

**CITY COUNCIL BUILDING  
CHATTANOOGA, TENNESSEE  
MAY 1, 2007**

Chairman Page called the meeting of the Chattanooga City Council to order with Councilmen Bennett, Benson, Franklin, Gaines, Rico, Pierce, Robinson, and Rutherford present. City Attorney Randall Nelson; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/  
INVOCATION**

The Pledge of Allegiance was led by Councilman Rico, followed by invocation.

**MINUTE APPROVAL**

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

Chairman Page welcomed everyone to the first Council meeting in May. He then acknowledged that our City Council News Reporter, Herman Wang, had told us that his last day of work in Chattanooga would be May 19<sup>th</sup> and that he would be moving to Washington, D.C. to cover the Senate. He stated that the Council had enjoyed their relationship with Mr. Wang and that he had always treated everyone fairly and that the Council wished him the best and urged him to keep in touch. Mr. Wang responded that he would now be able to keep his Tuesday nights free.

Chairman Page stated that he thought that Judge Sells would be in the audience, and he wanted to acknowledge her presence, noting that she might come in later.

Chairman Page also made mention of the fact that Ordinances had been previously discussed in committee meetings.

**CLOSE AND ABANDON**

**MR-2007-003 (Pearlene Smith)**

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines,

**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY LOCATED ON THE SOUTH LINE OF THE 5900 BLOCK OF SHAW AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
passed second and final reading and was signed in open meeting.

**CLOSE AND ABANDON**

**MR-2007-013 (Bouman Development)**

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE UNOPENED 2500 BLOCK OF EAST 16<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
passed second and final reading and was signed in open meeting.

**CLOSE AND ABANDON**

**MR-2007-052 (City of Chattanooga c/o William C. Payne)**

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**AN ORDINANCE CLOSING AND ABANDONING SEWER EASEMENT MF NO. 11593 ON A TRACT OF LAND LOCATED AT 1734 EAST 3<sup>RD</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**  
passed second and final reading and was signed in open meeting.

**AMEND CITY CODE**  
**PANHANDLING**

Councilman Benson noted that this had been discussed in Legal and Legislative Committee meeting and essentially excludes Jack's Alley and portions of Main Street.

On motion of Councilwoman Robinson, seconded by Councilwoman Bennett,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 25, ARTICLE I, BY SUBSTITUTING A NEW SECTION 25-45(2) RELATIVE TO PANHANDLING**  
passed first reading.

**APPROPRIATION**

On motion of Councilman Rico, seconded by Councilwoman Bennett,  
**AN ORDINANCE APPROPRIATING FROM THE GENERAL FUND TO A NIGHT TO REMEMBER, INC., A NON PROFIT ORGANIZATION, THE AMOUNT OF ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) AS A SPONSORSHIP OF ITS 20<sup>TH</sup> ANNIVERSARY EVENT**  
passed first reading.

**CAPT. IMPROV.BUDGET**

On motion of Councilwoman Gaines, seconded by Councilman Pierce,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 11903 ENTITLED "AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2006/2007" TO PROVIDE FOR THE APPROPRIATION FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND FROM HUMAN SERVICES DEPARTMENT OPERATIONS FOR THE RENOVATION OF THE DAISY HEAD START/EARLY HEAD START CENTER**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2007-004 (Richard Dillard)**

On motion of Councilwoman Robinson, seconded by Councilwoman Bennett,

**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF AN UNNAMED ALLEY LOCATED AT THE REAR OF 2010 EAST 13<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was denied.

**CLOSE AND ABANDON**

**MR-2007-018 (Charter Real Estate Corporation)**

Councilman Benson explained that when this case was before the Planning Commission, there was a misunderstanding, and this was not explained and visualized; that based on that meeting, he might have voted to deny this, but he had been out to the site and seen for himself.

On motion of Councilman Benson, seconded by Councilwoman Bennett,

**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 6000 BLOCK OF HALL ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**CLOSE AND ABANDON**

**MR-2007-031 (Hamilton County Real Property c/o Paul Parker)**

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 1900 BLOCK OF EAST 4<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

CONTRACT C.O.

On motion of Councilwoman Bennett, seconded by Councilwoman Rutherford,

**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 RELATIVE TO CONTRACT NO. W-03-009-101, ASHLAND TERRACE SEWER RELOCATION PROJECT, WITH CONSOLIDATED TECHNOLOGIES, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY FIFTEEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$15,125.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED EIGHTY-SIX THOUSAND FIVE HUNDRED SEVEN DOLLARS (\$86,507.00)**

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,

**A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO ENTER INTO AN AGREEMENT WITH ENVIRONMENTAL SYSTEMS RESEARCH INSTITUTE FOR CONSULTING AND TRAINING SERVICES RELATIVE TO THE GIS SYSTEM BEING PURCHASED IN AN AMOUNT NOT TO EXCEED SIXTEEN THOUSAND SEVEN HUNDRED EIGHTY-TWO AND 50/100 DOLLARS (\$16,782.50) USING METROPOLITAN MEDICAL RESPONSE SYSTEM GRANT FUNDS**

was adopted.

LEASE AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF EDUCATION, ARTS & CULTURE TO EXECUTE A LEASE AGREEMENT FOR OFFICE SPACE WITH THE CHATTANOOGA HOUSING AUTHORITY, IN SUBSTANTIALLY THE FORM ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE**

was adopted.

CONTRACT

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,

**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. S-07-003-201, STORM SEWER SEPARATION PROJECT FOR 2<sup>ND</sup> AND 3<sup>RD</sup> STREETS, TO GLOBAL INFRASTRUCTURE, INC. IN THE AMOUNT OF THREE HUNDRED NINE THOUSAND AND 47/100 DOLLARS (\$309,000.47), PLUS A CONTINGENCY AMOUNT OF THIRTY THOUSAND NINE HUNDRED NINETY-NINE AND 53/100 DOLLARS (\$30,999.53), FOR A TOTAL AMOUNT NOT TO EXCEED THREE HUNDRED FORTY THOUSAND DOLLARS (\$340,000.00)**

was adopted.

AGREEMENT

On motion of Councilwoman Rico, seconded by Councilwoman Bennett,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ENGINEERING SERVICES RELATIVE TO GROUNDWATER SAMPLING, MONITORING, AND REPORTING DURING 2007 FOR SUMMITT LANDFILL, NORTH HAWTHORNE STREET LANDFILL, AND CITY LANDFILL ON BIRCHWOOD PIKE IN AN AMOUNT NOT TO EXCEED THIRTY-TWO THOUSAND DOLLARS (\$32,000.00)**

was adopted.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH BARGE, WAGGONER SUMNER & CANNON, INC. RELATIVE TO CONTRACT NO. E-06-024, TUNNEL BOULEVARD SIDEWALK EXTENSION PROJECT, IN AN AMOUNT NOT TO EXCEED TWENTY-TWO THOUSAND SEVEN HUNDRED FIFTY-EIGHT DOLLARS (\$22,758.00)**

was adopted.

CONTRACT AMEND.

On motion of Councilman Rico, seconded by Councilman Franklin,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AMENDMENT NO. 1 WITH CONSOLIDATED TECHNOLOGIES, INC. FOR ADDITIONAL ENGINEERING SERVICES RELATIVE TO THE CONTRACT FOR REPLACEMENT OF THE COOLING TOWER AT MOCCASIN BEND WASTEWATER TREATMENT PLANT, WHICH AMENDMENT INCREASES THE CONTRACT AMOUNT BY ONE THOUSAND SEVEN HUNDRED DOLLARS (\$1,700.00), FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED TEN THOUSAND SIX HUNDRED DOLLARS (\$10,600.00)**

was adopted.

TEMP. USAGE

On motion of Councilwoman Robinson, seconded by Councilwoman Bennett,

**A RESOLUTION AUTHORIZING RICHARD DILLARD TO USE TEMPORARILY AN UNNAMED ALLEY LOCATED AT THE REAR OF 2010 EAST 13<sup>TH</sup> STREET, AS REFERENCED IN CASE NO. 2007-004 AND SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

TEMP. USAGE

On motion of Councilman Rico, seconded by Councilwoman Bennett,  
**A RESOLUTION AUTHORIZING BETTY BELL TO USE  
TEMPORARILY 6307 AND 6309 POTTS ROAD TO ALLOW  
TWO (2) EXISTING CARPORTS TO ENCROACH THE RIGHT-  
OF-WAY, AS SHOWN ON THE DRAWING ATTACHED  
HERETO AND MADE A PART HEREOF BY REFERENCE,  
SUBJECT TO CERTAIN CONDITIONS**  
was denied.

TEMP. USAGE

On motion of Councilwoman Bennett, seconded by Councilwoman  
Robinson,  
**A RESOLUTION AUTHORIZING NORTHSIDE LEARNING  
CENTER TO USE TEMPORARILY AN UNOPENED EXTENSION  
OF WINTHROP STREET TO MAKE A PASSIVE PARK, AS  
SHOWN ON THE DRAWINGS ATTACHED HERETO AND  
MADE A PART HEREOF BY REFERENCE, SUBJECT TO  
CERTAIN CONDITIONS**  
was adopted.

TEMP. USAGE

On motion of Councilwoman Rutherford, seconded by Councilwoman  
Robinson,  
**A RESOLUTION AUTHORIZING ALBERT WATERHOUSE TO  
USE TEMPORARILY 401 BROAD STREET TO INSTALL AN  
AWNING, AS SHOWN ON THE DRAWING ATTACHED  
HERETO AND MADE A PART HEREOF BY REFERENCE,  
SUBJECT TO CERTAIN CONDITIONS**  
was adopted.



TEMP. USAGE

On motion of Councilman Rico, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING BARRY W. RICK TO USE TEMPORARILY A PORTION OF THE SIDEWALK ON THE EAST SIDE OF PINE STREET BETWEEN MARTIN LUTHER KING, JR. BOULEVARD AND 8<sup>TH</sup> STREET TO INSTALL A CANOPY, AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was adopted.

TEMP. USAGE

Councilman Rico explained that in relation to this request of the Presbyterian Church that the Council felt it best not to pass this with the reasoning that if we let one church do this, we will be overcome with requests.

On motion of Councilman Rico, seconded by Councilwoman Bennett,  
**A RESOLUTION AUTHORIZING SECOND PRESBYTERIAN CHURCH TO USE TEMPORARILY 801 PINE STREET AND MARTIN LUTHER KING, JR. BOULEVARD NEAR THE ENTRANCE RAMP TO I-124 (US-27) TO INSTALL A SIGN, AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was denied, with Councilman Franklin voting “no”.

TEMP. USAGE

On motion of Councilman Rico, seconded by Councilwoman Rutherford,  
**A RESOLUTION AUTHORIZING TOWER PLACE, LLC TO USE TEMPORARILY WEST 17<sup>TH</sup> STREET TO EXTEND STEPS FROM FOUR (4) CONDOMINIUMS INTO THE RIGHT-OF-WAY, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was adopted.

**CONTRACT**

On motion of Councilman Rico, seconded by Councilman Franklin,  
**A RESOLUTION AWARDING THE CONTRACT FOR THE  
RENOVATION OF THE DAISY HEAD START/EARLY HEAD  
START CENTER TO P&C CONSTRUCTION IN AN AMOUNT  
NOT TO EXCEED ONE HUNDRED THIRTY-THREE  
THOUSAND THREE HUNDRED TWENTY-EIGHT DOLLARS  
(\$133,328.00)**  
was adopted.

**SPONSORSHIP ACCEPT.**

On motion of Councilwoman Rutherford, seconded by Councilwoman  
Gaines,  
**A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A  
SPONSORSHIP OF THE CITY HALL GRAND REOPENING  
FROM CHATTANOOGA MANUFACTURERS ASSOCIATION IN  
THE AMOUNT OF FIVE THOUSAND DOLLARS (\$5,000.00)  
AND EXPRESSING THE GRATITUDE OF THE MAYOR AND  
CITY COUNCIL FOR SAID SPONSORSHIP**  
was adopted.

**OVERTIME**

Overtime for the week ending April 27, 2007, totaled \$81,158.59.

**PERSONNEL**

The following personnel matters were reported for the various  
departments:

**PUBLIC WORKS DEPARTMENT:**

- ❖ **DENNIS CHRISTOPHER, JR.**—Retirement of Crew Worker, effective  
4/29/07

**PERSONNEL (CONT'D)**

- ❖ **ANTHONY D. SPEARS**—Suspension two days without pay for Crew Worker, effective 4/23—4/24/07.
- ❖ **ROY K. COTHRAN, JR.**—Suspension two days without pay for Crew Supervisor, effective 4/23—4/24/07.
- ❖ **BARRY L. CHILDRESS**—Termination of Crew Worker, effective 4/26/07.
- ❖ **CLAYTON COOK**—Lateral Transfer of Crew Worker, effective 4/27/07.

**CHATTANOOGA FIRE DEPARTMENT:**

- ❖ **BRADFORD RANSOM**—Military Leave for Firefighter, effective 4/25/07—9/30/07.

**CHATTANOOGA POLICE DEPARTMENT:**

- ❖ **SARAH JEFFERS**—Hire as Communications Officer, Pay Grade 11/1, \$27,194.00 annually, effective 4/27

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the following purchase was approved for use by the Human Services Department:

**ATHLETIC SPECIALTIES (Lowest and best bid)**  
**Requisition R0097736/B0004013**

Playground Surfacing for Daisy Head Start Program

\$14,183.34

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the following purchase was approved for use by the Department of Parks and Recreation:

**COLE'S EQUIPMENT (Lowest and best bid)**  
**Requisition R0097758/B0004007**

One Tractor

\$24,020.00

At this point Councilman Franklin questioned Mr. Zehnder about a Parks and Recreation position of Assistant in Transportation, wanting to know if this was offered to those already employed in the department? Mr. Zehnder explained that if it was part of their operation, that they did offer this in-house; that if it were not connected, they did not. Councilman Franklin asked about liability. Mr. Zehnder explained that from a precedent issue, that it was their policy if it were not part of their program, they would not use their personnel. Councilman Franklin asked about entities such as churches, and Mr. Zehnder noted that this was not the practice since he had been back. Councilman Franklin wanted to know if when the department posts jobs, they are open to insiders currently employed with the department? Mr. Zehnder explained that if it were a position advertised for the general public that it was open to everybody; that sometimes they would say internally; however if they interviewed their own staff, they made sure the decision was correct. Councilman Franklin wanted to know if the Area Recreational Manager was open to those with 20 years plus employment? Mr. Zehnder confirmed that it was; however some did not bother to apply. Councilman Franklin then wanted to know if the position was properly advertised and was told "yes".

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the following purchase was approved for use by the Department of Public Works:

**SPECIALIZED OPERATIONS SERVICES, INC. (Sole Source Purchase)**  
**Requisition R0098244/B0004140**

Chlorination Equipment

\$69,635.00

Adm. Leach, at this time, noted that the Council had asked for a briefing about signs and stated that he would do this in a couple of weeks—particularly in regards to churches allowing directional signs. He noted that there were very limited specifications to exceptions.

Councilwoman Robinson noted that after this had been discussed that she looked in the local telephone directory, and there were over 1,000 churches in the city.

Adm. Leach agreed that there might be a few exceptions; however, he stated, they held pretty firm to the exceptions allowed in the Ordinance.

Councilman Benson stated that the Council needed to get details—that the first thing you knew, we would be stamping approval on certain churches—that it needed to be open to all or none.

Adm. Leach explained that the way it is formed now, the Ordinance allows for certain exceptions—however they are very limited—that an amendment to the Sign Ordinance allows this.

Councilman Benson stated that we needed to get the City Attorney to address this also; that petition by some churches might upset a lot of people.

Adm. Leach explained that these things are handled through Traffic Engineering and not through this body; that he would brief the Council in two weeks, and we might have to re-think the Code. Councilman Benson reiterated that he wanted this looked at, also, from a legal standpoint. Chairman Page stated that this could be done in a committee meeting.

**HUBFEST**

Missy Crutchfield stated that she had no report; however Councilman Benson asked her to address the Council concerning HubFest. Ms. Crutchfield stated that HubFest would take place this coming Saturday at Heritage Park, where the public art pieces would be introduced; that it will be from 10:00 a.m. to 2:00 p.m.; that hopefully it will be a gorgeous day, and Heritage House will be open; that this is being done in partnership with Allied Arts. There will also be Native American arts and crafts. She stated that this was in Councilman Benson's district and would be a great thing.

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following purchase was approved for use by the Mayor's Office:

**911 ETC, INC.— (Best proposal meeting specs.)**  
**Requisition R0095108**

Contract for E911 Solution for City Government Office Locations

\$64,000 (Not to exceed)

Councilwoman Robinson wanted to know if this was cell phone or geographic? Mr. Johnson responded that it was land lines.

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Pierce, the following purchase was approved for the Mayor's Office—General Services—Purchasing Division:

**JAKE MARSHALL SERVICE (Lowest and best bid)**  
**Requisition R000097540/B0004030**

Chiller for Bessie Smith Hall

\$100,697.00

## ATTORNEY NELSON

Attorney Nelson noted that the **Health, Education, and Housing Facility Board** is a member short and that there is a candidate to fill this vacancy—that the person is Henry Wells, and he has four years of history in the Health Industry and has also been a director of a major corporation, which means we are getting the best of both worlds. He solicited this nomination.

## BOARD APPOINTMENT

On motion of Councilwoman Robinson, seconded by Councilman Franklin, the following Board Appointment was approved:

### **HEALTH, EDUCATION, AND HOUSING FACILITY BOARD**

#### ❖ **Henry Wells**

Attorney Nelson also noted that the Chairman of this Board, William Bulls' term had expired, and he recommended that he be re-elected

On motion of Councilman Franklin, seconded by Councilwoman Rutherford, **William Bulls** will be re-appointed as Chairman of the **Health, Education, and Housing Facility Board**.

Attorney Nelson went on to say that he was anticipating one or two more vacancies, and if the Council had any nominations they would like to make to the **Health, Education, and Housing Facility Board** that he would be pleased to receive these nominations—that it should be someone with a background in the Education industry.

Lastly, Attorney Nelson asked for Council action regarding Ms. Faye Boyle.

On motion of Councilman Rico, seconded by Councilwoman Rutherford, the following Board appointment was approved:

### **HEALTH, EDUCATION, AND HOUSING FACILITY BOARD**

#### ❖ **Reappointment of Faye Boyle for a term ending April 21, 2010**

## PERSONNEL HEARING

Attorney Nelson read from a letter from the Law Offices of Leitner, Williams, Dooley & Napolitan, the firm representing **Lawrence Goodine**, a terminated Police Officer. The letter stated that the Chattanooga Police Dept. was presently unable to provide certain records that would be relevant to Officer Goodine's defense, inasmuch as these documents are now relevant to an ongoing criminal investigation. Mr. Goodine's attorney was requesting latitude in scheduling an appeals hearing to ensure that he had the time to review these documents before the hearing.

Councilwoman Robinson stated that this sounded "funny" to her.

Attorney Nelson responded that it was not "funny" but unusual—that the downside was that if we put him back to work, and it is beyond the 30 days, he gets time off with pay. He stated that we could negotiate with the attorney to get them to waive this provision.

Councilwoman Robinson stated that it seemed to her that the purpose of the hearing was to make a determination concerning the action of Administration and not for the purpose of discontinuing for a later transgression.

Attorney Nelson agreed that it may be that this officer is being charged criminally and the evidence that cannot be provided is in regards to a criminal matter.

Chief Williams stated that they were at a point in the investigation that is time-sensitive—that the case is ongoing and progress is being made.

Attorney Nelson asked how long the investigation would take, and Chief Williams responded that it should be finished in two weeks.

Councilman Pierce stated that it was good that they were asking for an investigation, and he felt that this officer's attorney deserved to be able to get the information that he needed to defend his client. He asked Chief Williams if he thought the attorney could get the information in two weeks? Chief Williams responded that they would have no problem with giving him the information after the conclusion of the investigation.

Chairman Page confirmed that this would take two more weeks, which would put the time of a hearing around **May 21<sup>st</sup>**.



**HEARING**  
**LAWRENCE GOODINE (CONT)**

Councilman Pierce asked if Chief Williams could come back with a report in three weeks.

Attorney Nelson stated that we would set the hearing for **Officer Goodine for Monday, May 21<sup>st</sup> at 10:00 a.m.** The panel will consist of **Councilmen Rutherford, Benson, and Pierce, with Councilwoman Gaines being the alternate.**

Attorney Nelson stated that the Police Dept. could come back in two weeks with a report.

**APPEALS HEARING**  
**BARRY CHILDRESS**

Attorney Nelson stated that **Barry Childress**, an employee of the Public Works Department had asked for an appeal. He explained that in March of 2007, Mr. Childress signed a "Last Chance Agreement" that stated if he violated the provisions of this agreement that he would voluntarily waive his right to appeal, his right to file a grievance, and his right to file a civil action in court. (This Last Chance Agreement is made a part of this minute material).

Chairman Page asked Attorney Nelson to further explain this Agreement and to high-light it.

Attorney Nelson read the "LAST CHANCE AGREEMENT", which states that *On March 21, 2007, Mr. Barry Childress refused to perform his assigned duty and was sent home for the day. Mr. Childress has a history of unacceptable job performance. He has been counseled numerous times by both his direct supervisor and by management and has received a multitude of disciplinary actions for unacceptable behavior and violations of policy. Mr. Childress does not recognize the negative impact that his unacceptable behavior has on his fellow works or this department nor does he recognize his responsibility to abide by established policy. Mr. Childress is being offered a Last Chance to improve his behavior and job performance. If Mr. Childress elects to decline this Last Chance offer, the Director of City Wide Services will recommend his immediate dismissal.*

APPEALS HEARING(CONT'D)

*This dismissal will be held in abeyance subject to the following:*

- A. *(1) Execution of this Last Chance Agreement; and  
(2) Compliance with City Wide Services' policy.  
(3) In the event Mr. Childress is determined to violate the provisions of this agreement, he voluntarily waives:
  - a. *the rights to appeal*
  - b. *the right to file a grievance,*
  - c. *the right to file a civil action in court.**
- B. *This agreement will remain in effect for one calendar year from date of execution.*
- C. *If after due process, Mr. Childress is judged to have failed to comply with any of his obligations under this Agreement, the Director of City Wide Services will, in accordance with established policy, recommend his immediate dismissal to the Administrator of Public Works.*
- D. *This Agreement sets forth the entire Agreement between the Director of City Wide Services and Mr. Childress.*

Attorney Nelson asked if there were any questions.

Councilman Rico asked if it were correct that as a Laborer, Mr. Childress cannot come before this Body for an appeal? Attorney Nelson responded that it had been the practice of this Council to allow laborers to have the right to an appeal. Attorney Nelson went on to explain that Mr. Childress' behavior continued and that sometime in April he was again called in and terminated, with the understanding that he had no right to an appeal; however now he was asking for an appeal, but he has already waived his right.

Councilman Franklin questioned if this "Last Chance Agreement" was a legal document that is recognized by the Department of Public Works and the City of Chattanooga?

**APPEALS HEARING(CONT'D)**

Attorney Nelson explained that the document was drawn up pursuant to requirements of the Public Works Department and is their policy.

Councilman Benson stated that it seemed to him that such a document would have to be witnessed and notarized.

Adm. Leach responded that this was not the case—that this was signed by Mr. Childress.

Councilman Benson stated that he had great respect for Mr. Templeton and added that if Attorney Nelson thought this would stand up legally, then Mr. Childress had no right to a hearing.

Adm. Leach explained that this Agreement had been used on several occasions and sometimes the department wins—that when an employee gets to this point, they should be fired but the department agrees to give them a second chance, and this individual did not change his behavior. Adm. Leach agreed that this was a shame, and the department has no choice but to let him go. He added that this type of agreement has worked in the past on a few employees.

**On motion of Councilman Benson, seconded by Councilman Rico, a hearing for Barry Childress was denied.**

Councilwoman Gaines wanted to know from Adm. Leach how many years of service Mr. Childress had? Adm. Leach responded a couple of years—two and one-half years, he thought; that they hired some guys and they were able to be good employees for awhile.

Councilman Pierce asked if this Agreement took his rights away to appeal to the Council, and Adm. Leach responded “yes”.

Councilman Benson stated that we needed to look at the Appeals Process and asked if an employee had to have tenure to ask for an appeal? Attorney Nelson explained that an employee had tenure after two years, with Ms. Kelley adding that it could be extended to a year.

**APPEALS HEARING(CONT'D)**

Councilwoman Gaines stated that she still questioned whether we should allow this employee to have an appeal; that she was very concerned that he should be able to have an appeal; that he may or may not have understood this document.

**COMMITTEES**

Councilman Benson reminded everyone of the **Legal and Legislative Committee meeting that is scheduled for Tuesday, May 8<sup>th</sup> at 3:00 p.m.** He stated that he would have a full agenda and that we would need to address the issue that was brought up tonight as to the legal position in regards to signs.

Attorney Nelson reminded Councilman Benson that this would not come up for two weeks and could be heard in the Public Works Committee.

Chairman Page noted that committee assignments had been made and that these were open to the media.

**MRS. STANLEY SMITH**

**Mrs. Smith** addressed the Council concerning a piece of property on Old Ringgold Rd. She stated that this property had been left to she and her husband for the care they had given a retarded child. She asked the Council to look at what had happened to the property now. She stated that she had been caring for her sister and that her husband was a retired engineer from TVA—that all of a sudden there was a sign on the property that it was for sale; that her daughter had called and the house next door belonged to the Butler family. Mrs. Smith stated that she had paid the taxes and told them that the taxes had been paid and that she had a deed to the property, yet this sign said it was for sale. She stated that she would not tell the Council who put it up for sale, but she had a deed and would go to Court. She went on to say that she had been harassed for 30-40 years—that this was a beautiful piece of property—that this man harassed them into selling, and they agreed to sell—that at the time they sold the property, it assessed for \$12,500 and a year later it was \$100,000—that all the time this man wanted the property and now he had it for \$20,500. She urged the Councilmembers to go up to 1520

**MRS. STANLEY SMITH**  
**(CONT'D)**

Old Ringgold Rd. and see what was being done. She stated that as a citizen of the City of Chattanooga, she should not have been harassed, and this man just took her property. She stated that she went by to ask who had given him permission to build. She stated that she felt this was fraud, and she could take this man into Court and sue him for all he was worth.

Chairman Page stated that this was something that was involved in Administration and that Adm. Leach was in charge of Public Works and was in the audience. He stated that he did not know if there was anything we could do about this; that apparently Mrs. Smith did not have the deed, and the property was sold.

Mrs. Smith still urged that the Council should still go and see what the man was doing up there on Old Ringgold Rd.

**LILY SAMSON ROCHELLE**

**Mrs. Rochelle** addressed the Council, stating that she regretted having to do this but that her husband had exhausted all his options, and they had to get help; that her husband was fired from Public Works on December 11<sup>th</sup> for refusing to take a breathalyzer test; that he talked with them and told them that he drank heavily and wanted to quit drinking, but he never drank on the job, and the supervisor said that he could get the help he needed and that he would hold his job. She stated that her husband checked into Valley the next day and that someone from the City took papers out to him for him to sign for his dismissal. She stated that her husband had met with the supervisor four times after December 11<sup>th</sup>, and his supervisor had told him to do this and one of his supervisors gave him a form from AA to sign, which he did. She went on to say that he applied for unemployment in January and was denied by the City and was also denied by the Board of Review; that the Board of Review said to go to Chancery Court, but they did not have the money for an Attorney and could not find an Attorney to help them. She was asking the Council to help them with this today and tell them where to go for Legal Aid—that they had exhausted all of their money.

**LILY ROCHELLE(CONT'D)**

Chairman Page thanked Ms. Rochelle for coming.

Councilman Franklin stated that Mrs. Rochelle had talked to Councilman Pierce about this, and that Councilman Pierce had invited the Rochelles to come to the Council meeting; that a co-worker had called him (Councilman Franklin) and what they had explained to him was consistent with what Mrs. Rochelle had said; that Jim Templeton was one of the supervisors and that he had called him and that Mr. Templeton collaborated—that Mr. Rochelle was to go through the AA Program and seek re-habilitation. He went on to say that Mr. Rochelle completed the program and had gone to Personnel to see if he could be considered for re-application as a re-hire. He asked Mrs. Kelley if Mr. Rochelle had been to her office?

Ms. Kelley responded that she was not sure about re-application.

Councilman Franklin asked Mr. Rochelle if he had re-applied, and he responded “yes”. Councilman Franklin also noted that Mr. Templeton was not opposed to Mr. Rochelle being re-hired. He asked Ms. Kelley if there were any positions in Public Works where Mr. Rochelle could be re-hired.

Ms. Kelley responded that she was not sure there was a position available that was identical to the one he left.

Councilman Franklin asked if there was any position that Mr. Rochelle was qualified for. It was noted that Mr. Rochelle had worked in stormwater and street cleaning. Ms. Kelley stated that she would have to check this out and asked if Mr. Rochelle had time tomorrow to talk about this, and she could give a report next week.

Councilman Benson asked that Mr. Rochelle speak for himself, rather than his wife speaking. Councilman Benson stated that he had been on the Board of CADIS and that he had never heard of a five-day program—that it usually was 28 Days Treatment and then AA. Mr. Rochelle responded that they kept him five days.

Mrs. Rochelle explained that this was due to her insurance, which only paid for five days—that then he started going to AA meetings.

Councilman Benson asked if he went every day and if there was any follow-up on this by the City?

**LILY ROCHELLE (CONT'D)**

Ms. Kelley responded that the City has an Employee Assistance Program that is available to all while they are employed but not after they have been terminated.

Councilman Pierce stated that the information he had gotten was that Mr. Rochelle had never been disciplined and was always present at work, and he thought this was harsh punishment for refusing to have a breathalyzer test and saying he was guilty and that he needed help and then he was fired. He added that people from Public Works went to the hospital and got him to sign papers when even his wife could not get in., which he thought was unusual.

Chairman Page suggested that Donna Kelley meet with Mr. Rochelle and see what happens.

Councilman Franklin added that Mr. Rochelle may have been unjustly terminated and that he may not need to be re-hired, since he would be considered to already be an employee.

Ms. Kelley stated that she would look at this earnestly—that drinking while one is operating equipment is a tremendous liability.

**GARY BALL**

**Gary Ball** stated that he had not intended to address the Council—that he was just here with Mrs. Smith; that it was just a fluke that he remembered that Bouman Development had been denied a rezoning proposal on Main Street and now he was closing the alley, when he had said that he would not buy the property if it were not rezoned. Mr. Ball wanted Councilman Rico to find out why Mr. Bouman was closing the alley? He reiterated that it was just a fluke that he happened to be here tonight when this issue came up—that it made the property worth more, which was exactly how Mrs. Smith had lost her property.

Adm. Leach noted that this was a request for an Abandonment and Closure west of Dodds Ave.—that the reason was that the buyer was developing apartments and that Public Works had no objections to the closure; that it was subject to several easements. He stated that he did not know if this was related to the rezoning or not.

**GARY BALL (CONT'D)**

Mr. Ball noted that the rezoning was an old case.

Chairman Page stated that Mr. Ball was making a point and asking for information on why this was being closed.

Adm. Leach stated that he understood it was to develop apartments, and the abandonment went through.

Councilwoman Rutherford asked for follow-up and asked when this rezoning case was before us, did the Council not deny the rezoning? She questioned if we denied the rezoning, why would we then abandon the alley?

Adm. Leach stated that he would have to assume that the two are related; however rezoning and abandonment stand separate and apart. That number one, the rezoning request failed—that they may be related indirectly, but it can still go forward as an abandonment.

Councilwoman Rutherford pointed out that he could not build apartments if the property was not rezoned and this request tonight is to be able to build apartments. She stated that it seems as if we are at cross purposes. She questioned if the applicant was accurate on the application.

Adm. Leach responded that he was accurate at that time.

Councilman Benson stated that this discussion is good; that we don't rezone speculatively, and it looks like this is coming in the back door; that we are approving the abandonment without knowing what the applicant is going to do with it. He stated that maybe we should be more careful with abandonments.

**Councilman Benson moved that the Council rescind their previous action on Ordinance Final Reading, Case MR-2007-013 Bouman Development for Closure and Abandonment. This was seconded by Councilman Pierce.**



GARY BALL (CONT'D)

Adm. Leach asked if this matter could be brought up again?

Attorney Nelson explained that the Council had rescinded the action taken tonight for second and final reading; that the case remains with a first reading but not a second; that one more reading would be required, and the Council could set a date to hear the purpose of the closure.

Chairman Page asked if we needed to set a date certain tonight? Attorney Nelson stated that this would be appropriate. **Chairman Page stated that the Ordinance would be heard again for final reading in two weeks.**

ADJOURNMENT

Chairman Page adjourned the meeting of the Chattanooga City Council until Tuesday, May 8<sup>th</sup> at 6:00 P.M.

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CHAIRMAN

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CLERK OF COUNCIL

(A LIST OF NAMES OF PERSONS IN ATTENDANCE  
IS FILED WITH MINUTE MATERIAL OF THIS DATE)