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**MINUTES OF THE *WORK SESSION***  
**BOARD OF MAYOR AND ALDERMEN**  
**FRANKLIN, TENNESSEE**  
**CITY HALL BOARDROOM**  
**TUESDAY, APRIL 14, 2009 – 5:00 P.M.**

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**Board Members**

Mayor John Schroer	P	Alderman Dana McLendon	<b>A</b>
Alderman Clyde Barnhill	P	Alderman Ken Moore	P
Alderman Pearl Bransford	P	Alderman Ann Petersen	P
Alderman Beverly Burger	P	Alderman Michael Skinner	P
Alderman Dan Klatt	P		

**Department Directors/Staff**

Eric Stuckey, City Administrator	P	Eric Gardner, Engineering Director	P
Vernon Gerth, ACA Community & Economic Development	P	Shirley Harmon, HR Director	P
Russell Truell, ACA Finance & Administration	P	Mark Hilty, Water/Wastewater Director	P
David Parker, City Engineer	P	Gary Luffman, Interim Planning Director	P
Shauna Billingsley, Interim City Attorney	P	Tom Marsh, Interim Codes Director	P
Rocky Garzarek, Fire Chief	P	Joe York, Streets Director	P
Jackie Moore, Police Chief	P	Brad Wilson, Facilities Project Manager	P
Fred Banner, MIT Director	P	Rodney Escobar, Risk Manager	P
Becky Caldwell, Solid Waste Director	P	Steve Sims, Assistant City Recorder	P
Lisa Clayton, Parks Director	P	Lanaii Benne, Assistant City Recorder	P
		Linda Fulwider, Board Recording Secretary	P

**1. Call to Order**

Mayor John Schroer called to order the Work Session of the Board of Mayor and Aldermen, City of Franklin, Tennessee, on Tuesday, April 14, 2009 at 5:00 p.m. in the City Hall Boardroom.

**2. Citizen Comments**

None

**WORK SESSION DISCUSSION ITEMS**

**3.\* Consideration of the Comcast of Nashville II, LLC Franchise Agreement in Final Form**  
**Shauna Billingsley, Interim City Attorney**

Negotiation of a new five-year local agreement has been ongoing for several months. Two issues remain unresolved. Terri Weldon from Comcast was present.

*New Grades or Lines (Section 3.2.1)*

If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than thirty (30) days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. **If public**

**funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify Grantee of such funding and make available similar funds to the Grantee should such funds be available to reimburse Grantee.**

Shauna Billingsley referred to 3.2.1 and said the issue is if funds are available when going underground or for any other reason lines are being moved, should the City be required to include Comcast when utilities are being reimbursed.

*Undergrounding and Beautification Projects 3.2.7* the City proposes , Grantee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties and should any funds be available, the parties agree to negotiate reimbursement on a case by case basis.

Ms. Billingsley said that could be a second option rather than always making Comcast a party of reimbursement. Mr. Stuckey related the City wants the discretion to make a decision based on the situation at the given time.

Comcast's position is if public funds are available to any user of the public ROW, funds should be made available to all users of the public ROW. Otherwise, Comcast would be at a disadvantage with a direct competitor. If funds are available make them available to all providers equally or not at all.

Ms. Billingsley said the Statewide Franchise does not address the specific issue of reimbursement for franchisers in the public ROW. Ms. Weldon said they leave that open to the locality that controls the public rights of way to sit down and negotiate. Ms. Billingsley stated if AT&T decided to locate cable services throughout the City, and they have not, they have given the City notice they would use the Statewide Franchise Acts. That means reimbursement would not be part of their franchise agreement.

Mayor Schroer suggested the Comcast agreement say if the City provides reimbursement to another cable service provider the City would provide equally among all competitive cable service providers. Ms. Weldon said they just need a clarification of why the City offers reimbursement to MTEMC and not to Comcast. Mayor Schroer responded that is a completely different situation. Ms. Weldon stated they've had a great partnership with the City for many years, paying a 5% franchise fee. Federal law dictates that fee is for administering rights of the public ROW. Undergrounding and beautification are all part of administrating the ROW. Since 2002 Comcast has paid the City in excess of \$3.8 million. They feel they are paying the City to be in the public ROW. Any improvements the City chooses to do, beautification, aesthetics, whatever, should come out of the franchise fee.

Ms. Billingsley noted state law requires the 5% franchise fee regardless if negotiating with the City or using the statewide provision. There is no comparable provision in the state law for electrical services to provide a franchise fee. Mayor Schroer added in this case it is competition, if the City adds a clause that says what is done for one will be done for the other(s) then that answers the point. Ms. Weldon said they are absolutely agreeable to that.

*Aerial and Underground Construction (Section 3.2.6)* - Ms. Billingsley stated the City proposed language that the parties mutually agree whether or not the franchising authority go above or below when there is an option and it's not new construction. New construction always goes underground. Comcast wants sole discretion when there is an option.

Alderman Burger objected to the term beautification in the agreement as she doesn't know of any project the City has done for beautification alone. There is always another reason. She has a problem with franchises using beautification. She wanted beautification removed. Alderman Klatt agreed and suggested infrastructure improvement as a better term.

Ms. Weldon stated in an area with a choice they look at it monetarily. Aerial is less expensive. If they were they the only line on a pole, they would go underground. Mr. Stuckey stated the language does not reflect that.

Comcast proposal: In any regions of the Franchise Area that are already developed where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, **the Grantee shall have the discretion** to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground.

City proposal: In any region(s) that are already developed of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, **the parties must mutually agree whether Grantee will be required** to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground.

Changes mutually agreed upon will be incorporated into the franchise document and the agreement distributed to BOMA prior to voting at the 7:00 p.m. meeting.

**4.\* Consideration of Event Permit Application from SOL Restaurant for a Cinco de Mayo Event on Fourth Avenue North in Downtown Franklin on May 5, 2009**

**Jackie Moore, Police Chief**

Chief Moore and Eric Finch, applicant, came forward to address this item. The application was approved by the Beer Board during their 4:00 p.m. meeting.

Alderman Barnhill asked if anyone had a problem with another street being closed in addition to the others closed for repair. A lot of people will be inconvenienced by closing a street at 11:00 a.m. for a 5:00 p.m. event. Alderman Bransford noted the applicant provided documentation that the other businesses are okay with the closing.

Mr. Finch said he was willing to change the time the street will be closed. Mayor Schroer suggested the street be closed at 3:00 p.m. and a one-way exit for cars be provided. Cones, and no parking signs can be installed designating no parking after 1:00 p.m.

**5.\* Consideration of RESOLUTION 2009-11, A Resolution Authorizing the City of Franklin Streets Department to Remove the Truck Route Identification Signage for Lewisburg Avenue While Not Otherwise Limiting or Prohibiting Trucks and Other Heavy Motor Vehicles from Legally Traveling on this Designated State Route**

**Alderman Michael Skinner**

The request to remove truck route signage was reintroduced in the correct form of a resolution. Alderman Skinner noted it is estimated 300-400 trucks (some semis) take Lewisburg every day. Removal of the signs may provide residents some relief from truck traffic.

**6. Consideration of RESOLUTION 2008-36, A Resolution Adopting an Identity Theft Policy**

**Shirley Harmon, Human Resources Director**

Shirley Harmon and Rodney Escobar, Risk Manager, reviewed the resolution. Due to the growing threat of identity theft, the US Congress passed the Fair and Accurate Credit Transactions Act of 2003 (FACTA), Public Law 108-159. The "Red Flag" rules become effective May 1, 2009. Pertinent policies and procedures must be enacted by certain departments by that date. Employee training will be done in-house. If the City fails to comply with the regulation, any FACTA violation will be subject to monetary penalties up to \$2,500, and State fines up to \$1,000 per incident.

**7.\* Consideration of Termination of Contract with Studio Eight Design for Professional Services for Bicentennial Park Phase I and Third Avenue Extension**

**David Parker, City Engineer**

David Parker reported receipt of a signed letter of concurrence from Matt Taylor, Studio Eight Design. Mr. Parker noted termination of the contract would provide approximately \$200,000 to use elsewhere. If/when the project goes forward the contract will be redone and the money placed in the budget. Mr. Stuckey noted the main reason for termination is access to the money.

Alderman Klatt asked if this was being done for Harlinsdale, Eastern Flank and other park projects. Mr. Parker noted they are looking at other cases. Typically, contract construction administration is not done until the project is ready for construction. Alderman Klatt related his opposition and said he would save his comments until the 7:00 p.m. meeting at which time he would take this item off the consent agenda.

Alderman Skinner asked if this would be subject to going to a different firm. Mr. Parker replied not necessarily as they want the designer of the project on board in some fashion. They are trying to do more work in-house.

**8. Consideration of Intent to Fund the Right-of-Way Acquisitions for the Nichol Mill Lane Relocation and Signalization Project in the Amount of ~~\$675,700.00~~ \$692,000**

**David Parker, City Engineer**

Mr. Parker noted that after the memo was written it was learned additional easements for drainage are needed, thus a change in the amount. The correct amount is Not to Exceed \$692,000 for appraised value of easements. This project has been ongoing and there was a commitment of State funds for about half of the construction costs; however, getting the rights-of-way took longer than anticipated and the City lost access to the funds. This a commitment the City has made to BioMimetics/Cool Springs Life Science Center. The commitment was made when they were building their first building and they are now constructing a second building. The City has agreements or has purchased the rights-of-way and easements needed for this project. This is the last one to do. This request is for condemnation. It will then be ready for construction bidding and funding in FY 2010 budget.

Alderman Klatt commented this road will improve access to the property in question and but the owner is not willing to contribute or participate in this project.

Mayor Schroer said, for whatever reason, this project had not been discussed in the CIP process and was not on the priority list. It has come to the forefront with BioMimetics being under construction. The City has already spent \$226,000 and there is another \$1.7 million to be spent on this project. He strongly believes when the City makes promise it needs to be honored.

Alderman Klatt doesn't disagree with what was said but the City has also made commitments to citizens on other projects, for example Bicentennial Park. The land was purchased 10 years ago. Isn't there a commitment to the taxpayers to fulfill that? It has State funding. Grant money is available and if the City doesn't go forward will lose that money as well.

Alderman Moore asked if the City could get more grant money for the Nichol Mill project. Mr. Parker said it was doubtful since the first grant was lost because the project was not done in a timely manner. The project started in 2002. Alderman Burger asked what caused the delay. Mayor Schroer added the City failed to utilize the power of eminent domain. If a project is approved the Board should have the stamina to go forward and take it. A Holiday Inn Select is planned on adjacent property. Staff recommendation is to move forward.

**9. Consideration of Award of the Construction Contract to Civil Constructors Inc. for the State Route 96 (Murfreesboro Road) and Royal Oaks Boulevard Intersection Improvements in the Amount Bid of \$3,095,222.55**

**David Parker, City Engineer**

Mr. Stuckey explained this project was bid in advance of knowing it would be eligible for stimulus money. An attempt was made to use those bids; however, instructions were to go through the TDOT process which means rebidding if the \$1 million in stimulus money is accepted. The risk is bids could come in higher than the first ones.

✚ (Regarding the ITS project, others on the list ahead of Franklin are not accepting the money; therefore, that project will now receive \$1 million in funding.) Mr. Stuckey recommended the City accept the \$1 million for the SR 96/Royal Oaks project and move forward quickly with TDOT. He added other staff members do not share his recommendation. The risks are real. Timing and associated costs are concerns.

✚ **ADDENDUM:** Per memo to BOMA dated April 21, 2009, from Messrs Gardner, Parker & Stuckey, this information was based on the City's understanding from the MPO that one of the communities with a higher ranked project was not going to move their project forward. Since then, the City learned that this community, and all those ranked above the ITS project, plan to move forward with their ARRA-funded projects. As a result, the ITS funding remains at \$544,000. Should the City choose to award the bid (rejecting ARRA-funding for the Royal Oaks/SR 96 project), it will be able to capture approximately \$456,000 of ARRA-funding for the ITS project, increasing its funding to \$1 million.

**10. Consideration of RESOLUTION 2009-10, A Resolution Endorsing the Williamson County Economic Development Three Star Housing Committees Workforce and Affordable Housing Strategic Plan**  
**Vernon Gerth, ACA Community & Economic Development**

The Plan was developed to identify and pursue workforce and affordable housing opportunities throughout Williamson County. This Committee and New Options for Housing Subcommittee request every Williamson County community endorse the Plan.

**11. Consideration of ORDINANCE 2009-XX To Be Entitled, An Ordinance to Incorporate Specific Barrier-Free/Adaptable Design Features in New Affordable, Workforce, and Moderately-Priced Housing Built with Financial Assistance from the City of Franklin**  
**Vernon Gerth, ACA Community and Economic Development**

Many of the design features included in the proposed ordinance already exist in Franklin's adopted International Residential Building Code. The ordinance requires new, single-family dwellings built with financial assistance from the City. Adaptable design allows some features of a building or dwelling to be changed to address the needs of an individual with a disability or a person encountering mobility limitations as he/she ages. Any homes newly built by the City would need to include these provisions.

Alderman Klatt asked how much it cost to include the adaptability. If the changes are costly it defeats the purpose. Mr. Gerth responded builders and others scrutinized the requirements and the majority of points are already in the City building code. The issue will be discussed further at another Work Session.

**12. Continued Discussion of Temporary Sign Definitions, Permits, and Regulations**

**Vernon Gerth, ACA Community and Economic Development**

Item deferred due to time constraints.

**13. ORDINANCE 2009-16, To Be Entitled: "An Ordinance to Amend Chapter 2, Section 2.4.3(7) of the City of Franklin Zoning Ordinance to Revise The Site Plan Extension Process."**

**Vernon Gerth, ACA Community and Economic Development**

Given the state of the economy the amendment is proposed to allow an additional six-month extension before a site plan expires. Language reads, in part "Upon written request, ~~one two~~ extensions **may be granted by the original approving body**, ~~of six months may be granted by the Planning Department~~ if the applicant can show good cause.

Alderman Petersen asked that it specifically say granted by the Planning Commission rather than by the original approving body.

**14. Consideration of Policy for Sub-Metered Mallory Valley Utility District Water Customers**

**Steve Sims, Assistant City Recorder**

Mr. Sims stated the City began billing for Mallory Valley Utility District (MVUD) customers in November 2008. MVUD has been applying sewer charges in a manner that is not specifically in accord with the City's current sewer price practice. Sub-meters used by some customers are not installed, maintained, tested or read by the MVUD. The City does not apply sewer charges to water delivered through a separate meter where the purpose has relatively little probability of entering the wastewater stream. MVUD did not apply costs and some are very large customers. Options and recommendation were reviewed.

Mayor Schroer said the goal is not to start charging full fare, it is that the customer has a working, monitored and regulated meter that does not discharge into the sewer.

**15. Discussion of Funding Options Related to The Franklin Corridors and Connector Streets Economic Development Projects**

**Russell Truell, ACA Finance & Administration**

Mayor Schroer preferred discussion on this item be held at the next work session or a special meeting.

*Attachment A: Main Street Project Assessment and Property Valuation History* – \$1 million. Assessment district was about 40% of total paid by assessments. This does not include the portion the State paid. Property values tripled in the first ten years. At the 20-year point property values are now for \$18 million versus \$3 million. Property taxes did not go up. Taxes went down, if the property doubled then it reduced the tax; therefore, taking in less tax money after the property doubled.

*Attachment B: Special Assessment Background Memo (2/27/2009)* - Assessment districts are not all the same.

*Attachment C: Tax Increment Financing (TIF) Background Materials* - Examples of how to set up TIF and how it works. Russ Truell explained the difference between an assessment district and a TIF. Eric Stuckey related there are three options for TIF. New development or redevelopment drives a TIF.

*Attachment D: Economic Impact Plan for McEwen Economic Development Plan (TIF District Creation)*

*Attachment E: Cost Estimate for Columbia Avenue Project (Update provided)*

Additional information to be provided by the next Work Session.

**16. Report on the Cool Springs Area Traffic Signal Optimization Study**

**Kevin Comstock**

Item not addressed due to time restraints.

**17.\* Consideration of Interlocal Agreement with Williamson County for Traffic Study of Clovercroft Road at Oxford Glen Drive**

**David Parker, City Engineer**

Alderman Burger initially brought this item forward. City Staff met with County Mayor Rogers Anderson. The County offered to do a true traffic study. The City will pay one-fourth of the cost for the study.

**ADJOURN**

Work Session adjourned 6:56 p.m.

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Mayor John C. Schroer

Minutes prepared by: Linda Fulwider, Board Recording Secretary, City Administrator's Office - [4/29/2009 10:59 AM](#)~~4/29/2009 10:58 AM~~