

**City Council Building
Chattanooga, Tennessee
May 19, 2009
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance by Interim Fire Chief Randy Parker, Adm. Steve Leach gave the invocation for the evening.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: "PUBLIC WORKS WEEK"

Mayor Littlefield recognized public works employees present and asked that they join him at the lectern in recognition of "Public Works Week". He stated nothing gives him more pleasure than to recognize public works employees explaining when he was part of the City Commission as Public Works Commissioner he realized how valuable that part of government is. He stated the department does not get many accolades when the streets are perfect and everything is as it should be, however when garbage is not picked up they get a lot of complaints, noting that the departmental employees work hard, tireless hours. In recognition of the men and women of the department he read a proclamation proclaiming "Public Works Week". After reading the Proclamation he reminded the Council that today, just over a year ago, these individuals and their counterparts at the county worked at Enterprise South as a unified team and are greatly responsible for the progress that has taken place. At this time the department was recognized with a standing ovation by all in attendance.

SPECIAL PRESENTATION: "PUBLIC WORKS WEEK"
(Continued)

Adm. Leach expressed thanks to the Council for their recognition, as well as the Mayor's proclamation. He stated the employees within the department work hard day-in-and-out, 365 days a year, 24 hours a day and it does not matter what conditions are out there! He stated in speaking from administration, he knows they are "worker bees", are really dedicated to this community and deserve this recognition.

Chairman Benson stated public works is the heart of the service to the citizens and as part of their service they are in our homes every single week efficiently working for us. He acknowledged Jim Templeton and his family's heritage in the department relative to his father and grandfather, noting that it was 1930 when his (Templeton's) grandfather began working with the city.

AMEND CITY CODE/ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, BY AMENDING ARTICLE II, ARTICLE V, AND ARTICLE VII DEFINITIONS, TO CLARIFY USE REGULATIONS FOR CEMETERY, CREMATION, CREMATORY, COLUMBARIUM, FUNERAL HOME, MAUSOLEUM, MORTUARY AND UNDERTAKING

passed second and final reading and was signed in open meeting.

AMEND CITY CODE/ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SECTION 8-171, TO INCLUDE "SINGLE-FAMILY DETACHED DWELLINGS" AS APERMITTED USE IN THE O-1 OFFICE ZONE

passed second and final reading and was signed in open meeting.

AMEND CITY CODE

On motion of Councilwoman Robinson, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 22, SECTION 2-713 RELATIVE TO THE ADVISORY BOARD OF
MULTICULTURAL AFFAIRS**
passed second and final reading and was signed in open meeting.

AMEND CITY CODE/ZONING ORDINANCE

2008-116: William W. Wise c/o Ronald Feldman

On motion of Councilman McGary, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
SECTION 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 120 MARKET STREET, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM M-1
MANUFACTURING ZONE AND R-4 SPECIAL ZONE TO C-3 CENTRAL
BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

CHURCHVILLE-ORCHARD KNOB ZONING STUDY

2009-059: City of Chattanooga c/o City Council

On motion of Councilman McGary, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND BOUNDED ON THE NORTH BY THE 1900 THRU 2100 BLOCKS OF
CITICO AVENUE, ON THE SOUTH BY THE 1900 THRU 2200 BLOCKS OF
MCCALLIE AVENUE, ON THE EAST BY THE 100 THRU 300 BLOCKS OF
NORTH LYERLY STRET AND THE 400 THRU 700 BLOCKS OF DODSON
AVENUE, AND ON THE WEST BY THE 100 THRU 700 BLOCKS OF NORTH
ORCHARD KNOB AVENUE, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE TO R-1
RESIDENTIAL ZONE AND FROM R-3 RESIDENTIAL ZONE AND C-2
CONVENIENCE COMMERCIAL ZONE TO R-1 RESIDENTIAL ZONE**
passed second and final reading and was signed in open meeting.

AMEND CITY CODE

Councilwoman Berz stated this matter is being deferred one week so the Chairman of the Legal and Legislative Committed can get all the comments from various Council members prior to approving in full.

On motion of Councilwoman Berz, seconded by Councilman Murphy,
A ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 2, BY ADDING A NEW ARTICLE XIV TO ESTABLISH AN AUDIT COMMITTEE AND PROCEDURES FOR THE CITY COUNCIL AUDITOR
was deferred one week.

CLOSE AND ABANDON

MR-2008-106: Bennie Parker

On motion of Councilman Rico, seconded by Councilwoman Ladd,
AN ORDINANCE CLOSING AND ABANDONING THE 1600 BLOCK OF BROWN 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.

CLOSE AND ABANDON

MR-2009-002: Ben Parker

On motion of Councilman Rico, seconded by Councilwoman Ladd,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY LOCATED ON THE SOUTH LINE OF THE 1600 BLOCK OF EAST 28TH 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.

AMEND RESOLUTION 25834

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AMENDING RESOLUTION 25834 BY CHANGING THE AMOUNT OF FISCAL YEAR 2009-2010 COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS TO BE AWARDED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND PROGRAM INCOME FROM A TOTAL OF THREE MILLION EIGHT THOUSAND DOLLARS (\$3,008,000.00) TO A TOTAL OF THREE MILLION FIVE HUNDRED TWENTY-NINE THOUSAND FIVE HUNDRED TWENTY-NINE DOLLARS (\$3,529,529.00); CHANGING THE AMOUNT OF EMERGENCY SHELTER GRANT FUNDS TO BE AWARDED BY THE TENNESSEE HOUSING DEVELOPMENT AGENCY (THDA) FROM EIGHTY-FIVE THOUSAND DOLLARS (\$85,000.00) TO EIGHTY-FOUR THOUSAND DOLLARS (\$84,000.00); AND CHANGING THE DISTRIBUTION OF THE FUNDS AS SHOWN MORE FULLY HEREINBELOW

was adopted.

SUBMIT GRANT APPLICATION

On motion of Councilwoman Robinson, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO SUBMIT AN APPLICATION IN RESPONSE TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT'S (HUD'S) NOTICE OF FUND AVAILABILITY (NOFA) FOR THE NEIGHBORHOOD STABILIZATION PROGRAM 2 (NSP2) UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 IN AN AMOUNT NOT LESS THAN FIVE MILLION DOLLARS (\$5,000,000.00) AND, IF AWARDED, TO ACCEPT AND MANAGE THE GRANT FUNDS

was adopted.

AGREEMENT

On motion of councilman Rico, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR STATE PROJECT NUMBER 33070-1228-14, DESCRIBED AS S.R. 317 FROM I-75 ENTERPRISE SOUTH INTERCHANGE TO S.R. 317 (APISON PIKE) AT OLD HIGHWAY, SO AS TO COOPERATE WITH TDOT SO THAT THE GENERAL HIGHWAY PROGRAM MAY BE CARRIED OUT IN ACCORDANCE WITH THE INTENT OF THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE

was adopted; Councilman Gilbert voted "no".

AGREEMENTS

On motion of Councilman McGary, seconded by Councilwoman Berz,
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE EIGHT (8)
LOCAL AGENCY PROJECT AGREEMENTS WITH THE TENNESSEE
DEPARTMENT OF TRANSPORTATION FOR FUNDING UNDER THE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FOR
PROJECTS SPECIFIED HEREIN**
was adopted.

OVERTIME

Overtime for the week ending May 14, 2009 totaled \$6,331.45.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA FIRE DEPARTMENT:

- **JOANNA R. POINDEXTER** – Resignation, Firefighter Senior, effective May 14, 2009.
- **WILLIAM GASTON** – Return from Family Medical Leave, Fire Lieutenant, effective May 15, 2009.

PUBLIC WORKS DEPARTMENT:

- **CEDRIC L. NEAL** – Suspension (7 days without pay), Equipment Operator 4, effective May 14-26, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **PHILIP DYAR** – Hire, Police Property Technician, Range 7, \$24,306.00 annually, effective May 11, 2009.
- **DEMETRIC ARMSTEAD** – Resignation, Police Officer 2, effective May 12, 2009.

PERSONNEL (Continued)

- **FREDRICKO MOORE** – Termination, Police Officer, effective May 15, 2009.

ATTORNEY/CLIENT DISCUSSION

City Attorney McMahan stated in a privileged attorney/client discussion the Council was advised to offer a settlement and it is his intent, based on the feedback received, to proceed with an offer of settlement as recommended.

On motion of Councilman Rico, seconded by Councilman Murphy, the City Attorney was duly authorized to proceed with the recommended settlement; Councilwoman Berz voted “no”.

“CONNECTING THE DOTS”

Adm. Crutchfield distributed agenda information regarding the meeting scheduled for Thursday outlining the “Connecting the Dots” session scheduled at the United Way Building at Eighth and Market. She stated the session is free and (she) would love to have the Council and everyone present.

PURCHASES

On motion of Councilman Rico, seconded by Councilman McGary, the following purchases were approved for use by the various departments:

PARKS AND RECREATION:

RODENT PRO, SIGNAL MOUNTAIN HERPETCULTURE AND PERFECT PETS (Best bids0 R0121487/B0006004 and R0101505/B0006009

Blanket Contract Purchase for Reptile Food

\$26,000.00 - Estimated Annual Cost

PURCHASES (Continued)

GENERAL SERVICES:

LEE-SMITH, INC. (Lowest and best base bid)

R0120881/0005967

Bomb Truck [*Lee-Smith (Alternate Bid) and TriVan Truck Body were lower, but did not meet specifications.*]

\$168,980.00

GREEN TOP LAWN CARE (Lowest and best bid)

R0120103/B0005916

Property Maintenance

\$20,000.99 – Estimated Annual Cost

PUBLIC WORKS DEPARTMENT:

SPECIALTY CHEMICAL CO. (Lower and better bid)

R0120652/B0005944

Inhibited Hydrochloric Acid

\$12,000.00 – Estimated Annual Cost

COMMITTEES

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee for Tuesday, May 26 immediately following agenda session** for discussion relative to regulation of nightclubs, special gathering permits, the Council Auditor and the Resolution referencing the Council’s Mission Statement.

Councilwoman Ladd announced a meeting of the **Safety Committee for Tuesday, June 2 immediately following Public Works.**

COMMITTEES (Continued)

Councilwoman Berz reminded Council members of the brief meeting of the **Budget, Finance and Personnel Committee** scheduled for **Tuesday May 26 immediately following Legal and Legislative** to hear the Fire and Police Pension Board's quarterly report.

Councilman McGary scheduled a meeting of the **Education, Arts and Culture Committee** for **Tuesday, May 26 immediately following the Budget Committee** to hear from representatives of Create Here for a presentation to the Council regarding their visioning process and a report from Adm. Crutchfield with reference to happenings in the department.

NEXT WEEK'S AGENDA: MAY 26, 2009

Dan Johnson read through the agenda for the next week, which has been spread upon the minutes:

Ordinances – First Reading:

- a) An ordinance to amend Chattanooga City Code, Part II, Chapter 38, Zoning Ordinance, Section 38-2, Section 38-185, and Section 38-527, relative to the regulation of nightclubs. **(Deferred from May 12, 2009, agenda.)**
- b) An ordinance to amend Chattanooga City Code, Chapter 5, by adding a new Article VI, Sections 5-189 through 5-194, relative to Special Gathering Permits. **(Deferred from May 12, 2009, agenda.)**
- c) An ordinance appropriating from the Department of Parks and Recreation Fund P415 to Friends of the Zoo, Inc. an amount not to exceed \$30,000.00 for their fundraising campaign to develop an ADA accessible playground at Warner Park.
- d) MR-2009-023 Mark Jackson (Close and Abandon). An ordinance closing and abandoning an unopened alley located in the north line of the 900 block of Crutchfield Street, more particularly described herein and as shown on the map and drawing attached hereto and made a part hereof by reference. **(Not recommended for approval by Planning or Public Works.)**

MR-2009-023 Mark Jackson (Close and Abandon). An ordinance closing and abandoning an unopened alley located in the north line of the 900 block of Crutchfield 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. **(Recommended for approval by Planning and Public Works.)**

NEXT WEEK'S AGENDA: MAY 26, 2009 (Continued)

Resolutions:

- a) A resolution to amend Resolution No. 25900 entitled, "A resolution to change the right-of-way name of the 200 block of Godsey Drive to the 2800 block of Northpoint Boulevard, as shown on the map attached hereto and made a part hereof by reference," (No. 2009-PW-002) by replacing the number "200" with the number "2000."
- b) A resolution to amend Resolution No. 25905 entitled, "A resolution to change the right-of-way name of 7311 through 7337 Standifer Gap Road to 7314 through 7319 Courage Way, as shown on the map attached hereto and made a part hereof by reference," (No. 2009-PW-007) by replacing the number "7337" with the number "7351" and by replacing the number "7319" with the number "7351."
- c) A resolution authorizing the Mayor to conduct continuing fundraising and solicitation efforts to support Go!Fest hosted by the Chattanooga Zoo for the cost of \$8,000.00, with additional funds designated to help build an all-access PlayCore playground at Warner Park.
- d) A resolution authorizing the Department of Neighborhood Services and Community Development to reallocate \$25,000.00 from the Neighborhood Program Initiatives Account, with a contingency to support non-eligible CDBG expenditures for the 2009 World Changers Home Repair Projects.
- e) A resolution authorizing the Mayor to enter into a contract with Volkswagen to provide on-site fire protection with all related costs being fully paid by Volkswagen.
- f) **A resolution authorizing the Mayor to enter into and execute a twelve (12) month contract with Strategy Team Facilitators Consultants to assist the Mayor in coordinating inter-organizational, strategic planning, and federal resource utilization for sustainable economic development in an amount not to exceed \$8,890.00 per month, or a total annual contract amount not to exceed \$106,680.00. (Revised.)**
- g) A resolution authorizing the Director of General Services to execute an agreement with March Adams & Associates for mechanical and electrical engineering services associated with the requested modifications to the existing building space located at 332 Martin Luther King Boulevard in an amount not to exceed \$18,200.00.

Councilman Murphy commented at this time and asked if the Council really needs to authorize the Mayor to raise money for a good cause.

NEXT WEEK'S AGENDA: MAY 26, 2009 (Continued)

Mr. Johnson replied that it is a requirement of the *Charter*.

City Attorney McMahan clarified there must be authorization if the Mayor is accepting funds for city-related matters.

DWIGHT A. MANGHANE

Dwight A. Manghane stated that he works for the department of public works and his issue references holidays when they have to come in to work. He stated they do get paid for the day but it seems time is deducted; that they lose time for the day and he does not think that is right. He explained by giving the example of his personal time – that he will lose ten (10) hours on Monday as he has to work on Monday, however, if he works seven (7) hours he will get paid for the day for coming to work. He stated he is the employee and administration is the employer and if he comes in and performs his time his personal leave should not be touched and that is what is taking place. He prayerfully asked that the Council look into it and stop it; that it needs to be stopped as it is not right!

Chairman Benson expressed understanding but admitted he did not know the answer. He asked Adm. Donna Kelley to address the issue.

Adm. Donna Kelly stated in all departments there are some modifications as to how employees are treated on holidays. She stated in this case it is her belief without checking the record the issue is double time-and-a-half, which is customarily the way it is treated when an employee works on holidays – they receive double time-and-a-half; that they are actually paid time-and-a-half for working a holiday.

City Attorney McMahan stated that the question was if work is done on a holiday.

Mr. Manghane interjected that personal leave is taken away, to which Adm. Kelley responded “no”, with Mr. Manghane emphasizing “it is”.

Adm. Kelley explained a holiday is deducted if an employee is off on the holiday, not if they work on the holiday.

Chairman Benson asked that the Public Works Committee look into this.

Mr. Manghane insisted that employees are losing a day, but they are at work.

DWIGHT A. MANGHANE (Continued)

Adm. Kelley acknowledged that that is what she understands.

Mr. Manghane stated that is what is taking place, noting his wish that he had his check stub with him (to show proof the Council).

Chairman Benson again stated that the matter would be discussed in Public Works Committee and if there is a problem we would see what the solution is.

CAPTAIN DUNN

Captain Dunn stated that he was asked to address the issue regarding the ordinance requesting a change in nightclubs as he will not be in town next week and can not be present. He stated that it is his understanding there were questions last week and some of the misconception is that the ordinance does not have anything to do with existing businesses. He stated if a business is open and running it is grandfathered-in, however, if they close over 100 days they would have to comply with the new ordinance. He stated that it is his guess the easiest way to look at it is when they ask for up to 1,000 feet, they are looking at a business around the neighborhood; that any one can open a club in that business as it stands right now and get the business license, put in a club if it is within 500 feet. He stated all he is trying to do is answer questions that were raised and if they are any he would love to answer them now.

Chairman Benson expressed appreciation to Captain Dunn for his response.

JEFF BERNSTEIN

Jeff Bernstein of 3922 Volunteer Drive acknowledged that this is a tough budget year and it is his understanding city employee insurance rates are going up as of July 1. He stated there is a rumor there are no pay raises, however, nothing has been confirmed and it is up to the Council. He stated in listening in committee today with reference to recovery funds coming into the city, he agrees with a lot of projects and some pertaining to Volkswagen are very good. He stated this means there is money in the budget from state or city funds and now we are getting federal money and asked if this would free city money up if federal money is being used for projects. He stated in looking at this there may be a way to give some sort of compensation; that he understands the budget is tight and this is an opportune time to reward employees with funds that otherwise would have been used for city projects in the interim due to federal monies coming into Chattanooga.

JEFF BERNSTEIN (Continued)

Mr. Bernstein stated that he has been working with a lot of cities in the state in the Nashville, Memphis and Knoxville areas and encouraged the Council to look into that.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, May 26, 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)**