

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
OCTOBER 30, 2012**

Chairman Ladd called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Rico, Robinson, and Scott present. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
CIVIC READING**

The Pledge of Allegiance was led by Councilman Murphy, followed by recognition of three Councilpersons who have served this City with great hearts and minds and have chosen not to return next term. He apologized to the two members on his left for the "gender" indicated in the following reading:

"It is not the critic who counts; not the man who points out how the strong man stumbles, or where the doer of deeds could have done them better. The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood, who strives valiantly; who errs and comes short again and again; because there is not effort without error and shortcomings; but who does actually strive to do the deed; who knows the great enthusiasm, the great devotion, who spends himself in a worthy cause, who at the best knows in the end the triumph of high achievement and who at the worst, if he fails, at least he fails while daring greatly. So that his place shall never be with those cold and timid souls who know neither victory nor defeat."

This was a quote by Theodore Roosevelt and a thanks to Councilpersons Robinson, Scott and McGary for their service to a grateful city.

MINUTE APPROVAL

On motion of Councilman McGary, seconded by Councilwoman Berz, the minutes of the previous meeting were approved as published and signed in open meeting.

BUDGET AMENDMENT

On motion of Councilman McGary, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND ORDINANCE NO. 12622 KNOWN AS
"THE FISCAL YEAR 2012-2013 BUDGET ORDINANCE" SO AS TO
APPROPRIATE TWO MILLION THREE HUNDRED SIXTY-FOUR
THOUSAND ONE HUNDRED THIRTY-THREE AND 18/100
DOLLARS (\$2,364,133.18) FROM GENERAL FUND RESERVES AS A
WRITE-OFF OF A RECEIVABLE FROM DOGWOOD MANOR, LLC**
passed second and final reading and was signed in open meeting.

CONTRACT CHANGE ORDER

On motion of Councilman Benson, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 WITH
ACCELA, INC. RELATIVE TO THE INTEGRATED VOICE RESPONSE
(IVR) SYSTEM, IN THE AMOUNT OF SIX THOUSAND FIVE
HUNDRED FIVE DOLLARS (\$6,505.00), FOR A REVISED
CONTRACT AMOUNT OF ONE HUNDRED THREE THOUSAND
SEVEN HUNDRED NINETY-THREE AND 83/100 DOLLARS
(\$103,793.83)**
was adopted.

ALLIED ARTS GRANT

On motion of Councilman Gilbert, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR, AND
IF AWARDED, ACCEPT AN ALLIED ARTS OF GREATER
CHATTANOOGA GRANT TO PAY FOR URBAN ARTISTS, PRIMER,
AND SPRAY PIAINT FOR THE PILLARS ACROSS FROM THE
WELLNESS CENTER, IN THE AMOUNT OF SIX THOUSAND TWO
HUNDRED FORTY-EIGHT AND 82/100 DOLLARS (\$6,248.82)**
was adopted with Councilwoman Scott voting "no".

CONTRACT CHANGE ORDER

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL)
FOR TALLEY CONSTRUCTION COMPANY RELATIVE TO
CONTRACT NO. E-08-010-201, SHALLOWFORD ROAD AT
JENKINS ROAD INTERSECTION IMPROVEMENT, FOR AN
INCREASED AMOUNT OF TWENTY-FOUR THOUSAND THREE
HUNDRED THIRTY-SIX AND 19/100 DOLLARS (\$24,336.19),
FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ONE
MILLION FIVE HUNDRED TWENTY-TWO THOUSAND SEVEN
HUNDRED EIGHTEEN AND 86/100 DOLLARS (\$1,522,718.86),
AND TO RELEASE THE REMAINING CONTINGENCY OF ONE
HUNDRED TWENTY-FIVE THOUSAND SIX HUNDRED SIXTY-
THREE AND 81/100 DOLLARS (\$125,663.81)**

was adopted.

ALLIED ARTS GRANT

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO APPLY FOR AND,
IF GRANTED, ACCEPT A GRANT FROM ALLIED ARTS OF
GREATER CHATTANOOGA FOR THE LISTEN UP INTERNET
RADIO/INTERNSHIP PROGRAM, IN THE AMOUNT OF SIX
THOUSAND DOLLARS (\$6,000.00)**

was adopted, with Councilwoman Scott voting "no".

OVERTIME

Overtime for the week ending October 25, 2012, totaled \$6,126.95.

PERSONNEL

The following personnel matters were reported for the various departments:

PARKS AND RECREATION DEPT.:

- ✓ **DAVID JOHNSON**—Promotion to Inventory Coordinator, Range 13, \$32,971.27, effective 10/5/12.

PERSONNEL (CONT'D):

CHATTANOOGA FIRE DEPT.:

- ✓ **DAMIEN VINSON**—Military Leave for Fire Lieutenant, effective 10/24-11/7/12.

PUBLIC WORKS DEPT.:

- ✓ **KENNETH BATES**—Termination of Crew Worker 1, Traffic Operations, effective 10/19/12.
- ✓ **JANELLEL SWEENEY**—Hire as Plant Maint. Lubricator, Range 5, \$23,050 annually, effective 10/19/12.

DONATION

Adm. Zehnder submitted the following donation for the Parks and Recreation Dept.:

Multi-Gym Weight Machine for the Glenwood Community Center from Lea Ann Williams in the amount of \$15,000.00.

PARKS & REC. RECOGNITION

Adm. Zehnder shared that he attended the National Softball Association meeting in Lexington, Kentucky, and that we received the award for the Outstanding Park for 2012 by the National Softball Association. He went on to say that next year we will have 220+ teams in Chattanooga that will play at Summitt, noting that he was very happy to share this with the Council.

Councilwoman Robinson commended Adm. Zehnder for the work he did in bringing these honors to us and asked that everyone stand and give him a round of applause.

Adm. Zehnder acknowledged that it was due to the people working for his department out at Summitt and Warner Park—that they made sure these things happened.

PARKS AND REC. (CONT'D):

Councilman Benson noted that 20 years ago we were the Softball Capital of the South and that there was a gentleman in the audience who had run for Mayor on that platform. He wanted to know what kind of programs we are seeing now that could return us to that status?

Adm. Zehnder responded that in the youth department, we have surpassed what we had 20 years ago in softball; that adult and church leagues still have a way to go—that there has been a sloughing off of adult play and that is unfortunate because all of us need to be more active. He stated that they would continue to pursue employers forming adult leagues.

Councilman Benson stated that Adm. Zehnder “hit the nail on the head”—that we need to encourage church and industry leagues. Adm. Zehnder responded that it is coming—that this sloughing off of adult teams is a national trend.

Councilman Gilbert also thanked Adm. Zehnder for a great job; that we need these tournaments here to host all of these teams.

Chairman Ladd also thanked Adm. Zehnder and his staff.

DEPT. OF NEIGHBORHOOD SERV.

Adm. Johnson stated that this was a sad occasion for her department and thanked Councilman Murphy for earlier announcing the passing of Muriel Sammons. She stated that Ms. Sammons was the wife of the Deputy Administrator of Neighborhood Services, Tony Sammons—that he had been dealing with her illness and also working as a dedicated city employee for sometime. She stated that this was sad for her and also her staff. She went on to say that she had shared the arrangements for Muriel’s service with Ms. O’Neal and was sure that she would share this information with the Council.

Chairman Ladd stated that the Council shared the pain with Ms. Johnson’s staff and our prayers are with the Sammons’ family.

REFUNDS

On motion of Councilman Gilbert, seconded by Councilman Murphy, the Administrator of Finance was authorized to issue the following property tax refunds:

ROSEWOOD SUPPORTIVE SERVICES	\$1,064.74
STEPHEN T. BARRY	\$1,165.80

PURCHASES

On motion of Councilwoman Berz, seconded by Councilman Murphy, the following purchases were approved for the various departments:

PUBLIC WORKS DEPARTMENT:

STEIN CONSTRUCTION CO. (Lowest Bid meeting specs.)
Requisition R64725

Blanket Contract for Stormwater Control Structure Maintenance Services

\$20,000 estimated annually

WESTECH ENGINEERING, INC. (Best Bid meeting specs.)
Requisition R65673/302234

Fine Screen Repair Parts

\$13,446.00

BRENNTAG MID-SOUTH, INC. (Lowest and Best Bid meeting specs.)
Requisition \$66729/302270

Blanket Contract for Bulk Liquid Chlorine

\$700,000.00 approximately annually

CHATTANOOGA FIRE DEPT.;

DAWSON ASSOCIATES (Best Bid meeting specs.)
Requisition R66080/302254

Blanket Contract for Crowcon Gas Monitor Parts & Accessories

\$25,000.00 approximately annually

MES, INC. (Lowest and Best Bid meeting specs.)
Requisition R65038302249

Fire Hose

\$32,218.75

CHATTANOOGA POLICE DEPT.:

TREK BICYCLE STORE (Lowest and Best Bid meeting specs.)
Requisition R66433/302259

Ten (10) Police Patrol Bikes and Accessories

\$13,000.00

VISIONAIR (Single Source Purchase)
Requisition R67314

Annual Software Maintenance & Support

\$211,238.35

On motion of Councilwoman Berz, seconded by Councilman Gilbert, the following Board Appointments and Re-Appointments were approved:

BOARD OF MECHANICAL EXAMINERS

- ✓ Appointment of **DR. GEORGE M. GRAHAM** for a four year term, expiring **September 16, 2016**.

COMMUNITY DEVELOPMENT CITIZENS' ADVISORY BOARD

- ✓ Re-appointment of **RHIANNON MAYNARD** from District 1 (Councilwoman Scott) for a three year term, expiring **December 15, 2015**.
- ✓ Re-appointment of **AILEEN M. CARROLL** from District 3(Councilwoman Ladd) for a three year term, expiring **December 15, 2015**.
- ✓ Re-appointment of **MELVIN DOWNS** from District 4 (Councilman Benson) for a three year term, expiring **December 15, 2015**.
- ✓ Re-appointment of **PETER E. YAKIMOWICH** from District 6 (Councilwoman Berz) for a three year term, expiring **December 15, 2014**.
- ✓ Re-appointment of **CARL K. HANSEN** from District 7 (Councilman Rico) for a three year term, expiring **December 15, 2015**.
- ✓ Re-appointment of **WANDA B. OLIVER**, Bushtown Neighborhood Representative for a three year term, expiring **December 15, 2015**.
- ✓ Appointment of **GENE D. SETTLES** from District 5 (Councilman Gilbert) for a three year term, expiring **December 15, 2015**.
- ✓ Appointment of **LARRY W. HIGH**, Alton Park Neighborhood Representative, for a three year term, expiring **December 15, 2015**.
- ✓ Appointment of **DALE GRISSO**, East Chattanooga Neighborhood Representative, for a three year term, expiring **December 15, 2015**.

COMMITTEES

Councilman Rico reminded everyone of the **Public Works Committee meeting scheduled for November 6th to immediately follow the Agenda Session.**

Councilman Gilbert scheduled a **Parks and Recreation Committee meeting to immediately follow the** Legal and Legislative and Safety Committee meeting on **November 13th** to discuss the Stringer's Ridge Park Development and the naming of "Whiteside Park".

NEXT WEEK'S AGENDA:
NOVEMBER 6, 2012

Chairman Ladd referred Council members to next week's agenda and inquired as to whether there were questions; being none, the meeting continued.

RULES OF PROCEDURE

City Attorney McMahan read the Council's Rules of Procedure with reference to persons addressing the Council during non-agenda matters.

BRENDA RUMPH

Ms. Rumph of 1190 N. Moore Rd. addressed the Council. She stated that she had talked to Councilman Gilbert about her issue, but he would not return her calls; that when it rains, she had a real problem; that there were several new houses built here; that she had talked to the Building Inspector, Roger Scott, on October 5th, and he had assured her the problem would be taken care of. She questioned why the City approved these houses to be built here when it was not upgraded; that she had bought carpet, but when it rains, it floods her house—that her side looks like a river, and she could not get anything done; that the builder was a police officer, and he would not respond to her; that everyone was giving them the run-around.

Councilman Gilbert asked her if they had not had several discussions on this? She responded "not really"; that he had asked her to text him and give him the name and number of the inspector. Councilman Gilbert stated that he would talk to the contractor and get back with her; that he had spoken to the contractor, and he said things had been done after he built the house that was

BRENDA RUMPH (CONT'D)

causing the problems. Ms. Rumph asked him when he spoke to the contractor, and he responded "two weeks ago". She stated that she had talked to him Friday and that Councilman Gilbert was supposed to have let her know the exact date.

Councilman Benson admonished her to not feel that she was the only one with this problem; that there were tremendous flooding problems in his district and hip-high water; that these type problems come with development; that we are building houses and have more asphalt and impervious surfaces—that it is a serious city problem; that it is a common problem, and the City can't raise enough money to find out where to put the water. He stated that he was sympathetic with her, but we had the same problems in all districts; that it might be some comfort to her to know that she was not the only one.

Chairman Ladd asked Councilman Gilbert if he would follow up with her? He responded that he would call the contractor again. Chairman Ladd indicated that she hoped this problem could be resolved.

Councilwoman Scott asked Attorney McMahan if the City Council had any control over builders, and if this was under our legislative purview? Attorney McMahan responded that we have a Building Code to follow; that usually the person would have to go back to the builder, and this would be a private lawsuit, unless the City, itself, is causing the problem. She asked if it were accurate to say if the City plays a part, then it is the City's responsibility; otherwise it would be the private owner—that if the developer had built in a flood zone, and the Land Development Office said that it was okay to build at this level or else they were told that it was the wrong level; that she thought when the City issued a permit that it was clearly delineated as to whether it was in the flood zone, and the builder would not be permitted to build there—that it could be that the problem was not the City's but that the contractor had made a mistake. Attorney McMahan noted that some areas are low but are not in the flood zone, but the area should not be built on; that most of the time the developer is not aware that he is building in a swamp or else just don't care—in that case, they would be liable.

Ms. Rumph stated that the City Inspector told her that the builder should never have been told that this property could be built on; that it is on the creek and should have been designed for the water to go downhill; that the Inspector could not answer why the builder got the permit; that her house was in a ditch. Chairman Ladd stated that Councilman Gilbert would follow up with her and Public Works.

Ms. McCallie of 1611 Read Ave. approached the podium, along with her husband, **Karrick Johnson**. She stated that they had lived here six years and when they moved in it was like “the wild, wild west”. She stated that they had worked hard to change this and that they loved their neighborhood, and their neighborhood was great today—that all the houses were filled with young families with children. She stated that they were excited about their neighborhood and wanted to move it to the next level; that they wanted businesses to move into their neighborhood and loved businesses but what was near them was not so great, and they needed help from the Council today. She was talking about the Church of Main that was across from them—that the noise requirement was 55 decibels during the day and 50 decibels as of 9:00 P.M.; that normally the noise level was 45 decibels, and they were not a quiet neighborhood; however during the evening at the church location it is 65 decibels—that the noise is loud, and they could hear every word that was being said. She stated that she and her husband had an eight month old baby and that they were very tired people. She stated that usually it was quiet and everything was fine, but now the noise level was 65 decibels, and they were having trouble getting the Noise Ordinance enforced—that they said that 65 decibels were allowed, but not according to the Ordinance.

Councilman Rico asked them to talk about their response from the police.

Mr. Johnson explained that a police officer would be sent over there, and they would drive by and would keep on going; that they called the sergeant back, and he sent over an officer, and she said that everything was okay, and they kept on at a 65 decibel noise level; that the Police Dept. stated that they had seen a lot worse and just let this go but that this was not acceptable to them.

Councilwoman Scott stated that we had an Ordinance with a decibel level on the books that had been here for quite some time. She asked if we had decibel meters or did we just not have enough to go around? Secondly, she wanted to know if this was a church or an event center—were church events going on or did they rent the space out? Mr. Johnson responded that it was strictly an events center; that as far as decibel meters, the police had the equipment and had said that if it were over 50 decibels that they would enforce—that the Charlie Team had no idea how to deal with this.

Chairman Ladd noted that we had a couple of police officers present tonight and asked one of them to respond.

Councilwoman Scott had not finished. She stated that if we did not have enough decibel meters, then we needed to look into this; that if there were an emergency or crisis going on, she would think one car could rush over that would have a meter.

Captain Woolsey explained that they did not have many decibel meters; that to legally enforce this, the meters had to be calibrated when they went to court, and they had to experience the noise; that they had to have ambient readings first, which made it difficult; that they did not have enough meters and no program; that when they went to court, these kind of things had to be addressed.

Chairman Ladd stated that she wished the Council had been given this information, also.

Councilwoman Berz stated that all have the right to quiet enjoyment; that they bought their house without this noise, and it was ridiculous that they had to tolerate this noise; that 50 decibels is loud; that right now her district was not being disturbed by loud clubs. She stated that this was something that the Council needed to look at; that entities were getting closer together, and we are responsible for their having quiet enjoyment. She stated that these people had their house there before the Event Center came, and they should not have to tolerate the noise that was coming to them. She asked Attorney McMahan a general question—that people have the right to quiet enjoyment—she wanted to know if there was something we could do other than just using a decibel meter?

Attorney McMahan responded that the thought was to use a decibel meter; that Councilman Murphy had done an experiment; that he was not aware that the Police Dept. was without the equipment; that zoning laws keep things apart; however in downtown there is a mixture of use.

Councilwoman Berz stated that she was not arguing mixture; that with a decibel meter, a person has to hear it—when they drive away, then the noise goes up again. She stated that we needed to come out of the Dark Ages—that as we get more compact downtown and downtown develops, this is something we need to take a look at. She stated that this was a “pain in the neck” that these people are dealing with.

Mr. Johnson added that they had been threatened if they complained to the Police that they would be sued for harassment and that they would be hindering their business.

Councilman McGary stated that he had two comments about the issue; that we should take up the issue of the Noise Ordinance in a Legal and Legislative Committee meeting and re-examine what we have and tighten it up; that this needed to be re-visited to see what we can do with the help of the Police Dept. He stated that his second comment to the issue was that we might could make a purchase, and he asked the Police Dept. to give us a quote of the number of decibel meters needed and to have some figures ready to hand to Ms. Madison.

Councilman Benson stated that he, too, thought that we needed to re-visit this in view of different standards. He mentioned actual commercial areas with R-1 close by to the commercial, stating that he thought we had one standard for every place.

Attorney McMahan noted that we had the Late Night Entertainment Permit to address this problem.

Councilman Benson spoke of us having a ridge in Brainerd, with houses on top of a night club—that where there are houses, the decibels should be at a lower level.

Attorney McMahan agreed that this would be the most direct approach—that this takes a lot of police officers' time.

Captain Woolsey thanked the Council for the offer and also thanked them for passing the Noise Ordinance to begin with; that we are getting more intelligent on the topic and can have something that will be more user friendly for all. He stated that they would be happy to assist.

Chairman Ladd noted that there had been good dialog from all.

Councilman Murphy stated that he would take this up in his committee and asked that people familiarize themselves with decibels and what goes with what type noise—that 50 decibels is regular conversation; that 60 decibels is conversation in some place such as a restaurant; that he did not know if 50 decibels was the right number. He noted that if one recalled his experiment, that all CARTA buses violated the Noise Ordinance. He stated that 70 decibels was annoying.

Ms. McCallie noted that the noise they were referring to was constant.

Councilman Murphy suggested that the Event Center might be able to do something different with their windows. Ms. McCallie responded that they had already requested that, but they felt that they were being harassed.

Councilman Rico added that it was his understanding that they were using an off-duty policeman, which he thought could be a conflict of interest. Captain Woolsey stated that the whole process could be made more user-friendly—that this was a difficult thing to enforce.

Councilwoman Scott questioned if this should be looked at as a Late Night Entertainment designation? Councilman Murphy noted that this was in a C-3 zone.

Councilman McGary assured them that the Council would re-visit this issue.

Chairman Ladd acknowledged that this dialog tonight had helped a lot and expressed appreciation for these people coming to the Council tonight.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, November 6, 2012, at 6:00 P.M.

CHAIRMAN

CLERK OF COUNCIL

