

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
August 25, 2009**

Chairman Benson called the meeting of the Chattanooga City Council to order with Councilmen Berz, Gilbert, Ladd, McGary, Murphy, Rico, Robinson and Scott present. City Attorney Mike 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 Councilman Murphy, followed by a moment of silent prayer.

MINUTE APPROVAL

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

**AMEND CITY CODE
NIGHTCLUBS**

Chairman Benson noted that this had been discussed in committee meeting; that committee meetings begin at 3:00 p.m. and next week will start at 2:00 p.m.

On motion of Councilwoman Berz, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, CHAPTER 38, ZONING ORDINANCE, SETIONS 38-
2, 38-185, AND 38-527, RELATIVE TO THE REGULATION OF
NIGHTCLUBS**

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

**AMEND CITY CODE
BICYCLES**

Ms. Irene Catlin of 4714 Mt. Creek Rd. asked to speak to this issue. She stated that she had been before the committee meetings on two occasions about this Ordinance; that she did go to the Bicycle meeting on Monday and showed

AMEND CITY CODE
BICYCLES (CONT'D):

pictures; that she suggested some additions to their website but that Don Fletcher, the Ride Leader would not vote to modify the website. She went on to say that the Police Dept. did not have enough manpower and felt that there were more important matters to attend to than citing bicyclists who were not following the law. She stated that she felt it was important to get the word out concerning bike riders who were posing a threat to the safety of others and felt that they should get a license; that this was important, and they needed to get the help of the Police; that this was a direct request made to herself, and it would take videos and photographs to make this happen. She went on to say that this group did not want licensing, as she had brought up; that she felt that horns were needed and that State Law said that they needed license plates. She urged the Council to vote "no" on this Ordinance, because it was viable to correct these errors; that everyone should be in concert and everyone needed to be represented by the Police Dept., who were to protect all of us.

Chairman Benson asked her if she was proposing that bicycles have license plates? She responded "yes"—that she proposed this when she came to the Legal and Legislative Committee meeting. Chairman Benson asked Attorney McMahan if we had this authority? Attorney McMahan responded that bicyclists have to obey the rules of the road; however there is a second section in State Law that deals with motor vehicles. Ms. Catlin still maintained that we could require license plates and therefore be able to identify those who were not obeying the law. Chairman Benson stated that he felt that license plates was a separate issue from this Ordinance; that we could look into this.

Ms. Catlin stated that she brought this up at the last meeting and the question was raised as to who would pay for the licenses; that she would like to continue this issue and probably would; that our Ordinance should be more refined than the State Ordinance.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,
PART II, CHAPTER 24, SECTIONS 24-474, 24-477, 24-482
AND ADD SECTION 24-483 RELATIVE TO BICYCLES**
passed first reading with Councilwoman Scott voting "no".

CONTRACT C.O.

On motion of Councilwoman Robinson, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL), RELATIVE TO CONTRACT No. E-08-003-202, 2008 CITY SIDEWALK REQUIREMENTS CONTRACT WITH YERBEY CONCRETE CONSTRUCTION, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY ELEVEN THOUSAND THREE HUNDRED SIXTY AND 72/100 DOLLARS (\$11,360.72), FOR A REVISED CONTRACT AMOUNT OF ONE HUNDRED EIGHTY-FOUR THOUSAND SEVEN HUNDRED NINETY-FOUR AND 88/100 DOLLARS (\$184,794.88), AND THE RELEASE OF THE CONTINGENCY AMOUNT OF NINETEEN THOUSAND SIX HUNDRED FOURTEEN AND 40/100 DOLLARS (\$19,614.40)

was adopted.

PAYMENT/CHAUDHARI

On motion of Councilman McGary, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF ONE HUNDRED FIFTY-NINE THOUSAND DOLLARS (\$159,000.00), MINUS CLOSING COSTS AND ATTORNEYS' FEES, TO VIJAY CHAUDHARI AND JOSEPH CHAUDHARI, LLC UPON THE CITY'S SIMULTANEOUS RECEIPT OF AN EXECUTED QUITCLAIM DEED FROM VIJAY CHAUDHARI AND JOSEPH CHAUDHARI, LLC FOR THE PROPERTY CONVEYED BY THE CITY OF CHATTANOOGA TO VIJAY CHAUDHARI BY WARRANTY DEED WITH THE POSSIBILITY OF REVERTER DATED DECEMBER 20, 2005, AND RECORDED IN DEED BOOK 7994, PAGE 729, REGISTER'S OFFICE OF HAMILTON COUNTY, TENNESSEE, CONVEYING A FEE SIMPLE DETERMINABLE INTEREST IN PARCELS 146H-K-011, 146H-K-012, 146H-K-013, AND 146H-K-013.01, AND UPON THE CITY'S SIMULTANEOUS RECEIPT OF A PARTIAL RELEASE OF PARCEL NUMBER 146H-K-012 FROM THE LIEN OF THAT CERTAIN DEED OF TRUST IN FAVOR OF CORNERSTONE COMMUNITY BANK RECORDED IN BOOK 8180, PAGE 442, REGISTER'S OFFICE OF HAMILTON COUNTY, TENNESSEE

was adopted.

401(a)RETIRE.PLAN

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AMENDMENT OF THE CITY OF CHATTANOOGA 401(a) RETIREMENT PLAN TO ADDRESS CHANGED REGULATIONS UNDER THE INTERNAL REVENUE CODE, AND AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY IN CONNECTION WITH SAID AMENDMENT
was deferred.

TEMP. ROW USE

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING ROBERT B. DOAK TO USE TEMPORARILY THE RIGHT-OF-WAY FOR A SIGNAGE AT TEN (10) LOCATIONS FOR THE TENNESSEE CIVIL WAR TRAIL, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

PROPOSAL
SPRAYPARK

Councilman Murphy made the motion to pass this Resolution, seconded by Councilman Rico.

Councilwoman Scott stated that she had some concerns regarding this; that she thought it was a great program but the fact is, we have not passed the Budget for this fiscal year, nor has the Council seen it. She stated that these are difficult economic times that we are in and that many people in her district are watching their pennies and prioritizing their spending, and she thought it would be a wise move to defer this action until we know how much money we will have and where it will be going. She reiterated that this was a wonderful thing, and she knew there was a great desire to do this, but she questioned if this was the kind of thing we need, thinking it might be in the Council's best interest to defer this.
She made the motion that this be deferred.

SPRAYPARK (CONT'D)

Councilman Murphy thanked Councilwoman Scott for her very thoughtful remarks in this difficult economic time and her cognizance of dollars being spent. He stated that this was a 50% match and an opportunity to have a one-half off sale and now was the time to take advantage of this opportunity. He noted that Warner Park was larger than just his District 9 and was also close to Councilman McGary's district. He mentioned the accreditation of the Zoo and their new entrance and also the tennis courts, stating that the addition of the Spraypark would be desirable for residents and visitors to our city as well and would make our city a tremendously popular destination. He again stated that this was a one half off sale and would be money very wisely spent.

Councilman McGary asked Adm. Zehnder, in regards to the comments made by Councilwoman Scott, if there was any timeline we should be considering.

Adm. Zehnder responded that in reference to this, the Council passed an Ordinance in 2007, and he had until the middle part of 2010 to finish this project—that there is a timeline with the construction, and he needed to get it finished.

Councilwoman Berz stated that she would like to ask Adm. Zehnder one more question—"When you are talking about this amount of money, are you anticipating funding or is it already planned for"?

Adm. Zehnder responded that it was a Capital Budget appropriation last year; that the money was already secured; that this was not an operational cost; that he had asked about the operational cost, and it would be about a \$4,000 expenditure for a year.

Councilwoman Berz noted that the upcoming Budget does not relate to funds that are set aside; that we need to remember that this is money we have and not anticipated in the Budget.

Adm. Zehnder again mentioned the Resolution passed in 2007, which stated that this was to be matched when it was approved; that the money was already appropriated, and this was just to approve the vendor.

Councilwoman Berz confirmed with Ms. Madison that the money was already in the Budget and was already earmarked.

SPRAYPARK (CONT'D)

Chairman Benson noted that even though the money was allocated, it could be re-allocated. Ms. Madison stated that was correct but that the Council would have to authorize them to un-do this.

Councilman Gilbert stated that sometimes we forget that we get a lot of money from tourists; that this could bring people to the City to enjoy it and spend money; that we already have a nice city, and this park will generate money for our city; that we have a very nice park that will bring people here, and this will pay for itself.

Councilwoman Scott responded that she did not deny that this would be nice to have but in looking at this financially, we need to determine what we have, what we need, and what we want—that this a “want” as opposed to a “need”; that we could do this when we have the money to do it. She went on to say that we have spent well at Warner Park during this recession. She pointed out the figures for sewer work, landscaping work, parking lots, and playgrounds, totaling \$692,680 within the last two years and \$5.6 million including the sewers; that she would agree that this is a good idea but not a good idea right now; that we could wait two months to make the decision.

Councilwoman Robinson stated that she and Chairman Benson were the “oldtimers” on the Council and a joke that they both would recall is “old” money, and this is real “old” money that goes back to 2007. She stated that she would like to digress to address the fine points made by Councilwoman Scott, mentioning when we spent tax dollars to develop the Riverfront—that this is the people of Chattanooga’s money—the people who live here year-round and something we provide for our citizens that is just for them—that it is something that our citizens can enjoy; that we had spent a large amount of money at Warner Park in sewers, landscaping and parking lots, but we were setting the stage to create a facility like our playgrounds and spraypark for a better quality of life—that this was a good expenditure and part of the Council’s job; that we might need to fix potholes, but this is something we do for our taxpayers; that this park would be similar to Coolidge Park and if Coolidge Park is any indication, there will be a lot of happy parents and kids and also our tourists will be happy.

SPRAYPARK (CONT'D):

As there was no second to defer this, Councilman McGary asked Councilwoman Scott how long she would like this to be deferred? She responded until we get a Budget and can look at it.

On motion of Councilman Murphy, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ACCEPT A PROPOSAL PROVIDED BY AQUAMARINE SWIMMING POOL COMPANY FOR THE DESIGN, SUPPLY, AND CONSTRUCTION INSTALLATION OF A COMPLETE ZERO-DEPTH WATER SPRAYPARK AND FILTRATION SYSTEM AT THE WARNER PARK POOL IN THE AMOUNT OF FOUR HUNDRED TWENTY THOUSAND FIVE HUNDRED DOLLARS (\$420,500.00) ALONG WITH A PROJECT CONTINGENCY OF SEVEN PERCENT (7%) FOR A TOTAL AMOUNT NOT TO EXCEED PROJECT AMOUNT OF FOUR HUNDRED FIFTY THOUSAND DOLLARS (\$450,000.00), HALF OF WHICH WILL BE PROVIDED BY THE STATE

was adopted, with Councilwoman Scott voting "no".

TRANSFER TO OPEB

On motion of Councilwoman Berz, seconded by Councilman McGary,

A RESOLUTION AUTHORIZING THE TRANSFER OF EXCESS GENERAL FUNDS OVER APPROPRIATIONS UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) TO THE OPEB TRUST FUND FOR FISCAL YEAR 2008-2009

was adopted.

OVERTIME

Overtime for the week ending August 20, 2009, totaled \$12,724.93.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA FIRE DEPARTMENT:

- **DAVID L. BROOKS, JR.**—Appointment of Interim Fire Marshall, Range F6C, \$65,350.00, effective 7/22/09.

PARKS AND RECREATION DEPARTMENT:

- **KELLY TATE**—Hire Crew Worker at Golf Course, \$18,720.00, effective 8/14/09.

CHATTANOOGA HUMAN SERVICES DEPT.:

- **IRENE ORELLANA**—Resignation of Service Delivery Worker II, effective 8/27/09.

CHATTANOOGA POLICE DEPT:

- **TIMOTHY F. COMMERS**—Retirement of Police Sergeant, effective 8/15/09.
- **JAMIE RIDDLE**—Military Leave for Police Officer, effective 8/10-9/25/09.
- **JENNIFER ROBERTS**—Resignation of Police Records Technician, effective 8/21/09.

PUBLIC WORKS DEPARTMENT:

- **BRETT J. ANDERSEN**—Hire Inventory Technician, Range 7, \$25,521.00 annually, effective 7/31/09.
- **JASON SHELL**—Resignation of Plant Maintenance Mechanic, effective 8/11/09.
- **BILLY DAVID MUMPOWER**—Termination of Plans Review Specialist 2, effective 8/19/09.

FIREFIGHTER BADGE

On a lighter note, Chief Parker presented Councilwoman Scott a "Junior Firefighter Badge" for her response to a medical emergency on a recent field trip, stating that she "changed hats". She stated that she would wear it proudly.

TENNCARE APPROPRIATION

Ms. Madison reported that TennCare Reserves had an appropriation of \$750,000 for the purpose of making grants to Chattanooga, Knoxville, Memphis, and Nashville. The pro-rata share of the funding for Chattanooga is \$73,442.24.

REFUND

On motion of Councilwoman Berz, seconded by Councilman Gilbert, the Administrator of Finance was authorized to issue the following refund of property tax.

WILLARD OR BRENDA TALLEY--\$1,089.84.

PURCHASES

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

INFORMATION SERVICES:

ORACLE OF CHICAGO, ILLINOIS (Single Source Purchase Requisition R0125650

Oracle Maintenance Contract

\$31,517.99

PURCHASES (CONT'D)

CHATTANOOGA POLICE DEPT.:

CONTINENTAL WIRELESS (Lowest and Best Bid)
Requisition R0125690/B0006264

Fifty (50) Peltor ComTac II Headsets and Accessories for the Bomb Squad Div.

\$30,259.00

SETTLEMENT

Attorney McMahan reported that an Attorney-Client Meeting was held earlier this evening and a settlement was discussed in the amount of \$48,000. **On motion of Councilman Rico, seconded by Councilman Murphy**, approval was given to proceed with the settlement.

HEARING:
OFFICER KENNETH FREEMAN

Attorney McMahan reported that Officer Kenneth Freeman was requesting a hearing of his termination from the Police Dept. The date of hearing was set for **Monday, October 19th at 9:30 A.M.** Due to the publicity surrounding the case, Councilwoman Robinson suggested that the **entire Council** sit on the panel. Councilwoman Berz stated that she would be in Nashville on that date. Chairman Benson asked that all Council members available be present for this hearing.

COMMITTEES

Councilman Murphy scheduled a **Legal and Legislative Committee meeting for Tuesday, September 1, 2009 at 2:00 P.M.** to discuss a Joint Offender Management Plan and a presentation with Commissioner Little and Charles Traugher for TN Department of Corrections/TN Board of Probation and Parole. Former Councilman Yusuf Hakeem will also be present. Councilman Murphy added that at least a couple of County Commissioners will also be present for this meeting and that all of them would be invited. He noted that this is in conjunction with Taxi Driver qualifications.

COMMITTEES (CONT'D)

Councilwoman Ladd scheduled a meeting of the **Safety Committee for Tuesday, September 1, 2009 to immediately follow the Agenda Session.** Tim Dempsey of Chattanooga Endeavors will be present to discuss his program to see if there is a fit and also Chief Cooper's staffing level.

Councilman McGary took this opportunity to commend Councilman Murphy on his good work in handling some very difficult topics in the Legal and Legislative Committee.

Councilwoman Berz stated that hopefully we would have the Budget ready next week for informational purposes; that the following week, **Tuesday, September 8th, there would be a Budget and Finance Committee meeting at 2:00 P.M.** to ask questions about the Budget.

AGENDA FOR SEPT. 1ST

Chairman Benson stated that everyone had received a copy of the Agenda for next week; that it had been printed and distributed.

JENNY BROWN

Ms. Jenny Brown was present to ask a question of the Council. She stated that she represents the Music Venue of MLK Blvd., and she would like some help in this area; that her issue concerned the past weekend and the Bessie Smith Hall's Annual Heritage Festival. She stated that this hurt other businesses in the area, noting that from Friday evening until late Saturday night, two blocks were roped off—that this strangled their business, and she would like to see it made better. She stated that this was a great idea but that they were not getting any communication from them. She had pictures of fences on the sidewalks, with no path. She stated that she would like to see this situation made better; that she had talked to the Traffic Engineer, and his office did not think this was the best idea. She wanted to know how she could fix this because it was the third year that this had happened.

Chairman Benson stated that what she was saying was true; that Mr. Norris was here and that he was responsible for all of this! He went on to say that Mr. Norris was responsible for the Traffic Engineer. He stated that he was down here over the weekend and saw what Ms. Brown was talking about—that it was a broad blockade.

JENNY BROWN (CONT'D)

Ms. Brown agreed that it was a broad blockade! She stated that they only needed one-half of the street.

Councilman McGary extended his sympathy to her.

Mr. Norris stated that he was kind of glad this came up; that there is a Steering Committee that meets every Thursday to go over Traffic Control Plans; that they had had one other issue with Bessie Smith Hall, and he thought they could solve this; that he would make a note on an annual basis to look out for businesses. He reiterated that he thought they could help Ms. Brown.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga City Council until Tuesday, September 1, 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)**

