

CITY COUNCIL MEETING – COLUMBIA, TENNESSEE

August 19, 2010 – 6:30 p.m.

Mayor Dickey called the regular meeting to order, pursuant to proper notice having been given. City Recorder Betty Modrall called the roll. Present were Mayor Dean Dickey, Vice Mayor Wayne Kennedy and Council Members Carl McCullen, Debbie Matthews, Christa Martin, Mike Greene and Susan Stephenson, City Manager Paul C. Boyer, Jr., City Attorney Tim Tisher, Betty Modrall, City Recorder, and Liz Bermudez, Recording Secretary.

Mr. Jason Terhune offered the invocation followed by the Pledge of Allegiance led by Council Member Martin.

APPROVAL OF AGENDA:

Council Member Martin moved to approve the Agenda. Council Member Stephenson seconded the motion. All Council Members present voted aye.

ORGANIZATIONAL BUSINESS:

Item 6.1 – **MINUTES OF THE REGULAR CITY COUNCIL MEETING OF AUGUST 5, 2010.** Council Member McCullen moved to approve the August 5, 2010 City Council Meeting Minutes. Council Member Matthews seconded the motion. All Council Members present voted aye.

Item 6.2 – **RATIFICATION OF MAYOR’S REAPPOINTMENT OF DR. ROSE OGILVIE MCCLAIN TO THE CITY OF COLUMBIA PLANNING COMMISSION FOR A THREE-YEAR TERM EXPIRING ON AUGUST 19, 2013.** Mayor Dickey moved to approve the appointment of Dr. McClain to the City of Columbia Planning Commission for a three-year term expiring on August 19, 2013. Council Member Matthews seconded the motion. All Council Members present voted aye.

CONSENT AGENDA:

Council Member Matthews moved to approve the Consent Agenda and defer Item 7.12. Vice Mayor Kennedy seconded the motion. City Attorney Tisher advised Council did not technically have to defer Item 7.12. City Attorney Tisher advised the item should be removed. Council Member

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Matthews advised she will make the motion to approve the Consent Agenda with the removal of Item 7.12 (Consideration for approval of streets to bid for the FY 2010-2011 Street Resurfacing Contract – Wards 1, 2, 3, 4, and 5 – Engineering Department). Council Member Stephenson seconded the motion. All Council Members present voted aye and the following items were approved:

1. Disbursements for the month of July 2010 in the amount of \$4,823,375.54.
2. Approval of Local Government Corporation Agreement and possible related expenditures to become a Beta Site for testing of new financial management software – MIS Department.
3. Authorization for the Mayor to sign the Non-Exclusive Use and Occupancy Permit between the City of Columbia and the Maury County Bulldogs for their 2010 Football Season – Parks and Recreation Department.
4. Authorization for the Mayor to sign the Non-Exclusive Use and Occupancy Permit between the City of Columbia and the Pop Warner Little Scholars for their 2010 Football Season – Parks and Recreation Department.
5. Approval of the Services Agreement with the Columbia Housing and Redevelopment Corporation for the formulation of the East Columbia Redevelopment and Urban Renewal Plan – City Manager’s Office.
6. Authorize the Mayor to sign a grant contract with the State of Tennessee Department of Economic and Community Development for the Energy Efficiency Conservation Block Grant – Code Administration Department and City Manager’s Office.
7. Consider amending the current contract with Barge Wagoner Sumner & Cannon, Inc. for additional Professional Services Related to the Safe Routes to School Grant Project – Ward 1 – Engineering Department.
8. Authorization to dispose of surplus city property – Finance Department.
9. Consider annual renewal of property insurance with the TML Risk Management Pool – Finance Department.

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10. Bid award for vehicle towing and road services – Citywide Procurement.

11. Amendment to bid award for breathing air equipment – Fire Department.

ADMINISTRATION:

Item 8.1 – APPROVAL OF THE RELEASE AND SETTLEMENT AGREEMENT BETWEEN THE HEIRS OF MARSHALL P. LEDBETTER, JR. AND CATHARINE B. LEDBETTER, THE ESTATE OF MARSHALL P. LEDBETTER, JR. AND THE ESTATE OF CATHARINE B. LEDBETTER AND THE CITY OF COLUMBIA REGARDING GENERAL FORREST DRIVE. City Attorney Tisher advised he provided Council with a copy of the Letter of Credit that was issued in 1989, as well as some minutes from the Planning Commission meetings. City Attorney Tisher said he had a conversation with the attorneys representing the Ledbetter Estate and they spoke about modifying the agreement to make some changes that would be in the City's interest as well as in the Estates' interest. City Attorney Tisher recommended Council not taking action on this until the changes can be made. City Attorney Tisher said hopefully they will have another agreement to look at in two weeks. City Attorney Tisher advised he does not want to discuss the contents of the agreement because the attorney has not had an opportunity to discuss the proposed changes with his clients. Council Member Matthews asked if the gentleman, that is present tonight, that has property involved in this, if he needs to appeal this to the Water Board how long would that take to be done. City Attorney Tisher said he does not know how long of a process that would be and he does not want to speak for Mr. Anderson. Council Member Matthews asked Council Member McCullen, who is the Council's Water Board member, when the next meeting is. Council Member McCullen advised the next meeting is Wednesday. City Manager Boyer said he asked Mr. Clark this question yesterday and Mr. Clark advised it was too late to get it on the August meeting. Council Member Matthews moved to defer the Release and Settlement Agreement. Council Member Stephenson seconded the motion. All Council Members present voted aye.

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Item 8.2 - APPROVE THE SPACE ALLOCATION AND LAYOUT FOR THE USE OF 700 NORTH GARDEN STREET AS A CITY HALL – CITY MANAGER’S OFFICE. City Manager Boyer recommended removing this from the Agenda because he has not had a chance to discuss the discussion from Tuesday night with the architect, he will be meeting with him on Monday. Vice Mayor Kennedy moved to remove this item from the Agenda. Council Member Matthews seconded the motion. All Council Members present voted aye.

Item 8.3 - AUTHORIZE THE MAYOR TO SIGN A CONSULTING AGREEMENT BETWEEN THE CITY OF COLUMBIA AND SHERRILL D. MORGAN AND ASSOCIATES, INC. AND AUTHORIZE RELATED TRANSFER OF FUNDS – CITY MANAGER’S OFFICE. Council Member Martin moved to approve the agreement. Council Member McCullen seconded the motion. Council Member Martin asked when the City purchases insurance from an insurance company as a municipal government, whether we have an agent of record or not, do we pay a commission to somebody. City Manager Boyer advised Mr. Witherow answered that Tuesday night by saying the money will either be paid in a commission to a broker or will be kept within the premium as compensation for the insurer. City Manager Boyer continued by saying eliminating the broker of record will not reduce the amount that is paid for insurance. Council Member Martin said there have been indications of what the commission is for the agent of record and they have the contract in front of them for Sherrill D. Morgan. Council Member Martin asked when the contract consideration is done is there an opportunity for the contract to be terminated and how. City Manager Boyer read part of Article III of the Agreement, which says the agreement can be canceled by either party, with or without cause, with thirty days notice. Council Member Martin asked if there is anyone employed by the City of Columbia at this time that can process the work that is in the contract and listed under Exhibit A as to what the organization will perform for the City if this passes. City Manager Boyer advised no, there is no one employed that is an actuary, underwriter, or a pharmacy specialist. Council Member Martin said with a consultant agreement like this will they have the opportunity to avoid the situation that occurred this year with the insurance in terms of timing and opportunities for restructuring/reformatting what they do with insurance. City Manager Boyer said he has committed to Council that with or without this consulting

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agreement he will not postpone bringing the renewal to Council, they will discuss their options throughout the year. Council Member Martin said she is referencing Exhibit A, Item 3 that talks about reviews throughout the year. Council Member Greene said the reason the City does not have staff to cover Exhibit A is because the consultant came up with the information. Council Member Greene said he thinks this started because they did not want to pay the agent of record a commission and the statement was made that the commission was possibly \$125,000 to \$250,000 and that is not correct regardless of whom the agent of record is or the consultant is, they will be paying both expenses. Council Member Greene said he finds it short-sided to pay both of these, he was told if the City hires a consultant they would be able to interpret the Federal Insurance Regulations that Congress has passed and he does not believe that because he has talked with our Congressman and Senator and they cannot do that. Council Member Greene advised when we have claims in excess of the premium, what happened will always happen regardless of how many consultants or agents we have. Council Member Greene said as they go through the process the consultant did not want to answer some questions the other night because he is aware that everyone else is aware that when you write an insurance policy there are commissions to be received by someone; and if the present agent of record is not there, then the consultant will have access to the dollars. Council Member Greene advised the City would spend \$97,299 in a three-year period and he asked the consultant if he could guarantee that the City would save that much in premiums. Council Member Greene said the consultant could not say yes to his question. Council Member Greene said government agencies love consultants and there are millions of dollars spent in Tennessee on consultants. Council Member Greene said he cannot vote to spend nearly \$100,000.00 of taxpayers' dollars on a service that may or may not help them and knowing what is happening to the insurance business in general in this country. Council Member Greene said he thinks they are doing an injustice to the taxpayers of the City. Vice Mayor Kennedy said he spoke to Mr. Witherow today and whether or not he was the agent of record someone would get the commission; the commission will be paid. Council Member Matthews said the consultant had a difficult way to answer her questions because the Agent of Record was present when she asked her questions. Council Member Matthews said Mr. Witherow has done a great job for the City but the insurance information they received last year was not thorough enough when they are raising the rate 20%. Council Member

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Matthews said on Tuesday night they were talking about self-insuring and Mr. Witherow told her she needed to research this before they make up their mind about it. Council Member Matthews said it is his job to do that research. Council Member Matthews advised they need to ask some insurance agencies that if the City decides to hire a consultant and there is a commission could it revert to the City to cover expenses, if a commission is going to be paid. Council Member Matthews said she wants information from the other cities that the consultant has worked with, she wants to ask the consultant how much money a year he is saving the cities. Council Member Matthews moved to defer and asked the City Manager to get the information from the other cities. City Manager Boyer said he cannot give a hard dollar amount, but a number of the City Managers he has known for years. City Manager Boyer said the cities he has spoken to said the system, Sherrill D. Morgan brought them, saved them money, he assisted them in making difficult decisions about coverage or insurance and in the end saved them money. City Manager Boyer advised he can try to get that information quantified and that is why he recommended the firm. Council Member Matthews said she will remove the motion to defer. Council Member Matthews said she was not satisfied during budget season, the City needs to grab a hold of this and have some control on the insurance. Council Member Matthews advised she was not given any options in front of her except the one during budget season. Council Member Matthews said this agreement is \$27,000 a year terminated at any time. Council Member Matthews said the performance back at budget did not live up to what they needed when it came time to make a decision on insurance. Council Member Stephenson said they just renewed the agent of record contract for a three-year term so in order to terminate the contract they would have to show cause. City Manager Boyer said he does not believe there is cause, Mr. Witherow has done what the City has asked him to do. Council Member Stephenson asked if Sherrill D. Morgan can only serve as a consultant and not as an agent of record. City Manager Boyer advised the consultant's license will not permit him to take both a commission and a fee, he has to choose. Council Member McCullen asked if the other cities had both an agent of record and consultant. City Manager Boyer advised some had both and some did not. City Manager Boyer said it depends on the expertise of staff. Council Member Stephenson said they just renewed the contract with Mr. Witherow but she does not see that they are locked into some \$90,000 because at anytime they can terminate the contract with

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30 days written notice. Council Member Stephenson said she feels they have to honor the contract with Mr. Witherow at this point. Council Member Stephenson advised she does not mind deferring tonight to get more information. Council Member Stephenson said she may only be committing to a \$30,000 investment to see how one year goes with the consultant if they decide to do that after they receive additional information. Council Member Matthews moved to defer. Council Member Matthews asked about Bristol, TN and how they have used Sherrill D. Morgan and she asked for a copy of some of their work, maybe one of their long-term three-year goals. Council Member Stephenson seconded the motion. Council Member Martin asked if they can get the information on if there is an agent of record. City Attorney Tisher said they have to be careful on some of the propriety interest on some of that stuff, as far as how much money they have saved they can tell the City that. City Manager Boyer advised he would contact Mr. Morgan and ask him to provide the information and ask him to contact his clients and either give them permission to release it to him or give him permission to talk to them because there is a lot of information in health insurance that is not necessarily public information. Council Member Matthews said they are in a time economically where it is a good time to renegotiate. All Council Members present voted aye on the deferral with the exception of Council Member Greene and Vice Mayor Kennedy who voted no. Motion to defer passed.

RESOLUTIONS:

RESOLUTION NO. 10-45 - DESIGNATING AUTHORIZED SIGNERS AND ALTERNATES FOR A CITY OF COLUMBIA NARCOTICS AND CHIEF'S FUND BANK ACCOUNT – FINANCE DEPARTMENT.

Vice Mayor Kennedy moved to approve Resolution No. 10-45. Council Member McCullen seconded the motion. All Council Members present voted aye.

RESOLUTION NO. 10-46 - TAX CORRECTIONS – CITY RECORDER'S OFFICE.

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Council Member Martin moved to approve Resolution No. 10-46. Council Member Stephenson seconded the motion. All Council Members present voted aye.

ORDINANCES:

ORDINANCE NO. 3859 - AN ORDINANCE AMENDING ORDINANCE NO. 3638, THE SAME BEING THE ZONING ORDINANCE OF THE CITY OF COLUMBIA, TENNESSEE, BY REZONING 1000 RIVERSIDE DRIVE (TAX MAP 90J D PARCEL 18.00) FROM R-10 (RESIDENTIAL) TO MCD (MIXED COMMERCIAL DISTRICT) – WARD 5 – GRANTS AND PLANNING

SECOND CONSIDERATION DEPARTMENT.

Council Member Stephenson moved to approve Ordinance No. 3859 on second consideration. Vice Mayor Kennedy seconded the motion. All Council Members present voted aye.

ORDINANCE NO. 3861 - TO AMEND TITLE 18, CHAPTER 1, SECTION 18-102(A) OF THE MUNICIPAL CODE OF THE CITY OF COLUMBIA WITH REFERENCE TO SEWER CONNECTION CHARGE –

SECOND CONSIDERATION WASTEWATER DEPARTMENT.

Council Member Martin moved to approve Ordinance No. 3861 on second consideration. Vice Mayor Kennedy seconded the motion. All Council Members present voted aye.

ORDINANCE NO. 3857 - AN ORDINANCE AMENDING ORDINANCE NO. 3638, THE SAME BEING THE ZONING ORDINANCE OF THE CITY OF COLUMBIA, TENNESSEE REGARDING SOCIAL SERVICE INSTITUTIONS AND ESTABLISH THE

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DATE OF SEPTEMBER 16, 2010 AS THE
DATE OF THE PUBLIC HEARING –
GRANTS AND PLANNING
FIRST CONSIDERATION DEPARTMENT.

Council Member Martin moved to defer Ordinance No. 3857 on first consideration. Council Member Matthews seconded the motion. All Council Members present voted aye with the exception of Council Member Stephenson who voted no.

ORDINANCE NO. 3862 - AN ORDINANCE TO AMEND THE FY
2010-11 BUDGET ORDINANCE NO.
3848, PROVIDING FOR REVISIONS TO
THE GENERAL, STATE STREET AID,
SANITATION, CAPITAL PROJECTS
AND SEWER SYSTEM REVENUE
FUNDS AND ESTABLISH THE DATE OF
SEPTEMBER 16, 2010 AS THE DATE OF
PUBLIC HEARING – FINANCE
FIRST CONSIDERATION DEPARTMENT.

Council Member Martin moved to approve Ordinance No. 3862 on first consideration and establish the date of September 16, 2010 as the date of the Public Hearing. Council Member McCullen seconded the motion. All Council Members present voted aye.

OTHER BUSINESS:

Council Member Martin said she asked about a cost savings for an item that was discussed tonight and Tuesday night. Council Member Martin said the training cost and installation cost would save the City \$4,020.00. Council Member Martin advised she could not log onto one of the links to the City and that was the link to the city mail and she thanked the City Manager and MIS Director Rick Harrison for fixing that.

Vice Mayor Kennedy said there have been calls about the Fire Hall grass. City Manager Boyer advised it was cut over a week ago. City Manager Boyer advised the contractor is not maintaining the site like they should and

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the City Attorney is dealing with it. City Manager Boyer said he will have Code Enforcement go look at the property again.

Vice Mayor Kennedy moved to adjourn the meeting. Council Member Martin seconded the motion.

There being no further business the meeting adjourned at 7:18 p.m.

APPROVED:

DEAN DICKEY, MAYOR

ATTEST:

BETTY MODRALL, CITY RECORDER