. This is in Hixson and six lots are platted, and he wants to abandon the lot line and create a single lot. Councilwoman Scott asked if we were certain there was no opposition as there seemed to be a large property that could develop, and she wanted to know where there access would be. Adm. Leach responded that they would have to do a public road or a PUD. Councilwoman Scott asked if this person was notified or had a clue about this. Adm. Leach indicated that he was notified by letter—that the Planning Commission notifies, he thought, within 200 to 300 ft. Councilman Murphy wanted to know how many acres we were landlocking, with Adm. Leach stated we were not landlocking anyone. Councilwoman Robinson stated that this was off Hamill Rd. and questioned if this could be turned into a subdivision. Adm. Leach explained that the applicant was just creating a single lot; that if other land was developed, the developer would have to build a road. Mr. Payne noted that the area that the Council was concerned about was 16 acres with a frontage of 200 ft. and turns on to Hamill Rd. and would not be landlocked.

Resolution (c) was a temporary use on behalf of the Avondale Neighborhood Association.

Resolution (d) was for temporary use of an entrance of an alley located at 4917 Virginia Ave. to install fencing. Public Works was recommending denial because it would block access.

Resolution (e) authorized the appointment of John Haustein and Karna K. Levitt as special unarmed officers for the Public Works Land Development Office. Councilwoman Scott questioned if Ms. Levitt was a Landscape Architect for the City and what she did. Adm. Leach explained that she reviews landscaping requirements and installs landscaping. Councilwoman Scott asked if this was a new position and was told that it was previously held by Jerry Jeasonne—that Ms. Levitt was his replacement; that she also worked with Parks and Recreation.

Resolution (f) authorized the City Attorney to enter into an agreement with King & Spalding, LLP for legal services relative to the Water quality Program. Adm. Leach asked that this be held until Attorney McMahan was present. Councilwoman Berz stated that she was not comfortable with this; that the Council had no figures and asked if there would be any discussion other than at tonight's meeting to see if we could even afford this. Adm. Leach added that the issue is combined sewers also. Councilwoman Berz stated that her concern was why we were going out of town for this person—that it was not “rocket science”, and we had environmental people here; that the Council had gotten an e-mail about this, and she did not feel we had to have out-of-town experts.

Adm. Leach explained that this person did work with EPA and had been on the other side of the table; that he knew the litigation process inside and out.

Councilwoman Berz stated that we needed to start a practice of experts in town and locally; that she knew this was an impressive firm; that we were already getting criticized about the excessive fees, and we needed to support a family here as opposed to Atlanta. She also questioned if he would be a good adversary if he had previously worked with EPA.

Councilman Benson stated that the Blue Ribbon Committee felt we needed someone with expertise; that the background of this fellow was that he is a double agent, and we have no one like this in Chattanooga; that he has a tremendous history; that we will use him only as needed; that the Blue Ribbon Committee could look into anything about this contract.

Adm. Leach asked that we let Mike McMahan speak to this tonight.

Councilman Benson responded that we had a long meeting tonight and not everything was about Public Works; that we needed to settle something here.

Mayor Littlefield joined the meeting at this time and asked what the Council would like to know?

Councilwoman Berz explained that her concern is in talking about environmental law, we have fine lawyers here; that we had gotten discussions from the public about the water quality fees and discounts and then we turn around and spend the fees in Atlanta; that we should use a firm here, and this had been going on for a long time and this situation had existed for a number of years; that EPA was looking for performance; that we have firms here who can negotiate, and money is better spent here; that in the past Chattanooga was small and we had to get experts from away but now we have experts here. Secondly, she stated that she had not seen the terms of the contract and did not think this person could be terminated at will. Thirdly, she wanted to know how much money we were talking about and why it made sense to get someone from Atlanta.

Attorney Malueg stated that she had something regarding the budget; that it was \$100,000, but she did not have the terms of the contract.

Mayor Littlefield stated that we needed to hire a specialist to get our money's worth.

Councilwoman Berz asked if he was satisfied that we don't have people here who could do this? He responded "absolutely"; that in the future we will; that this person is intended to save us money and not cost us; that this is a miniscule amount compared to the entire program, and we could stop this if we needed to. Councilwoman Berz wanted to know the terms of stopping this. Mayor Littlefield stated that we wanted to sit down with the best legal people we can gather; that we need the best talent to get this done. Councilwoman Berz stated that she was concerned with the perception that we don't have this talent. Mayor Littlefield stated that to use someone local, it could be a conflict of interest.

Adm. Leach added that this person had been with us for a year—pro bono.

Councilwoman Scott stated that the information being passed around did not include expenses. Secondly, she stated she would have a problem of starting with one attorney and then bringing in a second team—that this was not a good idea; that we needed to begin with the idea of the same team.

Mr. Norris agreed with Ms. Scott and also stated that he agreed with Councilman Benson—that this was discussed in the Blue Ribbon Committee, and they tended to agree with them—that this guy was the spearhead.

Resolution (j) authorizes a Change Order relative to the agreement with Barge, Waggoner, Sumner & Cannon, Inc. for engineering and design services relative to the South Chickamauga Greenway Project, increasing the contract by \$30,000.00, for a revised amount not to exceed \$271,000.00. This is our design consultant and everything was approved by TDOT—however “deduction” was marked on the outside and TDOT did not concur and the recommendation was for us to re-bid and Barge, Waggoner had to prepare a second set to re-bid.

Councilwoman Scott noted that a sheet the Council had received mentioned Lyndhurst and Benwood. Mr. Malone stated we did get some funds from them but the majority was ours.

Councilman Benson wanted to know whose fault it was that we got disallowed—whose fault? Mayor Littlefield responded that it was not our fault—that he was disappointed by the State; that normally we accept this sort of bid, and the State got hung up on a technicality, and it cost us \$30,000—that hopefully this was the last step.

AGENDA ITEMS FOR JANUARY 12, 2010

Mr. Malone went over **Resolution (a)** on next week’s agenda that authorizes the purchase of a right-of-way from Dewey and Teresa Roberson at 1802 Hamill Road, for an amount not to exceed \$4,849.50. This finishes Phase I and Phase II, and we are getting this property squared away. **Resolution (b)** authorizes eminent domain proceedings against Charles Lind, Jr. and Debi S. Disheroon, 1625 Hamill Road, Phase 3, in an amount not to exceed \$4,000.00. This property is “kingpin” in getting this accomplished.

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

The meeting adjourned at 4:30 p.m.