

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
MARCH 31, 2009**

Chairman Bennett called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gaines, Gilbert, Page, Pierce, Rico and Robinson present. City Attorney Michael McMahan, 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 Councilwoman Berz, followed by invocation.

MINUTE APPROVAL

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

**SPECIAL PRESENTATION;
“CHILDREN CHANGING
CHATTANOOGA” CONTEST**

Chairman Bennett noted that there would be a Special Presentation by Leadership Chattanooga—“Children Changing Chattanooga” Essay Contest with Phillip Pugliese. Mr. Pugliese was not present. Kelley Brexler was present in his stead.

Ms. Brexler thanked the Council for having them represent “Children Changing Chattanooga”. She explained that this was an effort to give local youth a voice (8th Graders). She stated that eleven middle schools were represented; that some of the finalists were recognized on Saturday with an Award Ceremony to celebrate these students. She mentioned that a panel was put together that included Bo Watson, Councilman Rico, Jim Coppinger, and Jim Brexler. She noted that tonight we had two students who were finalists with us—**Sydney Slater** of East Ridge Middle School and **Nilang Shah** of Chattanooga School for the Liberal Arts.

**“CHILDREN CHANGING
CHATTANOOGA” (CONT'D):**

Ms. Brexler provided the Council with copies of the winning essays and urged that they read them.

Chairman Bennett expressed her appreciation for the presence of those involved.

Councilwoman Berz spoke to Mr. Shah, stating that his school was in her district and that one of his teachers had written her saying that Mr. Shah would be present tonight. She stated that she was proud of this school—Chattanooga School for the Liberal Arts and was very familiar with it. She again stated that she was very, very proud and was looking forward to reading Mr. Shah’s essay—that he represented her district very well.

Chairman Bennett stated that this was all very impressive and invited these guests to remain for the rest of the meeting if they so desired.

**RESCIND ORDINANCE
CLOSURE & ABANDONMENT**

On motion of Councilman Rico, seconded by Councilman Pierce,
**AN ORDINANCE RESCINDING ORDINANCE NO. 11090
(CASE No. MR-2000-189) WHICH CLOSED AND
ABANDONED THE 400 AND 500 BLOCKS OF WALNUT
STREET AND THE 100 AND 200 BLOCK OF 5TH STREET, AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A
PART HEREOF BY REFERENCE**
passed second and final reading.

CLOSE AND ABANDON

MR-2009-011 (PROVIDENT LIFE & ACCIDENT INS. CO.)

On motion of Councilman Rico, seconded by Councilman Pierce,
**AN ORDINANCE CLOSING AND ABANDONING THE 200
BLOCK OF EAST 5TH STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND
DRAWINGS ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, SUBJECT TO CERTAIN
CONDITIONS**
passed second and final reading.

CLOSE AND ABANDON

MR-2009-018 (EASTMAN CONSTRUCTION COMPANY)

On motion of Councilman Rico, seconded by Councilwoman Gaines,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY LOCATED NORTH OF AND PARALLEL TO THE NORTH LINE OF THE 2500 BLOCK OF MCCRAE STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS.

passed second and final reading.

Chairman Bennett noted that the following Resolutions had been thoroughly reviewed for the past two weeks.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING HARRY W. MCKELDIN TO USE TEMPORARILY 807 MARKET STREET TO INSTALL AN AWNING AND RAILING, AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

CONTRACT C.O.

On motion of Councilwoman Gaines, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 RELATIVE TO CONTRACT NO. S-06-003, FRIARS POE BRANCH HYDROLOGIC AND HYDRAULIC STUDY, WITH ARCADIS, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY SIXTY-EIGHT THOUSAND DOLLARS (\$68,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY-SEVEN THOUSAND DOLLARS (\$167,000.00)

was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING F. MITCHELL BELL, ON
BEHALF OF SWEET PEPPERS DELI, TO USE TEMPORARILY
403 BROAD STREET TO INSTALL A SIGN THAT WILL
PROJECT INTO THE CITY RIGHT-OF-WAY ALONG WITH A
FENCE, AS SHOWN ON THE DRAWINGS ATTACHED
HERETO AND MADE A PART HEREOF BY REFERENCE,
SUBJECT TO CERTAIN CONDITIONS**
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING BRIAN MURPHY TO USE
TEMPORARILY THE RIGHT-OF-WAY OF 100 WEST M. L.
KING BOULEVARD TO INSTALL A SIGN, AS SHOWN ON THE
DRAWING ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Gaines,
**A RESOLUTION AUTHORIZING DANIEL LINDLEY TO USE
TEMPORARILY 29 EAST MAIN STREET TO INSTALL A SIGN,
AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND
MADE A PART HEREOF BY REFERENCE, SUBJECT TO
CERTAIN CONDITIONS**
was adopted.

TEMPORAY USE

On motion of Councilman Rico, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING GEOFFREY TARR TO
TEMPORARILY USE THE RIGHT-OF-WAY FOR 6 EAST 14TH
STREET TO INSTALL A SIGN, AS SHOWN ON THE
DRAWINGS ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilwoman Gaines,
**A RESOLUTION AUTHORIZING JAMES ELDRIDGE TO
TEMPORARILY USE 336 TREMONT STREET TO INSTALL A
FENCE, AS SHOWN ON THE DRAWING ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO
CERTAIN CONDITIONS**

was adopted.

GRANT ACCEPTANCE

On motion of Councilwoman Gaines, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A
GRANT FROM TARGET IN THE AMOUNT OF TWO
THOUSAND DOLLARS (\$2,000.00) FOR THE PURPOSE OF
BUYING CAMERAS FOR THE CHATTANOOGA POLICE
DEPARTMENT DUI OFFICERS**

was adopted.

AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF
THE DEPARTMENT OF PARKS AND RECREATION TO ENTER
INTO AN AGREEMENT WITH THE CONSULTING FIRM OF
BARNEY & WORTH, INC. TO REVISE THE 2003 PUBLIC ART
PLAN, WITH FUNDING PROVIDED BY THE LYNDBURST
FOUNDATION**

was adopted.

LEASE—FIRST TEE

On motion of Councilman Gilbert, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO EXECUTE A TWENTY-FIVE YEAR (25) GROUND LEASE WITH A RENTAL RATE OF ONE DOLLAR (\$1.00) PER YEAR, WITH THE FIRST TEE OF CHATTTANOOGA, INC. AND A SHARED USE AGREEMENT WITH THE FIRST TEE OF CHATTANOOGA, INC., UNIVERSITY OF TENNESSEE-CHATTANOOGA, AND UNIVERSITY OF CHATTANOOGA FOUNDATION, INC., FOR THE USE OF PROPERTY COMMONLY KNOWN AS THE OLD HICKORY VALLEY GOLF COURSE
was adopted.

LAND ACQUISITION

MR-2008-213 (City of Chattanooga)

On motion of Councilman Rico, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE ACQUISITION OF A TRACT OF LAND LOCATED AT 4501 ST. ELMO AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM THE ST. ELMO IMPROVEMENT LEAGUE FOR THE AMOUNT OF DELINQUENT TAXES OWED, PLUS REASONABLE CLOSING COSTS; AND AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO ACQUIRE SAID PROPERTY
was adopted.

OVERTIME

Overtime for the week ending March 26, 2009, totaled \$61,577.58.

Councilman Benson stated that he hated to respond to criticism but had received some questions from citizens about the amount of overtime that the Council approves. He stated that it was his understanding that quite a bit of the overtime is funded by grants and is not part of city money.

OVERTIME (CONT'D):

Chief Williams verified that some of the money comes from traffic grants, with Councilman Benson confirming that not all of overtime is city money in some cases. Dan Johnson also confirmed that grant money is applied to overtime.

PERSONNEL

The following personnel matters were reported for the **DEPARTMENT OF PUBLIC WORKS:**

- ❖ **KYLE X. JONES**—Termination of Crew Worker I, effective 3/24/09.
- ❖ **GLENN STEVEN KINES**—24-Day Leave of Absence for Inventory Clerk, effective 3/26—4/18/09.
- ❖ **SALEM K. TEMPLIN**—Involuntary Demotion of Crew Worker 2, Pay Range R/4, \$32,558.00, effective 3/27/09.
- ❖ **JEROME M. WIGGINS**—Reinstatement of Crew Supervisor 3, Pay Grade R/7, \$37,690.00 annually, effective 4/10/09.

INFORMATION SERVICES:

- ❖ **LEE ANN TINKER**—Promotion to Security Analyst, Range 25, \$68,310.00 annually, effective 1/30/09.
- ❖ **DAN TOLLIVER**—Promotion to IT Support Services Supervisor, Range 21, \$48,124.48 annually, effective 3/17/09.
- ❖ **ROBERT H. ELLIS**—Three Day Suspension without pay, effective 3/18/09.

CHATTANOOGA FIRE DEPARTMENT:

- ❖ **RALPH W. SPARKS**—Retirement of Captain, effective 3/27/09.
- ❖ **THOMAS L. ELDREDGE**—Retirement of Senior Firefighter, effective 3/26/09.

PURCHASES

On motion of Councilwoman Gaines, seconded by Councilman Rico, the following purchases were approved for use by the following Departments:

PUBLIC WORKS DEPT.:

D & T TRUCKING & SAFETY TODAY, INC. (Dual Awards):
Requisition R0119246

Annual Blanket Contract for Workforce Safety Products

\$10,000 annually (Estimated Cost)

HUMAN SERVICES:

ATLANTIC DISTRIBUTORS (Single Source Purchase):
Requisition R0119734

Requirements Contract for Cold Storage & Delivery Services

\$70,000 annually (Estimated Cost)

REFUND

On motion of Councilwoman Robinson, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refund due to the Hamilton County Tax Assessor's amended assessment:

WRIGLEY MANUFACTURING CO., LLC--\$3,166.47.

RESULTS OF HEARING:
MAURICE SMITH, JR.

City Attorney McMahan reported that a hearing was held for **Maurice Smith, Jr.** on Monday, March 30th. The Panel consisted of Councilmen Rico, Berz and Bennett, and his termination was upheld.

HEARING: MAURICE HORTON

On **April 6, 2009 at 9:00 a.m.** a hearing will be held for **Maurice Horton**. The panel will consist of Councilpersons Gaines, Gilbert and Benson.

ATTORNEY MCMAHAN

City Attorney McMahan stated that there was one final thing that he needed to address. He noted that he was in Nashville to speak to the Legislature and missed the 3:00 p.m. Legal and Legislative Committee meeting. He stated that at that meeting, RiverCity objected to the City's lawsuit, saying that they should have been notified before it was filed. Attorney McMahan stated that he took responsibility for this and wanted at this time to apologize publicly. He went on to say that it was his ethical responsibility to make recommendations to the Council from information provided to him by the consultant that the City should file suit against those who were involved.

Councilman Page stated that another clarifying statement was that there was a Statute of Limitations and a time constraint in getting all to the table.

Attorney McMahan went on to say that there had been early discussions to try to resolve this issue and these discussions did not come to fruition; also his office had tried and there was a refusal to acknowledge their correspondence. He added that opportunities are still available to sit down since this is in the early stages. The damages are in excess of \$ 1 and ½ million dollars, and Attorney McMahan did not think that the City should bear the total responsibility for this loss.

COMMITTEES

Councilman Rico scheduled a meeting of the **Public Works Committee for April 7, 2009 to immediately follow the Agenda meeting**. The first item to be discussed will be an Ordinance closing and abandoning a portion of the unopened 300 Block of Delawanna Terrace. Under Resolutions there will be a Resolution authorizing Bob Brown, on behalf of the Hickory Creek Townhomes Association, to temporarily use the 2400 Block of Hickory Valley Road to beautify and install a sign in the subdivision front entrance island. There is also a Resolution authorizing Mitch Patel, on behalf of Hampton Inn, to temporarily use the 400 Block of Chestnut Street for canopies and parapets that overhang into the right-of-way.

COMMITTEES (CONT'D):

Councilman Gilbert noted that in the committee session today there were young men who spoke; that he was very proud of them; that they expressed their views as seen in their neighborhoods. Councilman Gilbert stated that everyone needed to work together to accomplish needed goals. Chairman Bennett acknowledged that this was a very good meeting.

Councilwoman Gaines spoke at this point. She stated that she was not able to attend last Tuesday's committee meetings; however on her way to the 6:00 p.m. Council meeting she heard on the radio that we had lost Chief Wendell Rowe—that Wendell Rowe's contract was not approved for another term. She stated that her concern was that the Council makes such appointments at the recommendation of the Mayor. She stated that she thought it was quite interesting that she was driving to the Council meeting and heard that Wendell Rowe was no longer our Fire Chief. She went on to say that she had not seen Chief Rowe but wanted it to be a matter of record that as Chairman of the Safety Committee she had worked with him closely and found him to be very professional and personable; that this was one of the closest relationships she had with an Administrator—that she and he shared a very unique relationship. She stated that she was very sad and that we had lost a very professional and hard working chief. Ms. Gaines went on to say that she hoped the procedure in selecting a new chief in the end would not be carried out in this fashion and in the way that she had to find out. She went on to say that the Council was not notified and reiterated that she hoped the selection process would be handled in a more open manner for the Council.

Chairman Bennett stated that a note was sent out concerning this last week to the Council by e-mail.

Councilwoman Gaines stated that she was touched with this and probably was not as articulate as she should be; however she would like to say to Mr. Beeland and the Mayor's Office that when we are removing any Administrator or professional that it be handled differently, noting that she would not be here. She stated that she felt the City Council should have been notified—not via e-mail but by phone in matters such as this.

COMMITTEES (CONT'D):

Councilwoman Berz scheduled a **Budget, Finance and Personnel Committee meeting to immediately follow the Public Works Committee meeting on April 7, 2009**, to discuss the Resolution on the goals relative to communication, youth and the infrastructure.

Councilman Page stated that he had a thought that no one else might be interested in; that we had only one committee meeting next week at 3:30 p.m., which left a lot of time before dinner, and we might think about rescheduling this. It was noted that another committee had been scheduled following the 3:30 p.m. meeting. Also, Chairman Bennett noted that next week will be the last meeting with the entire Council and something special is being planned.

NEXT WEEK'S AGENDA
APRIL 7, 2009

At this point, Chairman Bennett went over Resolutions on next week's agenda, beginning with **Resolution (a)** that authorizes the Chief of Police to accept a Buffer Zone Protection Plan Grant from the State Homeland Security in the amount of \$192,410.17 for the purpose of purchasing equipment to prepare for any incident at a critical infrastructure site. **Resolution (b)** is relative to a grant for the U.S. Dept. of Commerce requested by Hamilton County for Enterprise South Industrial Park rail improvements and authorizing the payment of one-half of the required local match in an amount not to exceed \$1,000,000.00 from the City. **Resolution (c)** authorizes an agreement with and a donation from Bi-Lo in the amount of \$16,000.00 to sponsor 12 free youth camps, plus 5 specialty weeklong youth summer camps and a teen basketball league. **Resolution (f)** authorizes an Interlocal Agreement with Hamilton County to purchase and install a playground for the City at the John A. Patten Recreation Center, with the City contributing \$30,000 towards the total estimated cost of \$100,000 for this playground.

Councilman Benson added that there would also be a Resolution asking the Governor and the State Legislature to proceed with the procurement of a Juvenile Court Center as soon as possible.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga City Council until Tuesday, April 7, 2009 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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

