

AGENDA SESSION
October 2, 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. City Attorney Michael McMahan and Council Clerk Carol O'Neal were also in attendance.

Others in attendance included Dan Johnson, Steve Leach, Lee Norris, Bill Payne, Chief Parker, Richard Hutsell, Jana Lowery, Doug Eckert, Richard Beeland, Eddie Taylor and Vickie Haley.

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

Dan Johnson stated Ordinances (a), (b) and (c) on final reading were previously discussed; that Ordinance (a) and (b) on first reading were covered last week in Public Works Committee.

Councilman Benson inquired about the final reading for **Ordinance (a) relative to the sign ordinance** noting there are problems with this in the annexed areas. He asked if this would do anything to help us as Hamilton County is much more flexible with sign ordinances and referenced problems on Old Lee Highway.

Richard Hutsell stated he understands what Councilman Benson is referencing on the billboards and other things; that what they do between now and the time the annexation goes into effect in December 2012 and 2013 will be grandfathered after that time if they do not comply. He stated this ordinance puts in structural requirements that came out of the Building Code that were accidentally deleted a couple years back and is "cleaning house" with it a little bit.

Councilman Benson stated he did not know if it was related to the problems we are having on Apison Pike. Mr. Hutsell responded "no".

Mr. Johnson stated Bill Payne can address the changes **Ordinance (b) for the abandonment for ARS Ventures, LLC.**

Bill Payne stated last week during Public Works Committee there were two conditions for utility easements for five utility companies and the second was the site plan approval by the Fire Marshall. He stated since last week there has been additional information that has come in and it has been necessary to add two additional conditions with the first being *subject to the relocation of a sanitary sewer and storm drainage that exists on East Manning Street* and the second additional condition is *subject to realignment of the curb line along North Market to be approved by the city*. He stated the applicant is aware of the two additional conditions and they have begun to submit revised drawings for the curb line and do not anticipate any issues at this time with either condition.

Councilwoman Scott asked if the applicant has agreed to the realignment of the curb for North Market.

Mr. Payne responded “yes”; that within about the last hour a revised site plan came in that is still preliminary but shows some of the improvements. He stated the major issue was at the corner of North Market and Kent.

Councilwoman Scott stated this ordinance deals with abandonment of streets and Market is not being abandoned. She asked what the alignment of the curb has to do with the abandonment.

Mr. Payne stated they submitted a site plan that was part of the abandonment; that in looking at the preliminary site plan these were the items.

Councilwoman Scott asked if it was their idea to realign. Mr. Payne responded “no”; that they did want to make some adjustments to it; that there was a need to improve it as it was a poorly constructed curb geometry at Kent and North Market. He stated they are to make the improvement in the right-of-way part of that.

Councilwoman Scott asked if it was a pre-existing problem on North Market that they have agreed to pick up.

Mr. Payne responded “right”; that part of what they are adding with this project are turning lanes in North Market Street so there has to be some adjustment of the curb lines; that they were making part of that adjustment and this just takes it back so it rounds off the corner at Kent and North Market to make it better.

Councilwoman Scott stated it seems both Ventures and the City Traffic Engineer have agreed to this. Mr. Payne stated this just came in in the last hour and has not gone through the full review; that it is still a preliminary site plan but they have addressed it and it still has to go through the final approval process and everyone is moving in that direction.

In reference to **Resolutions**, Mr. Johnson stated **(a) is for payment of National League of Cities dues for 2013; (b) is for the Fire Chief to apply for and accept a grant from Firehouse Subs for equipment which was discussed last week and (c) and (d) were discussed last week in Public Works Committee.** He stated **(e) is to declare property surplus** which has to do with the expansion going on at Memorial.

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Mr. Johnson noted **Ordinances (a) and (b) on first reading are zoning matters** and indicated **Resolutions (a) – (h) are all Public Works matters** that will be discussed next week. He stated **(i) concerns the solicitation plan for the Department of Education, Arts and Culture** which will be discussed next week in Committee. He stated **items (j) and (k) are RPA items for special exceptions permits.**

Councilman Rico inquired as to the difference in the recommendation from Planning and Staff.

John Bridger stated in **item (j)** an old duplex had been abandoned and the person who purchased the property wants to bring it back to a duplex. He stated RPA reviewed the case and it is on a block with several other existing duplexes; that they (Staff) recommended approval of the request but there was opposition at Planning and in response to the opposition Planning recommended denial.

Councilwoman Robinson asked how much opposition and how out of balance would it be if it were approved.

Mr. Bridger stated opposition was from residents in the Avondale area; that the area was blanket rezoned several years ago to R-1 and now there are vacant duplexes that are not being developed. He stated this is an opportunity to reoccupy a vacant structure; that there are different perspectives and on one side of the property that is vacant that can attract more crime and they trying to reoccupy and get it back on the tax rolls; that there is also concern from residents wanting to know who will be moving in and the impact it will have on the community. He stated they cannot control who moves in but in looking at the development pattern in the area there are three to four duplexes on that block and it seemed like an appropriate request given what the special permit was intended for.

Councilwoman Robinson stated she is intrigued with the idea that we have vacant duplex properties because of the down zoning and they are a blight. She asked what the remaining duplexes on the block are like, whether they are they being maintained, stable . . .

Mr. Bridger stated he would have to look at the actual street photo file for that; that he recalls there are two or three under developed properties on the block.

Councilwoman Robinson stated just looking ahead, is there anything we can do to encourage developers to take these duplexes if indeed they are not going to be permitted to be occupied as duplexes; if we could offer some kind of incentive grant if they convert to single family homes and perhaps offer the services of design so that a way may be envisioned that could allow that to happen.

Mr. Bridge stated CHODO has done that successfully in Orchard Knob where two or three duplexes were approached; that there will have be some type of subsidy, a nonprofit organization or go directly to the developer for that. He stated if there is a way to make the numbers work they would have been developed by now.

Councilwoman Robinson asked if there are three apartments in question. Mr. Bridger stated he would have to double check but thinks there are two or three on the block.

Councilwoman Robinson stated it would be interesting to do a request for proposal to see what comes in and if funds can be identified; that maybe there would be a developer who would take all three; that we need to think creatively like that. Mr. Bridger stated that is a good point.

Councilwoman Scott stated she noticed in reading the material that it looked like although there had been a down zoning these properties had actually lost their grandfather status, hence the reason for the special exception. She stated RPA did a windshield survey of the houses which she assumes means they were not actually inside the facility just looking at the outside; that one of the worries she has is it may be a structure that is completely uninhabitable with major, major issues that we might get caught approving a permit for something that has gone further than it could be brought back. She wondered if there was any way to have the street evaluated to determine overall if these buildings have been left vacant or not taken care of properly to see if they “hit the point of no return”. She asked what would be the opportunities for having those inspected and whether it is possible some of them actually need to be condemned as opposed to rehabbed.

Mr. Bridger stated they cannot go inside unless invited to do so; that the applicant can be asked about this particular property for their side of the story next week when it comes before Council. He stated that is the only way he knows to get information on the condition of the property.

Councilwoman Scott stated in her district if she has someone saying a house/porch is falling off and they are afraid, typically someone will be referred to 311 and people in Neighborhood Services will go out see along with other people and determine if the building is inhabitable, if it does not have water or sewers hooked up. She stated she would like to feel more comfortable but we are trying to facilitate something that is facilitatable prior to making decisions that are opposite to decisions we have already made with regard to trying to keep with R-1 when there has been a down zone. She stated there are issues for trying to reoccupy homes but looking at the overall best use and impact for the community. She stated the Council has made decisions about not allowing duplexes that have lost their grandfather clause and had individuals come back and file suit against the city for not allowing that because they thought our decisions were indiscriminate. She stated if the Council now determines in this particular street we are going to do a 180 and start saying “no we can have duplexes here” almost puts us in an uncomfortable position with regard to saying what we mean and being consistent with those type of decisions; that she does not want to look like we are inconsistent in using the same guidelines to make different decisions.

City Attorney McMahan stated it is his thought Councilwoman Robinson’s approach is probably the approach the Council needs to take as to what the rest of the neighborhood looks like, if the other vacant houses are rehabilitatable or are they basically, as Councilwoman Scott pointed out, not going to be repaired. He stated in zoning decisions, if using the best judgment and considering all the various factors that should be considered about the health and welfare of the community, generally speaking will be upheld by the court system. He advised that the Council do their best with this particular circumstance and “let the chips fall where they may”.

Councilman Murphy stated Councilwoman Robinson served on the Board of Community Impact and is familiar with some of the problems in some of these neighborhoods and Councilwoman Scott brought up a good point about boarded structures. He referenced a structure in Councilman McGary's district that has been boarded since he has been in Chattanooga some 15-16 years now that has blue tarp on the roof that has since blown off and shredded which tells him there is a water leak through the roof and if anyone were to go inside the structure it is probably filled with termites and useless at this point and there is nothing to save. He stated during the storms a large tree was toppled and the corner of the porch and brick foundation was upset and even the foundation is not probably savable at this point, yet that structure sits on a prominent intersection in Avondale dragging down the property values of the properties around it. He stated the Avondale Recreation Center has on its block three boarded single family homes that front Wilcox that have not been boarded the same length of time but have been boarded. He stated if these properties were researched obviously they are not owner-occupied because no one is there and will find most of them are not owned by an individual who just owns one or two pieces of property in the county; that they own lots of real estate and this is part of their tax portfolio for what it amounts to and have no incentive to go ahead and tear it down once it should be torn down.

Councilman Murphy stated he talked with the city attorney's office about demolitions where we need to research before we demolish because it is so expensive to see whether the owner has other assets so we do not just do a suit against the property but actually collect the cost of demolition. He stated this does not help us when they let it go for back taxes and we are the owners and have to do a demolition and we pay for the demolition as we are the owners! He stated in some of the neighborhoods where some of the down zoning has occurred, unless there is a subsidy for renovation to single units the renovation is not going to happen because the market value does not support it happening. He stated we really need to look critically if we want to "hold to our guns" on the down zoning how are we not going to forever condemn the communities for a generation-and-a-half to this blight. He stated should we revisit the issue of how tight fisted we are with the special exceptions permits; that we need to take a critical look at this. He stated he asked the city attorney to do some research into this whether it is possible for us to pass an ordinance that puts a presumption of condemnation that could be based in fact on what our building people and Neighborhood Services people will tell us – a building boarded unoccupied with water coming through the roof, after three-five years there is a presumption that it is condemnable. He stated certainly the owner could rebut it by inviting our inspectors in; that this is the only thing he could use as a lever to clear some of the blight; that a lot of these places are junk inside and are not savable but we cannot find out because we do not have any basis to get in there as long as they keep it boarded. He stated that may be a path forward.

Councilman Benson stated all the discussion has been good with good ideas; that we should look toward some government incentive or stimulus to help in some of these cases if possible. He stated he was at the Planning Commission meeting and there was opposition which changed the mind of all the Planning Commissioners from the Staff's recommendation to turn this down; that the reason it was turned down, as he voted to reject this, was this did not meet the standards we set back in 2006 on the Kirby Street situation, or maybe it was on Kelly Street, confirming that it was in Highland Park where the grandfather clause on the duplex had expired and the owner

decided he wanted to reinstitute it to R-2 when it had been down zoned to R-1. He stated the applicant did some real work that should be done by anyone throughout their community when they are trying to reinstitute the R-2 status. He stated the applicant had a site plan, a design made for how he was going to make the appearance of the duplex, went up and down both sides of the street and got every neighbor to support it and it worked and is still working! He stated there was no squawking from the neighbors because they worked with him. He suggested in this situation that the neighbors need to meet with the owner and try to see if what they are going to do by turning this back into a duplex is going to be better than what they have in R-1. He added when we first came up with down zoning it scared him because he thought it would take property values away from people, but then he looks at Councilwoman Berz' district and knows the down zoning really revived that situation. He stated we have a responsibility if we make any changes and go through these special exceptions and until we do get some leadership or something strong from the Planning Commission Staff on this he does not believe we should consider special exceptions unless they have been through the neighborhood and everyone in the neighborhood wants this reinstated because the quality of the development is going to be so acceptable to them it is much better than even an R-1 situation in some cases.

Councilwoman Berz stated it has revived a lot of our neighborhood areas and noted she will vote against it as she has all along because it is her thought we have come up with some great plans for conversation of former duplexes into single family dwellings. She stated what Councilman Murphy talked about is one of the biggest blights we have and if not slumlords, worse, and we have no recourse and that is very unfortunate; that Councilwoman Robinson has a great idea and probably the next big thing we need to do is come up with plans to rehab for single families, otherwise she does not blame the neighbors as there will be a duplex with things going way "downhill", crime does go up -- all the statistics show against taking it back from an R-1. She stated we do not behave arbitrarily and capriciously which we have been accused of doing; that we should look at a way that property can be used if it is habitable and used in the way we upgraded the whole area.

PURCHASES

Mr. Johnson presented the seven purchase requests for the evening for the various departments from Dexon Computer, LeadsOnline, Tarping Systems, Inc., Moore Medical, LLC, ERMC II, L.P., Insight Public Sector and Motorola.

Councilwoman Scott inquired as to the purchase for **Tarping Systems, Inc.** in the amount of \$14,377.99 for the Parks and Recreation Department wanting to know what we are laying tarp over, whether it is for a playing field.

Eddie Taylor explained all the greens at Brainerd Golf Course have been re-grassed over the summer; that it is type of Bermuda that needs to be covered if the temperature goes below 28 degrees in the winter.

Councilwoman Scott asked if something is rolled down over the grass or if it is like a cover. Mr. Taylor stated it is something that would be hand carried and rolled over the green when the temperatures dictate it. He stated it is a breathable tarp.

On the purchase with **Moore Medical, LLC** for \$48,100.00 Councilwoman Scott inquired as to what type of health care equipment is being purchased. Mr. Johnson explained that it is for the new health clinic and does not know the specific items.

In reference to the purchase for **Insight Public Sector** for NetMotion Premium Technical Support in the amount of \$22,686.05, Councilwoman Scott asked what this is. Doug Eckert explained NetMotion is the software that maintains a constant connection in the police vehicles when they switch from 4G to the wireless mesh networks as they are moving. He stated when they come within range of one antenna they switch to wireless mesh and when they come outside of the wireless mesh range they switch to the 4G service.

Councilwoman Scott asked if this is something we have purchased in the past and if this is getting us more of that or if it brand new. Mr. Eckert stated this has been purchased in the past.

Councilwoman Scott asked if this will take care of all the issues or are we likely to see this come again. Mr. Eckert stated this is an annual maintenance for support and they will help us with any issues we have.

Councilwoman Scott asked if it is for services. Mr. Eckert responded “yes”, that it is an annual technical support fee for the NetMotion software.

The meeting was adjourned at 3:40 p.m.