

BUDGET, FINANCE AND PERSONNEL COMMITTEE
NOVEMBER 16, 2010
3:35 P.M.

Councilwoman Berz, Chairwoman, called the meeting of the Budget, Finance, and Personnel Committee to order with Councilmen Rico, Murphy, Benson, Gilbert, Scott, Ladd, McGary, and Robinson present. City Attorney Phil Noblett and Shirley Crownover, Assistant Clerk to the City Council, were also present.

Others present included Karen Rennich, Gary Hilbert, Dan Johnson, Jim Templeton, Dickie Hutsell, Mike Patrick, Chief Dodd, Chief Parker, Officer Blaine, Lee Norris, Steve Leach, Chief Haney, Daisy Madison, Robert Ledford, Chip O'Dell, Steven West, Alice Cannelli, John Bridgeman, Randy Ray, Richard Beeland, Brian Smart, Sharon Morris, Crystal Freiberg, Paul Page, Dennis Malone, Beverly Johnson, Ken Fritz, Danny Thornton, Bill Payne, Doug Kelley, Donna Kelley, Vickie Haley, Frank Hamilton and Susan DuBose.

Ray Ryan was present to give a Quarterly Report for the Fire and Police Pension Fund. He noted that everyone was familiar with the format and handed out a sheet of information. The Report was well received, and there were no questions from the Council.

Daisy Madison had with her Sharon Morris of the Business Tax Licenses to go over **Ordinance (a) First Reading** that amends the Code relative to alcoholic beverages. Ms. Morris explained that the State put in amendments in regards to liquor by the drink in June and this updates our Code to read the same as the State; that limited service restaurants (less than 50% sale of alcohol) will pay more on the front end—a percentage of food versus alcohol. Ms. Madison confirmed that this mirrors what the State has already passed.

Councilwoman Scott wanted to know what prompted this? Ms. Madison explained that restaurants wanted the ability to serve alcohol and pay a varying fee. Councilwoman Scott wanted to know the impact financially? Ms. Madison stated that not a lot of revenue was involved. Ms. Morris added that we were talking about three restaurants in particular, which would be about \$3,000 each annually; that we did not know how many would choose to do this. Ms. Morris indicated that the fees could be anywhere from \$600 to \$4,000. Attorney Noblett stated that this would help the Police Dept.

The next Ordinance to be discussed is on next week's agenda and is **Ordinance 6@ First Reading** and amends the City Code relative to off-street parking required for persons that are parked and transacting business from vehicles and carts in certain zones. Ms. Morris noted that this referred to businesses setting up where merchandise was being purchased.

Chief Dodd explained that people were parking on UTC property and complaining that UTC would not let them set up; that UTC police and our officers had been on the scene and had

gotten involved, and we were threatened with litigation; that this stipulates only a parking meter in certain zones.

Councilwoman Scott questioned if this was not more than just parking meters? Ms. Madison noted that it adds purchasing in certain zones. Councilwoman Scott questioned Mixed-Use Zones. Ms. Freiberg explained that the same exemptions apply—that we are just adding the purchasing aspect. Councilwoman Scott wanted to know if the Police would know about the Mixed-Use Zones? Chief Dodd agreed that that had been a question with him. Councilwoman Scott stated that she was thinking of lemon-aid stands. Chief Dodd stated that they would not be purchasing from the public. Councilwoman Scott indicated that she had problems with the second part of the Ordinance, which seemed arbitrary; that selling drugs out of a car would be different. (It was pointed out that it is illegal to do this, anyway). She mentioned income level.

Ms. Madison explained that this would not change at all—just what was being addressed; that she could not explain the logic in the existing Ordinance. Ms. Freiberg stated that she also did not know the logic behind the Ordinance. Chairman Berz confirmed that this was just about purchasing. Chief Dodd explained that a business was selling in front of a business—that UTC makes money on books, and this was competition. Ms. Freiberg added that this was a “hole” in our Ordinance. Councilman Murphy questioned if Ice Cream Trucks would be illegal? Chairman Berz indicated that we might review this Ordinance as it presently exists and look at the entire Ordinance. Ms. Madison noted that this amendment could be passed, and we could still look at the entire Ordinance. Chairman Berz questioned if this did not apply to poor people’s neighborhoods? Councilwoman Scott suggested deleting the “housing line”, noting that an Ice Cream Truck would not stay in one place all day. Ms. Madison questioned if we wanted low income deleted? Councilwoman Scott responded “yes”—that this applies to everyone. Ms. Madison noted that this amendment was to prohibit competition; that we would need to check with CNE and the Housing Authority, with Councilwoman Scott stating that we needed to ask all of the residents in Chattanooga. Again Chairwoman Berz asked if we wanted to present this as amended? Ms. Madison explained that this pertains to vending at UTC—that they will be back in two weeks, and we wanted this Ordinance in place. Chief Dodd assured that this individual would push the issue. Attorney Noblett noted that first reading is not until next week and the second reading would be on November 30th, and it does not become effective until two weeks after that, prompting Chairman Berz to note that it would not meet the deadline. Ms. Morris indicated that they just needed to know something. Councilwoman Robinson stated that this was crucial to a problem we have and asked if we passed this on first reading tonight would this not move the process up? Councilwoman Scott agreed that it could be amended today. Ms. Freiberg stated that she could make the necessary changes.

Chairman Berz asked if everyone was comfortable with this—that it takes two readings, and we would like the first reading tonight. It was agreed that this Ordinance could be moved to tonight’s agenda.

Frank Hamilton was present to bring up a revision to the Total Disability Plan of the Fire and Police Pension Fund. He stated that there would be no cost to the City, the reason being that this is based on real experience—that we had only had one person to retire on disability in nine years; that our Actuary said that it would result in no cost.

Chairwoman Berz asked if Councilmembers had all gotten a letter from Mayor Littlefield concerning this? She stated that the letter should be in everyone's box; that he would like for this to be considered since it is at no cost to the City—that it is the Mayor's responsibility. She noted that there was a letter from the Mayor (None of the Council seemed to be aware of such letter).

Councilman Benson noted that there is a serious situation with one individual who needs this—that there would be no cost to the City. He stated that he did not want this to be something like the Drop Plan, which ended up costing us more.

Mr. Hamilton responded that changes were made to the Drop Plan—that the original Plan would have worked, but we moved to something that was no longer cost-neutral, with the knowledge of the Council in 1999.

Councilman Benson asked if the money would come out of the \$199 million. Mr. Hamilton indicated that it would be income from other sources that the Actuary does not account for. Councilman Benson stated that he would like to have this written so we can put something in here to "sunset" this if we see that it is costing us. Mr. Hamilton stated that he thought experience shows this; that we could consider an insurance option with the Plan. Councilman Benson reiterated that this is a serious situation, and he would like to be for this, but he would like to see some quality control. A representative in the audience stated that they could give the Council numbers every five years.

Councilman Murphy agreed that past experience is significant; however he questioned a catastrophic situation where we might go from one disability claim to eight—that things could go bad, could go very bad; that he thought having some way to insure against this was vastly more palatable; that if we have from five to ten disabilities a year, then there is a problem. He stated as far as a "sunset", if it were costing too much, then it means we are using it, and it would be hard to stop, which is counter-logic. He stated that it was a wonderful thing to do; that firefighters have increased disability and early death sometimes; that he liked the idea, but we needed some kind of insurance to the Pension Plan.

Councilman Rico stated that he thought after the Drop Plan, that we have to have a "sunset".

Chairwoman Berz also indicated that it was a good idea—that the Council needed to get a copy of the Mayor's letter. She asked how much time was needed before we look at this again?

Councilman Murphy noted that it could be months before re-insurance is available. Mr. Hamilton stated that it could be handled administratively, with Chairwoman Berz agreeing—as long as it remains cost-neutral. Councilman Murphy stated that it could not be cost-neutral. Councilman Benson asked that they be creative and that we allow 30 days to help this one situation.

Chairwoman Berz questioned what they needed from the Council; that we want to help people but don't want "it" to happen again.

Mr. Hamilton stated that if there was a big catastrophic thing we could handle it with re-insurance.

Chairwoman Berz questioned how quickly they would be ready to move, with Mr. Hamilton stating two weeks.

Councilwoman Robinson still questioned people who might use this and us being in the position to have to cut it, with Councilman Rico stating that we have to make the hard decisions.

Chairwoman Berz stated that we would go over this again in two weeks, with Mr. Johnson stating that he would send out the Mayor's letter again, and it would be in the Council boxes.

FIRE DEPARTMENT FLSA ISSUES

Chairwoman Berz stated that this is an issue that Councilman Gilbert wanted addressed.

Chief Parker stated that he, Crystal Freiberg and Brian Smart would give a presentation. Chief Parker went over the FLSA Federal Law, which sets the number of hours and says one cannot work over 204 hours without paying overtime. Firemen's shifts are 24 hours—day and night. HE talked about OSHA regulations stating that there has to be two people—not one working alone—a backup of two people; with at 216 hour work period, 12 hours of leave would have to be taken to arrive at 204 hours. He talked about four "Kelley Days" and then taking personal leave time. He noted that staffing more firefighters would cost more money with the result of decreasing firefighter safety as well as public safety.

Ms. Freiberg stated that she had met with Personnel and the Fire Dept. and gave a little background of the situation. She mentioned a lawsuit as a result of firemen being requested to take 12 hours off (Kelley Days), which they did not feel was fair, and it was challenged when they retired. She stated that there were still eleven pending cases—that one had been tried, and the Court said "okay" and made them take 12 hours of personal leave. Her recommendation was to continue to schedule for 216 hours and require each to take 12 hours

of personal leave to get to the 204 hours—to eliminate the four “Kelley Days”, when they were not using personal leave.

Councilman Benson asked what “Kelley Days” were? Ms. Freiberg explained that a Fire Chief in another city came up with this when talking about 12 hours they had to take off.

Chief Parker stated that it was the same amount of work for each two weeks with the same salary; that it is the same pay each year; otherwise, the end result would be varying amounts. He mentioned equalized pay based on 106 hours every two weeks and personal leave adjusted down; that they would be paid at 120 hours.

Ms. Freiberg stated that the problem lies in this number of hours based on equalized pay.

Chief Parker stated that we are giving five additional days, depending on number of year’s service, which is on line with other city employees, stating that City employees are scheduled for a 40-day work week.

Ms. Freiberg stated that the amount of personal leave accrued takes into account losing holidays.

Councilman Gilbert asked Ms. Kelley if an employee had a choice on holidays as to getting paid or not getting paid? She responded that it depends on where you work. Chief Parker added that if City Hall is closed, employees have no choice. He pointed out that firemen were getting four “Kelley Days”, asking if we kept the “Kelley Days” if we would have to hire more people. Chief Parker stated that we are giving five days off. Councilman Gilbert stated that he was talking about “Kelley Days”. Chief Parker mentioned 32 days off a year; that we either pay overtime or work short. Councilman Gilbert asked what if they could not staff during flu season, with Chief Parker stating that then they have to work short, with Councilman Gilbert stating “then it is possible to work short”. Chief Parker stated that he did not want to work short.

Discussion ensued with Attorney Freiberg talking about equalized pay and the requirement to take 12 hours of personal leave. She noted that Sect. 2-161 changed the Personal Leave, giving an additional five days based on 120 hours equalized pay and removal of the four “Kelley Days”.

Chairwoman Berz asked if they were ready to put this forward.

Councilman Gilbert still maintained that firefighters were using up more of their personal leave time.

Chairwoman Berz asked what the additional cost would be. Chief Parker stated to give all the four days would amount to \$800,000 in salary.

Councilwoman Robinson asked if anyone was suggesting this?

Chairwoman Berz stated "all things being equal" when will you be ready to bring this forward, noting that the firefighters needed to be able to speak.

Ms. Freiberg stated that it was ready now.

Chairwoman Berz asked if first reading would be next week? She asked if the firefighters had copies of all of this? Chief Parker stated that they could e-mail it to them. Chairwoman Berz indicated that there needed to be discussion before the Council, again asking when this would be ready? Chief Parker stated that he could have it to them by tomorrow.

Councilman Benson asked for input from the Firefighters' Union and asked that they bring the minutes of the meeting that took place in 1985 when this was put into action; that Jerry Evans was Chief then, and this was done at the request of the Union; that all city employees were told they had so many days and had to take some off whether they liked it or not and lose a day.

Councilman McGary asked if it were "take it or leave it" or if there was another option? He stated there needed to be a clear understanding from Administration on whether it is Option A or Option B.

Ms. Freiberg stated that there would be the option of not having equalized pay; that giving 12 hours was also an option; that all of the 12 hours have to be taken in personal leave.

Councilman McGary stated that there seemed to be three issues; that he would love some information on "Kelley Days"; that if Administration was taking them out, how did they choose to do this? As to equalized pay, he wanted to know if Administration chose 120 hours.

Brian Smart stated that they accrued fewer days because it was at a faster rate, with Ms. Freiberg explaining we were making equalized pay.

Councilman McGary spoke to the 12 hours of personal leave, and if we are requiring them to take it, why is the language different.

Chief Parker stated that if the Council says give them the four "Kelley Days", it will be a cost; that we can't give them four days at no cost.

Councilman McGary questioned why it was called "Kelley Days" and not Personal Leave? Ms. Freiberg responded that it should not be called "Kelley Days". Councilman McGary stated that he wanted to hear from the firefighters.

Chairwoman Berz stated that the firefighters would be heard next week, and a meeting would be scheduled for full discussion. Councilman McGary asked if this could be scheduled at 3:00 or after? Chairwoman Berz stated that there would be the Agenda Session and then Public Works Committee and then we would get right to it; that there might be a Legal and Legislative Committee meeting.

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

The meeting adjourned at 4:40 P.M.