

PUBLIC WORKS & LEGAL AND LEGISLATIVE COMMITTEES

May 2, 2000

4:00 P.M.

The Public Works Committee was called to order by Councilman Franklin, Chairman, with Councilwoman Hurley being present. Councilmen Lively, Taylor, Eaves, Pierce, and Rutherford joined the meeting later. City Attorney Randall Nelson; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Phillip Lynn, Bunky Wright, Adm. Traugher, Adm. Marcellis, and Beverly Pasley-Johnson. Adm. Boney, Judge Williams, Daisy Madison, and Karen Hundt joined the meeting later.

AGENDA ITEMS FOR MAY 2, 2000

Adm. Marcellis began with **Resolution (a)**, authorizing an Agreement with Hamilton County, Tennessee relative to litter collection along the City right-of-way through the Courts Community Service Program for a consideration of \$36,500.00 annually. Adm. Marcellis explained that they would use non-violent offenders, and this was no change from last year.

Resolution (b) authorized an Engineering Agreement with Consolidated Technologies, Inc. relative to the Southside gray water storage, filtration, and drip irrigation system located at 17th Street for a total fee not to exceed \$35,000.00. This is a design contract and will be funded from the Economic Development Fund.

Resolution © authorizes a Final Change Order to the Paul F. Clark Building with Eastman Construction Company, increasing the contract amount by \$9,310.00 for a revised contract amount not to exceed \$586,928.00 and which change order increases the contract time by ten days for a revised completion date of February 29, 2000. Adm. Marcellis explained that this was for the City-Wide Services Building and involved a couple of major changes such as insulation and duct work in the main assembly room; also electrical service in the reception area. Adm. Marcellis stated that these were small scope changes and would finish the project.

Resolution (d) authorizes The Chattanooga Land Company to temporarily use the City's right-of-way at 721 Broad Street for the installation of eight metallic awnings projecting three feet into the 2nd Street sidewalk, subject to certain conditions. Adm. Marcellis noted that this would go to the Sign Variance Board.

On motion of Councilwoman Hurley, seconded by Councilman Lively, the above items will be recommended to the full Council.

AGENDA ITEMS FOR MAY 9, 2000

Resolution (b) awards Contract No. SW-3-00, School Sidewalk Projects, Phase II to Yerbey Concrete Construction, Inc. in the amount of \$344,505.00. Adm. Marcellis stated that this was the low bid; that we did have items that were too expensive and these were eliminated and lowered the price.

Resolution © authorized Contract No. 00A, Miscellaneous Sanitary Sewers Requirements Contract to East Tennessee Grading, Inc., Case Construction Services, Inc., and Mayse Construction Company for a combined total contract amount not to exceed \$1,000,000.00. Adm. Marcellis explained that we annually need flexibility to do special sewer projects, and we have a bid for three contractors to be accepted. He explained that we would choose one of the three for low prices and availability; that this gives us flexibility and will be distributed between the three for city-wide work. Councilman Lively asked if this was like a Contingency Fund. Adm. Marcellis explained that it was to do emergency-type work.

Resolution (d) authorized Change Order No. 1 (Final), Contract No. SS-3-99, Williams Street Streetscape, West Main Street to West 14th Street, with Case Construction Services, Inc., increasing the contract amount by \$46,715.37 for a revised total contract amount not to exceed \$156,218.12 and increasing the contract time by 21 calendar days. Adm. Marcellis explained that that this amount could be distributed into scope changes with \$22,000 and plusses and minuses at the end; there was also removal and replacement of unsuitable soil. He explained that the Design person thought that the Electric Power Board would do the extra work, but they did not, and we had to pay extra for the contractor to do some of the digging, which was not included in the original bid.

Resolution (e) authorized the purchase of property located at 1700 Baldwin Street from Legal Title and Escrow, Inc. for the extension of 17th Street from Baldwin Street to Rossville Avenue for a consideration of \$28,000.00, plus associated closing costs. Adm. Marcellis explained that this was to relocate 17th Street to get to Rossville Blvd.; that the City did get a tract of land from Koch Foods, and we need this property to get around the building that Koch Foods built.

On motion of Councilman Taylor, seconded by Councilwoman Hurley, the above items will be recommended to the full Council.

At this point the Legal and Legislative Committee commenced with Chairman Eaves turning the meeting over to Attorney Nelson.

Attorney Nelson stated that he had two brief things to cover, the first being the amendment to revise the Ordinance subject to the peoples' vote as a Charter Amendment relative to prohibiting convicted felons from serving in City elective offices. He explained that the wording had been added "*unless his full rights of citizenship, including the right to suffrage, have been restored according to law*".

Attorney Nelson stated that last week the Council asked him to draft an Ordinance to submit to the people as a Charter Amendment to provide for the City Court Clerk to be a city employee under the administrative branch of government rather than an appointment by the judge. He stated that the drafted copy was very simple and adds a Section that says "*the clerk of city court shall be a city employee retained as all other city employees under the administrative branch of government*".

Councilman Taylor asked if this was an elected post in most municipalities. Attorney Nelson responded that generally clerks are elected; that our Court does not exercise State jurisdiction, but if we were going to exercise State jurisdiction then it should be an elected position; that generally clerks across the State are elected; that the problem here is that if we have an elected clerk, all of the Staff will be under Finance Administration, and they need to match up with the clerk in responsibilities and functions. He stated that he did tell Judge Williams that this would be discussed today. **At this point Judge Williams joined the meeting.**

Adm. Boney explained his position on whether the City Court Clerk should be an employee or elected; that Administration would support either method; that they just wanted an independent clerk with clear lines of responsibility; that the Staff employees are already under the Administrative branch; that if the City Court Clerk is elected, then the employees should be exempt and should report directly to the Clerk so that the lines would not longer be clouded as they are today.

Judge Williams stated that he was opposed to the Clerk being in Administration; that we need to come into the modern times; that every clerk is an elected clerk and the last one was the Juvenile Clerk; that the City Court Clerk of Memphis is an elected position; that the trend is not to make the clerk an employee but an elected position; that if the City Court is to deal with State jurisdiction, which has never been removed, then legally the Clerk should be elected; that there is a Court case dealing with the issue that the clerk should be an elected clerk. He stated that his position was that there is no reason to make a change; that traditionally the clerk has been under Administration; that all public reports show the Clerk under the Finance Division; that all flow charts and organizational charts say the City Court Clerk is listed as a part of Administration.

Judge Williams continued, stating that the most recent incident involving Mr. Dyer has nothing to do with who appoints the clerk; that he felt the investigator went beyond what he should have done.

Judge Williams stated that he would support an elected position or leaving it like it is; that the City Court Clerk has to have a daily relationship with the Judge, and his sole function is to the Court; that it is a close relationship; that he could work with anyone with integrity and reliability and who would do his/her job. He stated that he had been supportive of clerks and resolved disagreements and there had been no public disagreements with clerks. He stated that he supported an elected position.

Chairman Eaves asked if any person wished to address this issue.

Councilman Pierce, who had just arrived, asked what was being suggested by the committee. Chairman Eaves explained that the intent here was to put the City Court Clerk directly under the Finance Department; that this is a written document of what the Council discussed last week.

Adm. Boney explained to Councilman Pierce that if it should be an elected position, then the Staff should come under the elected clerk to clean up the reporting lines; that the organization should follow the clerk with management control; that they could support either way—that if the clerk is a hired employee of the Finance Dept., the lines of control are cleaned up; that if there is an elected clerk, then 27 people would work directly for him.

Councilman Pierce indicated that he felt like he would want to see this as an appointed position rather than an elected one—that anyone capable of getting popular votes could obtain the position whether he/she was qualified or not, and if it is an appointed position, then we would be looking for a qualified candidate; that a person could win an election whether they were qualified or not.

Councilman Taylor asked whether Councilman Pierce was talking about the Clerk being appointed by the judge or who should appoint them? Councilman Pierce explained that he was talking about an appointment by the Mayor and approved by the Council.

Adm. Boney added that in the Criminal Court Clerk's office, all employees work for the clerk and are hired or fired by him. Chairman Eaves added that all clerks under State jurisdiction were elected. He went on to say that everyone had a copy of the amended version, which is made a part of the minute material; that we had went over this before, and it had been spelled out in a committee meeting and put on paper; that what everyone was seeing before them was to put the City Court Clerk directly under City Administration and all the employees are under City Administration. He asked for a motion.

Councilman Lively voted to recommend this version to the full Council. This was seconded by Councilman Pierce with Councilmen Taylor and Franklin voting “no”. There were five “yes” votes and two “no” votes. Chairman Eaves stated that the recommendation was that this version would go before the full Council with five votes, and one would assume that this is the way it would go at Council meeting.

The meeting adjourned at 4:30 P.M.