

CITY COUNCIL BUILDING  
CHATTANOOGA, TENNESSEE  
MARCH 22, 2011

Chairman Rico called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gilbert Ladd, McGary, Murphy, Robinson and Scott present. City Attorney Ken Fritz; 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 Benson, followed by invocation.

MINUTE APPROVAL

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

AMEND CODE: TRASH

On motion of Councilwoman Ladd, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART  
II, CHAPTER 18, ARTICLE VII, SECTION 18-2 RELATIVE TO  
NONRESIDENTIAL AND RESIDENTIAL SERVICE AND SECTION 18-  
86 RELATIVE TO RESIDENTIAL BULKY TRASH AND RESIDENTIAL  
YARD TRASH**

was substituted. On motion of Councilwoman Ladd, seconded by Councilman Murphy, the Ordinance passed second and final reading and was signed in open meeting **with Councilwoman Scott voting “no”**.

AMEND CITY CODE:  
COOLIDGE PARK

Councilman Gilbert stated that we had a lot of work to do on this; that he could not see starting at one specific location; that we have other areas of town with problems—that killings are being done all over; that we need to look at all the “hot” areas in Chattanooga and do a Plan in areas that are “hot”; that people in these other areas are the same as people elsewhere. He stated that this could be a good ordinance if extended to other places.

**COOLIDGE PARK (CONT'D)**

Councilman McGary stated that he was prepared to vote “no”; that this was not unique to Coolidge Park and starting at Coolidge Park sends a false message; that the punishment should fit the crime. He mentioned the security measures that are in place at Hamilton Place Mall and provided these rules to the Council. (This is made a part of the minute material). He first addressed the time frame, noting that Hamilton Place only has the security measures after 6:00 P.M. on Fridays and Saturdays where those under 18 years of age have to be accompanied by a parent or adult. He noted that the problems were on Fridays and Saturdays and felt that measures should be limited to only weekends. He addressed a guardian needs to be in place, noting that he felt the Hamilton Place rules were a good policy. He felt that the policy needed to be adopted city-wide and not just start at Coolidge Park.

Councilman Benson stated that Councilman McGary had handed out a good policy—that this was an excellent way of security when there is a need; that we are “hemorrhaging” at Coolidge Park and should treat this as any other “hemorrhage”; then we can adopt a tailor-made policy; that we needed security at Coolidge Park and should not delay the passage of this Ordinance on first reading; that if we pass it tonight, then it will be up for second reading next week and then it takes two weeks to become effective, which makes it four weeks off.

Chairman Rico noted that this Ordinance could become effective immediately after second reading.

Councilman Benson urged to pass this tonight; that it was just a beginning and could be extended to other parks. He again stated that what Councilman McGary had handed out was excellent, stating that he supported passing this Ordinance tonight.

Councilwoman Berz stated that she agreed with all but would vote to pass this tonight. She agreed that we were missing a process and there were “holes” in this Ordinance; that she would like to see a process and details pinned down; that Coolidge Park could become a model if there is a need in other places; that we have people all over town and not just in parks; that Coolidge Park is not more important than other places—that all are important; that we need to use this mainly as a model to take across the city.

Councilwoman Robinson stated that we certainly do have violence in other areas of the city; that people are getting shot at service stations, and we can’t control rules there, but we can control rules in public parks; that we have to sift through this—that “one size does not fit all”.

**COOLIDGE PARK (CONT'D)**

Councilman McGary noted that this happened last year on April 28, 2010 in Coolidge Park; that the policy needed to be uniform across the board.

Councilman Gilbert agreed, stating that there were other places that people gather and innocent people are shot. He mentioned why he was so passionate and shared a personal incident involving his daughters who had sat on a bed where a shooting had taken place and could have been killed. He reiterated that he had a “passion” and could not say that Coolidge Park was the only place—that there was too much violence in the city—not just at Coolidge Park; that we needed to all come together with a sound solution; that if the Police are at Coolidge Park, the groups will just go elsewhere and innocent people can get shot; that there has to be a better solution—that he thought we needed a “Boot Camp”.

Councilman Murphy asked Adm. Zehnder to come to the podium, stating that he would like to ask him a question, mentioning the Parks and Recreation facilities in his district and a large part of the Riverwalk was also in his district. He asked Adm. Zehnder if those parks in his district closed at sunset and also questioned the closing hours of the recreation centers. Adm. Zehnder responded that it was “sunrise to sunset”. Councilman Murphy asked him if Coolidge Park was different? Adm. Zehnder noted that some of the downtown areas are open until 11:00 p.m., prompting Councilman Murphy to say “different rules apply”. He went on to say that he had a tremendous amount of issues in his district, including shootings and guns being fired—that there were shootings in his district frequently; that attention being brought because of the locale of the shooting did trouble him some; that the same attention should be given to everyone. He stated that the Police Department treats everyone the same in East Chattanooga as in Coolidge Park; that the Police Dept. had done a tremendous job in his district and had driven down crime; so to “lay the lion to rest” we are falling apart and crime is out of control, but we are doing better; that 400 guns had been taken off the streets, and the Police were doing great work in our recreation centers and parks, but more needs to be done. He stated that he would not hold this Ordinance up for Coolidge Park—that they have different rules and are a unique spot with a high level of utilization with visitors, and they are different. He stated that he asked the Police Chief if this was a tool he wanted, and he said “yes”; that he did not think the reasons given were reasons to vote “no”, even though he could see where they were coming from.

**COOLIDGE PARK (CONT'D)**

Councilman Gilbert stated that he was going to vote for this but that he did have a passion for other parts of the City because of stray bullets going through houses; that he would like to make the policy stick, mentioning that kids knew nothing would happen to them, mentioning one that got out in 12 hours after shooting someone.

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 26, BY ADDING SECTION 26-18, REQUIRING ADULT SUPERVISION OF MINORS IN COOLIDGE PARK**  
passed first reading on roll call as follows:

Councilwoman Scott	“Yes”
Councilwoman Robinson	“Yes”
Councilwoman Ladd	“Yes”
Councilman Benson	“Yes”
Councilman Gilbert	“Yes”
Councilwoman Berz	“Yes”
Councilman McGary	“No”
Councilman Murphy	“Yes”
Councilman Rico	“Yes”

**AGREEMENT**

On motion of Councilman Murphy, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HALCROW, INC. RELATIVE TO CONTRACT NO. E-10-013-101, CONSTRUCTION FEASIBILITY AND CONCEPTUAL DESIGNS FOR IMPROVEMENTS TO THE WILCOX TUNNEL, IN THE AMOUNT OF EIGHT HUNDRED EIGHT THOUSAND NINE HUNDRED SEVENTY-ONE DOLLARS (\$808,971.00)**  
was adopted.

**AGREEMENT (CONT'D)**

Councilwoman Ladd noted that we had only budgeted for one-half of this and wanted to know how the difference was being made up? Mr. Johnson explained that money was available from other projects.

Councilman Gilbert asked if the tunnel would be maintained quarterly, as needed? Adm. Leach stated that they did clean the tunnel; that EPB does the lighting; that if Councilman Gilbert saw an issue, he could call 311 and help them out.

**LEGAL EXPERTS**

On motion of Councilman Murphy, seconded by Councilman McGary,  
**A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO RETAIN EXPERTS IN THE CASE OF JAMES L. MARINE, ET AL VERSUS THE CITY OF CHATTANOOGA TO PAY THE HOURLY RATES OF KELLY FITE (FORSENIC FIREARMS EXAMINER) ONE HUNDRED FIFTY DOLLARS (\$150.00) PER HOUR AND DAVID DUSTIN (COMPUTER ANIMATION) ONE HUNDRED DOLLARS (\$100.00) PER HOUR FOR MODELING, TEXTURING, AND POSITIONING IN A POLICE SHOOTING CASE IN LITIGATION IN FEDERAL COURT**  
was adopted.

**REINERT GROUP AGREEMENT**

On motion of Councilman Murphy, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING AN AMENDMENT AND ASSIGNMENT OF ALL TERMS AND OBLIGATIONS OF CHATTANOOGA RIVERBOAT COMPANY UNDER THE REMAINING TERM OF THIS AGREEMENT TO REINERT GROUP, LLC WITH ALL OTHER TERMS AND OBLIGATIONS OF THE EXTENDED BERTHING AGREEMENT TO REMAIN THE SAME UNTIL THE END OF ITS CURRENT TERM ON DECEMBER 31, 2018**  
was adopted.

LEGAL ASSISTANCE

Councilwoman Ladd stated that she had a problem supporting this; that we lost the same lawsuit because too much time had expired and now we are paying money to litigate the appeal; that the work has to be done, and we are suing a group that is asking us for money annually. She stated that we needed to stop suing and put the money into improvements rather than lawsuits.

Councilman Benson stated that he was for this; that RiverCity is one of our favorite agencies, and this is not a personal thing—that it is much bigger, and we have a good shot.

Mr. Johnson explained that RiverCity has to be included in the lawsuit because they were the managers; however we are primarily going after the contractor and designer, and we think the Judge may have been in error.

Councilman Murphy had previously made a motion to approve this. He withdrew his motion.

Councilman Benson went on to say that we have a great affinity for RiverCity, and they are a strong advocate, but we need to hold this contractor responsible as to what he has or has not done.

**Councilwoman Scott stated that there seemed to be a lot of controversy, and she would like the opportunity to speak to our attorney about this matter and would make the motion to put this off for one week.** She was asked to whom she was directing her question, and she responded “the entire Council”. **This was seconded by Councilwoman Robinson.**

Councilman McGary asked about the timeframe regarding this appeal. Attorney Fritz stated 30 days, and we were about 10-15 days into this. **At this point Councilman McGary withdrew his second to the motion to approve.**

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE CITY ATTORNEY’S OFFICE TO  
RETAIN THE LAW FIRM OF GEARHISER, PETERS, CAVETT,  
ELLIOTT & CANNON, PLLC FOR THE CASE OF CITY OF  
CHATTANOOGA, TENNESSEE AND CHATTANOOGA DOWNTOWN  
REDEVELOPMENT CORPORATION v. HARGREAVES ASSOCIATES,  
INC. et al**

**was postponed for one week, with Councilman Murphy abstaining.**

**LEGAL ASSISTANCE**

On motion of Councilman Murphy, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO  
RETAIN THE LAW FIRM OF CHAMBLISS, BAHNER, & STOPHEL, P.C.  
TO ASSIST IN THE DEFENSE OF CERTAIN LAWSUITS AGAINST  
THE CITY AS SET FORTH HEREIN**  
was adopted.

**CONTRACT C.O.**

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL  
SERVICES TO ENTER INTO A CHANGE ORDER WITH THOMAS  
BROTHERS CONSTRUCTION FOR THE OHLS AVENUE AND  
ANCHOR GLASS BROWNSFIELD CLEAN-UP PROJECTS THAT  
SHALL INCREASE THE CONTRACT AMOUNT OF THREE HUNDRED  
SEVENTY-SEVEN THOUSAND SEVENTEEN AND 50/100 DOLLARS  
(\$377,017.50) IN RESOLUTION NO. 26457, FOR AN ADDITIONAL  
AMOUNT OF TWENTY-NINE THOUSAND THREE HUNDRED  
THIRTY-EIGHT AND 09/100 DOLLARS (\$29,338.09), FOR A  
TOTAL AMOUNT OF FOUR HUNDRED SIX THOUSAND THREE  
HUNDRED FIFTY-FIVE AND 59/100 DOLLARS (\$406,355.59)**  
was adopted.

Councilwoman Scott wanted to know the source of funds. She wanted to know if this was Brownsfield Federal Money or something else. Chairman Rico stated that he thought some of this was from Erlanger. Mr. Johnson confirmed that some of it is coming from Erlanger.

**TPL PROPERTY**

On motion of Councilman McGary, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPERTY  
COMMONLY KNOWN AS STRINGER'S RIDGE FROM THE TRUST  
FOR PUBLIC LAND LOCATED ON SEVERAL TRACTS OF LAND IN  
THE 700 AND 800 BLOCKS OF SKYLINE DRIVE (A/K/A HIGH  
RIDGE ROAD AND LAKEVIEW ROAD), SAWYER STREET,  
MARYLAND STREET, HIGH RIDGE ROAD, AND PINE RIDGE ROAD,  
MORE PARTICULARLY DESCRIBED ON EXHIBIT A AND AS SHOWN  
ON THE MAP ATTACHED HERETO AND INCORPORATED HEREIN  
BY REFERENCE, AND AUTHORIZING THE DIRECTOR OF GENERAL  
SERVICES TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY  
RELATING THERETO**  
was adopted.

**SRTS GRANT**

On motion of Councilman McGary, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND TO ACCEPT IF APPROVED A “SAFE ROUTES TO SCHOOL” (SRTS) GRANT FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR SIDEWALK FACILITIES AT WOODMORE ELEMENTARY SCHOOL IN THE AMOUNT OF \$250,000.00, WITH NO REQUIRED LOCAL MATCH AND THE SUPPORT OF EXTENDING SIDEWALK FACILITIES TO INTERCONNECT OTHER LOCAL POINTS OF SERVICE**  
was adopted.

**OVERTIME**

Overtime for the week ending March 17, 2011 totaled \$11,618.80.

**PERSONNEL**

The following personnel matters were reported for the following departments:

**CHATTANOOGA POLICE DEPARTMENT:**

- ❖ **RYAN PARKER**—Resignation of Police Cadet, effective 3/27/11.
- ❖ **SHEILA JETTON**—Leave of Absence for Police Officer, effective 3/16—4/15/11.

**PARKS AND RECREATION DEPARTMENT:**

- ❖ **JOHN HOOPES**—Retirement of Crew Worker 2, effective 2/28/11.
- ❖ **LEBRON DUMAS**—FMLA for Crew Worker 1, effective 2/28/11.
- ❖ **AMANDA S. JAMES**—Resignation of Recreation Specialist, effective 3/10/11.



**PERSONNEL (CONT'D):**

- ❖ **DAVID JOHNSON**—Hire Adm. Support Specialist, Range 10, \$29,900 annually, effective 3/11/11.
- ❖ **DEREK BATES**—Resignation of Crew Worker 1, effective 3/16/11.
- ❖ **ELIZABETH H. CHEEK**—FMLA for Recreation Program Specialist, effective 3/18/11.

**CHATTANOOGA FIRE DEPARTMENT:**

- ❖ **CHRISTOPHER NEWBY, JOHN WATSON & JEFF WEBSTER**—Promotion to Firefighter Senior, Range F2A, \$36,004.00 annually, effective 3/11/11.

**PUBLIC WORKS DEPARTMENT:**

- ❖ **DEBORAH J. SHELLEY**—Voluntary Demotion to Crew Worker 2, Range 4, \$26,528.00 annually, effective 2/14/11.
- ❖ **MATTHEW D. WATTS**—Termination of Plant Operator 1, effective 2/25/11.
- ❖ **WALTER F. BANTHER, JR.** -Leave of Absence without pay for Equipment Operator 5, effective 2/26/11.
- ❖ **ALONZO GOODWIN**—Three Days Suspension without pay for Equipment Operator 4, effective 3/4—8/2011.
- ❖ **MARK E. HROMI**—Hire as Waste Resources Maint. Supervisor, Range 21, \$54,500.00 annually, effective 2/11/11.
- ❖ **RODNEY D. RAMEY**—Hire as Plant Maintenance Lubricator, Range 5, \$22,050.00 annually, effective 2/14/11.

**PERSONNEL (CONT'D):**

- ❖ **DONALD A. WRIGHT**—Hire as Plant Maintenance Mechanic, Range 11, \$29,544.00 annually, effective 2/25/11.
- ❖ **GRANT STANLEY**—Hire as Plant Maintenance Mechanic, Range 11, \$29,544.00 annually, effective 3/4/11.
- ❖ **TRACY L. BROWN**—Hire as Plant Operator 1, Range 9, \$26,798.00 annually, effective 3/4/11.
- ❖ **DEREK R. WATTS**—Hire as Crew Worker 1, Range 2, \$22,050.00 annually, effective 3/11/11.

**PERSONNEL DEPT.:**

- ❖ **TONIA EWING**—FMLA FOR Personnel Technician, effective 3/28—6/20/11.

**EDUCATION, ARTS & CULTURE:**

- ❖ **MARCUS GRISSOM**—Promotion to Crew Supervisor 1, Range 8, \$28,900.00 annually, effective 3/11/11.

**DONATIONS**

Adm. Crutchfield reported the following donations for the Department of Education, Arts & Culture:

<b>ERIC CHANIN</b>	<b>\$2,000</b>	Audio/visual services for “Connecting the Dots” Film screening, including projector, screen and sound mixer.
<b>TOM SMITH</b>	<b>\$2,400</b>	Photography services for EAC’s Soldiers and Sailors Memorial Auditorium Revitalization Campaign and supporting events.

**“WATER FOR ELEPHANTS”**

Ms. Crutchfield noted that an announcement had been sent out concerning “Water for Elephants”; that they would be having a Red Carpet Chattanooga Premiere on Friday, April 22 at 7:30 P.M. at the Majestic 12 Theatre; there will be a Blacktie VIP Meet and Greet from 5:00 p.m. to 7:00 p.m. at the Bluewater Grille where everyone will pay their own bill and part will be donated back to the Education, Arts and Culture Dept. Ms. Crutchfield noted that this movie had had a \$1 million dollar impact for their department.

**MELISSA TURNER**

Ms. Crutchfield mentioned a Grant of \$20,000 that Melissa Turner had been working on and asked her to stand, stating that she was “so proud of Melissa”. She went on to mention three accomplishments that had been brought to her attention by Ms. Turner:

- (1) Increased activities, attendance, and revenue by 19.73% at EAC civic facilities and centers over the last six years.
- (2) Leveraged over \$500,000 in donations and in-kind contributions for multimedia, meeting spaces, books, educational materials, art supplies, food and refreshments, and marketing and media.
- (3) Created \$2.25 million in local economic impact through recruiting Broadway tour launches at Soldiers and Sailors Memorial Auditorium and film and television shoots in the greater Chattanooga/Southeast Tennessee region.

Ms. Crutchfield again stated that all would be welcome at the Bluewater Grille and everyone would be getting an invitation.

She went on to mention a wonderful concert that was held last night with a group from Washington D.C.—1950’s Duke Ellington. She stated that it was free to the public and there was good attendance and everyone enjoyed it.

Councilman McGary extended thanks to Ms. Crutchfield and her staff, particularly mentioning the “Weed and Seed” program at the Tivoli Theater.

Councilman Gilbert also thanked her for the wonderful job she was doing, stating she was doing a great job and saving lots of money. He, too, mentioned the really good program relative to gangs.

**HOTEL PERMIT**

On motion of Councilman Murphy, seconded by Councilwoman Ladd, the following Hotel Permit was approved:

**STAYBRIDGE SUITES—1300 Carter Street.**

**PURCHASES**

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

**GENERAL SERVICES DEPARTMENT:**

**MOUNTAIN VIEW FORD (Lowest and Best Bid)**  
**Requisition R37824**

Flatbed Truck with Liftgate

\$37,669.90

**PARKS AND RECREATION DEPARTMENT:**

**Reject all bids for a blanket contract for Sure/Rapid Dry**  
**Requisition R39102**

**INFORMATION SERVICES:**

**INSIGHT PUBLIC SECTOR (Single Source Purchase)**  
**Requisition R40548**

Net Motion Premium Technical Support and Maintenance

\$21,000.00

**HEARING:MICHAEL DOUGLAS**

Attorney Fritz noted that a hearing had been set for Michael Douglas on Monday, March 28<sup>th</sup> at 4:15 p.m. He asked Councilman Gilbert if it were correct that he had recused himself from serving and Councilman Gilbert responded “yes”. In this case, there needed to be a replacement. Councilman Murphy stated that he had to recuse himself because of a similar reason as Councilman Gilbert. Councilwoman Ladd agreed to serve on the panel, along with Councilmen McGary and Scott.

**COUNCILMAN BENSON/  
FORMER POLICE CHIEF COOPER**

Councilman Benson had a handout of a letter written to Chattanooga.com by former Police Chief Freeman Cooper. (This is made a part of this minute material). He stated that he was disappointed to see this; that it was human nature when a person leaves a department, to think I would do things differently if I were still there. He stated that our former Police Chief wrote a letter to Chattanooga.com that he felt contained inaccuracies that needed to be corrected before the public. He stated that the comment *“There are fewer police officers on the streets of our city at any given time today than any time ever in the past”* was an error and was not correct; that we had 406 a few years back and have 428 officers right now and after the academy will have 451.

He next addressed the statement *“Just a few weeks ago the City of Chattanooga made a bold move to save budget dollars by ending its “no charge” take-home vehicle policy”*. Councilman Benson pointed out that the Council amended this and those that lived in the City could take their cars home; that those outside the City would have to pay \$.30 a mile and those people living outside had to make a decision and a lot of them parked their vehicles rather than pay the \$.30 per mile. They would be given an opportunity to change their minds at the end of this fiscal year. He stated that the Council amended the policy but did not end it; that those that lived in the City could take their cars to church, to the movies, grocery store, etc.

The next point addressed was *“it would make the city vulnerable by removing off-duty personnel from the roadways”*. Councilman Benson that it had not made the city vulnerable; that those taking the cars outside the city would help where they lived, but it would be at the expense of city taxes and county residents and not city residents would benefit.

COUNCILMAN BENSON (CONT'D)

The next issue addressed was *“finding a way to allow every sworn police officer to drive his or her vehicle everywhere that they traveled within Hamilton County”*. Again, Councilman Benson pointed out that it is the city taxpayers who are paying and spending money in the county.

Next, Chief Cooper says *“Needless to say this fell on deaf ears of City Council and city officials”*. Councilman Benson stated that he was hard of hearing, but he heard and so did others.

Next, Chief Cooper says *“But don’t forget we are saving money by this action, but I ask you at what cost does this savings come?”* Again, Councilman Benson pointed out that county residents are the only ones affected.

Again, Chief Cooper indicates that there are fewer police officers on the streets than any time ever in the past, and Councilman Benson states that this worries him because in the past we had 406 and now have 428 and will have 451 when the academy is finished.

The next quoted statement is *“Staff police officers in police cars and allow them to drive them to church, to the movies, to the grocery store, and everywhere else they must travel. Police presence alone is a deterrent to all crime. You cannot place a number on the savings that the City will have by reduced motor vehicle violations, accidents and deaths”*. Councilman Benson stated that he checked with other cities, and it is healthy for police officers to drive everywhere in the district they are paid to serve, and it is healthy to have them at stores and churches, but there is always a codicil—that it is not healthy if they are in plain clothes and have their children in the car; that they are not effective without their uniforms. He noted that 60% of our police officers live outside the city, which is a high number.

Councilman Benson stated that he thought we needed to review this and bring a proposal that all new hires live within the city because *“where your home is, there is your heart”*.

Councilman Gilbert noted that the Police Chief has said that there are not enough applicants to fill an academy, and we have to go outside.

Councilman Benson agreed that that is true, but he thought we were in a position now that we can hire policemen and fireman and can say new hires have to live in the city and eradicate this argument; that they can live outside *“so many months”* and then have time to move in; that it used to be this way.

**COUNCILMAN BENSON**  
**(CONT'D)**

Councilwoman Scott asked to avoid confusion, she wanted to ask Captain Francis under our current policy, when off-duty police officers can use their cars? Captain Francis responded that with our insurance, it was to be used to and from work; that if it were their own insurance, the cars could be used for extra jobs; that they had to be dressed appropriately and could also go to and from training.

**ZONING OFFICIAL REVIEW;**  
**GWENDOLYN BLACKMON**

Richard Hutsell, Chief Zoning Inspector, presented a power point concerning the nightclub appeal. He stated that he was on uncharted waters and asked the Council to bear with him. He stated that he was responding to an appeal that was received by Planning and forwarded to the City Council and that he had put several slides together. He went on to say that this had been discussed by the Council, Staff, City Attorney, and himself; that we had dealt with five cases under the new guidelines, and they all said they were not a nightclub—that we had had a bowling alley, jazz club, sports bar, etc.

The particular location in review is the RiverCity Buffet and Event Center at 3210 Wilcox Blvd. He noted that in August of 2009, we had our first definition of a nightclub—that it was broad, and we changed it; that the current language was adopted in January of 2011, and expanded this to “a commercial establishment, which may or may not be a bar, that is characterized by seven elements—that this particular establishment meets five of the elements. He provided a GIS map showing the area with nightclubs.

Mr. Hutsell then gave a timeline of events, stating that on January 4<sup>th</sup>, he received the Zoning Verification Checklist, which had been addressed through the Beer Board; that he had a discussion with Ms. Blackmon thereafter; that she went before the Beer Board on January 6<sup>th</sup> and this was discussed and the case deferred. It was again deferred on January 20<sup>th</sup>. It was heard on March 1<sup>st</sup> at the Council meeting under other business, and Mr. Hutsell stated that he had reviewed these minutes. On March 3<sup>rd</sup>, it was again before the Beer Board and was deferred. On March 7<sup>th</sup>, a letter of appeal was received.

Mr. Hutsell explained that the City Council has the authority to hear this appeal, and he provided the letter from Ms. Blackmon requesting this hearing tonight.

**GWENDOLYN BLACKMON(CONT'D)**

He explained that Ms. Blackmon would be leasing her business out and that it could be a place of worship, civic events and religious events. He presented the Zoning Verification check list. One question pertained to whether the largest sales would be in food or alcohol, and the answer showed “unknown at this time”. He stated that the restaurant would be closed at 7:00 p.m., and the event hall could be rented out and might not break down until 2:00 a.m. The question was asked if there was a dance floor, and the answer was “yes”. The event hall would hold 300+ people. Mr. Hutsell stated that the reason he classified this as a nightclub was because it met five of the seven criteria—the capacity could be over 100, and there could be alcohol with entertainment and dancing; there would be a license to serve alcohol.

Mr. Hutsell outlined the two options, as he saw it, that the Council had: Option A would be uphold the classification, with a resulting Special Exceptions Permit that would be non-transferable and would be revocable; there would be no outdoor speakers and there would be licensed security personnel. Option B—there would be no Special Permit and the license would be transferable; there would be no limits on the gathering; it could go until 3:00 a.m. and there would be no required security.

Mr. Hutsell stated that he had been working on this and trying to make it the way the Council wanted it enforced and had put conditions on facilities; that looking at the worst case scenario—the applicant would operate as she has said she would; that this is a very large area with a history; that her issue is the label of a nightclub—that it could be called a social gathering place. He explained that he was not trying to label her but put her in a classification. He noted that there would be no signs saying you are a nightclub. He stated that he was giving all the facts; that this had been through the Planning Agency and gone through Staff Review.

Councilman Gilbert stated that he would like to hear from Ms. Blackmon.

Ms. Blackmon stated that she was the owner of RiverCity Buffet and Event Center and would explain the issue with the Beer Permit—that she was not asking for alcohol—only a Beer License. She stated that she had never had any problems within the city and would be engaging church events and school events for people 35 years old and up; that there were not club activities, and she might not have even one event a month; that she was set up as a restaurant but wanted to be able to let her customers enjoy themselves. She mentioned



**GWENDOLYN BLACKMON(CONT'D)**

that Joanne Favors might wish to use the event center for a school reunion, which was held in Alton Park every year. She mentioned the Southside reunion, which her facility might accommodate. She reiterated that she did not want a club; that she also had an art business and clothing store and was not looking for a club; that the event center did seat 300 people, but it was not a dance hall, and there would be no outdoor entertainment; that it was not a nightclub.

Councilman Gilbert asked if she was willing to put some options on her facility. She responded that she would not have people gathering in the parking lot; that she had never been involved with shootings and crimes. Councilman Gilbert pointed out that some churches have alcohol at weddings. Ms. Blackmon noted that there would be no stage. Councilman Gilbert asked if there were other questions that Ms. Blackmon needed to answer? She responded that she was not asking for alcohol but did want a Beer License in case there was a need for this—that she might never use it. Councilman Gilbert asked her about the sale of food versus alcohol? She responded that she sold more food.

Chairman Rico stated that we have to go with what it is zoned for.

Councilman Gilbert stated that the majority of the community wants this like Ms. Blackmon has asked for; that there will be no speakers, and she has a sprinkler system. He noted that she would cater to church people and other people in the area might be inclined to tell these church people that what she had is a nightclub, and it would put a stigma on her; that it was a nice facility in this area and only one person had wanted more detail.

Chairman Rico pointed out that we are the only ones calling it a nightclub.

Councilwoman Scott stated that she would like to know from the City Attorney—if we have an Ordinance that identifies these characteristics and defines what a nightclub is, how does the City Council “pick and choose” and say we won’t use the term nightclub in this case but will use it in other cases?

Attorney Fritz responded that the Council should not do this—that this would be Ordinance nullification—that the Council can’t “pick and choose”.

Councilwoman Scott asked if we did this, could it be considered “arbitrary” if it landed up in court? Attorney Fritz agreed that this could happen.

**GWENDOLYN BLACKMON(CONT'D)**

Councilwoman Berz went back to our Option A and Option B, stating that she knew Ms. Blackmon ran a fine establishment but wanted to talk about the effect of the law. She asked Ms. Blackmon if she was in compliance with Option A and Option B—that we all are in compliance with Option A. She stated that Ms. Blackmon was in compliance but her issue was not being called a nightclub. She noted that Ms. Blackmon agreed that there could be more than 100 people, and it could go later than 11:00 p.m. and there was stadium seating and from Ms. Blackmon’s testimony, she did not want to be called a nightclub but would rather be called something else; that if we changed it to the “Whippoorwill Ordinance”, Ms. Blackmon would be “cool” with that; that she agreed to every thing else and agreed she fell within the Nightclub Ordinance but did not want to be called a nightclub. She asked if Ms. Blackmon felt that falling under this usage would hurt her business?

Ms. Blackmon responded that the majority of her business was with church people, and she just wanted this option.

Councilwoman Berz inquired if we passed another Ordinance and changed just the title, would this be okay.

Councilman McGary asked her if her clientele were church members, and events could go until 3:00 a.m., and she wanted the opportunity to serve alcohol? She responded that she wanted to do something positive; that she was everyone in the area’s mother and her store had never been broken into, and it was on Wilcox Blvd.; that in order to get respect, you had to give respect; that she tried to teach the kids—that she offered eating and teaching; that some of these kids had never even been to a prom, and she wanted the Beer License if she chose to use it. She reiterated that she was trying to do something positive because she lived here. She added that her stepson was one of the kids that got killed a week ago; that she had previously been at Warehouse Row and wanted the same thing she had there in her neighborhood; that all were working together and got her respect.

Councilman McGary surmised that Ms. Blackmon’s business had not changed from what she had at Warehouse Row but our Ordinance had changed. He noted that alcohol was not the bulk of her business but indeed, requirements caused her to be classified as a nightclub. She noted that her restaurant would be open from 11:00 a.m. until 7:00 p.m. and events could go until 2:00 a.m. Councilman McGary asked if it would be possible for her to modify her events to go just until midnight? She responded “would you want to end a prom at

**GWENDOLYN BLACKMON(CONT'D)**

12:00?” He responded “no”. Ms. Blackmon went on to say that she had never had a drink in her life. Councilman McGary responded that the Council’s hands were tied. He asked if we had ever given any consideration about the regularity of events and the events happening just ever so often? He stated that he did not think this had been taken into consideration.

Attorney Fritz responded that there were no exceptions—that once a facility is defined as a nightclub, one can’t opt out.

Councilman McGary again questioned if we could not take into consideration regularity?

Chairman Rico stated if we did, we would be violating our own Ordinance.

Councilman Murphy stated that he would like to review the Ordinance and the legislative history. He asked Attorney Fritz if the Council was sitting in a quasi-judicial role? Attorney Fritz responded “yes”. Councilman Murphy stated that he did not have a copy of the legislative history, and we could not communicate with any other party; that he would like to look at the Ordinance in detail and the history behind it to see if there could be provisions for regularity; that it could be that church halls would need a nightclub permit; that he wanted to take a look at this and would advise that we not act at this moment since we were quasi-judicial.

Attorney Fritz stated that there were no written rules per se; that judicial controls would apply but not considered evidence; that we could defer this and leave as is and come back next week and make a decision.

Councilwoman Berz stated that she thought we were using “an elephant gun”; that we just needed to decide if a City Official acted appropriately—yes or no! She stated that we were getting into other issues; that Ms. Blackmon just did not agree with the term “nightclub”; that it is the title of the law and not the substance of law; that it could be called “Late Night Event Ordinance”; that we were getting off the issue. She stated that the Council needed to decide if a City Official had acted appropriately, and it was her feeling that he did. She reiterated that Ms. Blackmon just did not want to be called a nightclub, but first, did Mr. Hutsell act appropriately and her answer would be “yes”. She stated that we had a win-win situation; that Ms. Blackmon had no problem with the criteria—just did not want to be classified as a nightclub. She stated that we could change the title of the Ordinance. Right now, we just had to decide if

**GWENDOLYN BLACKMON(CONT'D)**

a City Official had acted appropriately, and he did and changing the title of the Ordinance was Ms. Blackmon's issue. She stated that these were totally different issues.

Councilman Gilbert was in favor of deferring this, noting that on March 17<sup>th</sup> Applebee's had live entertainment and asked if they were considered a nightclub? Attorney Fritz explained that they were "grandfathered in". (This prompted Councilman Benson to note that this did not exist for sprinklers!)

Councilman McGary restated that the Council had to decide if Mr. Hutsell acted appropriately, stating that he thought we were making a decision on whether or not to grant Ms. Blackmon an exception. Councilwoman Berz explained that this was just an appeal of a decision.

Councilwoman Ladd noted that during the timeline history, Ms. Blackmon had gone before the Beer Board and the case was deferred. She wanted to know what happened?

Ms. Blackmon stated that when she first came in, they went over all this and put it off because at that time the Council was trying to make a decision; that she told the Beer Board she was not a nightclub and to not force her into this; that she had a lot of church functions and what Councilman Gilbert said was right—that this was the way things worked in this community; that people would be inclined to go to church members and tell them that Ms. Blackmon has a nightclub and then church members would not come to her facility.

Mr. Hutsell added that there was a moratorium placed on all nightclubs in October of 2010, and this had to be lifted before this language was adopted; that he advised Ms. Blackmon, based on the checklist on January 4<sup>th</sup>, that the moratorium prohibited the Council from acting; that he told her that language was being drafted—that he did not draft the language but was in the business of enforcing it; that he did not write the checklist that says serving alcohol after 11:00 p.m. with 100 people makes it become a nightclub; that it is a nightclub by definition only; that all six applicants that had come before him have said that they are not nightclubs, including one bowling alley, a Sports Bar, Sky Zoo that says they are a restaurant and not a nightclub. He stated that this Ordinance was what was provided to him; that it had been discussed with Staff and RPA; that we could change the phrase to something else like "After Hours".

Chairman Rico stated that Mr. Hutsell made the right decision.

**GWENDOLYN BLACKMON(CONT'D)**

**Councilman Benson moved that the Council uphold the decision made by Mr. Hutsell. This was seconded by Councilwoman Ladd.** Councilman Benson added that we could change the name of the Ordinance. Councilman Murphy felt that more time was needed to make this decision. The motion carried with **Councilman Gilbert voting “no” and Councilman Murphy “abstaining”.** Councilman Benson stated that the terminology of “nightclub” needed to be looked at.

**AGENDA; TUES. MARCH 29<sup>TH</sup>**

Chairman Rico stated the agenda for next week was discussed earlier today during the agenda session.

**COMMITTEES**

Councilman Benson scheduled a Safety Committee to immediately follow the Legal and Legislative Committee on **Tuesday, March 29<sup>th</sup>**. The purpose of the meeting is to refine the New Ordinance concerning Coolidge Park. He stated that we would take the information passed out by Councilman McGary in regards to Hamilton Place into consideration.

Councilwoman Berz reminded that there was a **Budget, Finance and Personnel Committee scheduled for March 31<sup>st</sup> from 6:00 p.m. to 8:00 p.m.** There is also another **Budget, Finance and Personnel Committee scheduled on April 7<sup>th</sup> from 6:00 p.m. to 8:00 p.m.**

Councilwoman Ladd noted that there would be a **Public Works Committee on Tuesday, March 29<sup>th</sup> to immediately follow the Agenda Session.**

Councilman Murphy announced that there would be a **Legal and Legislative Committee on Tuesday, March 29<sup>th</sup> to immediately follow the Public Works Committee.**

Councilwoman Scott reminded that on **Thursday, March 24<sup>th</sup>**, prior to the Budget Hearing, there will be a group going to the Sims Center at 3:30 p.m. There will be a bus leaving here at 3:20 p.m., and it will take about one hour.

**PATRICK KELLOGG**

**Mr. Kellogg, 2510 Oak Street,** addressed the Council. He expressed appreciation for the hard work that the Council does. He stated that he was elected President of the East Chattanooga Neighborhood, effective today; that there will be one voice in East Chattanooga; that there had been 14 individuals shot over 11 days in East Chattanooga and that East Chattanooga also had a high illegitimate birth rate. Mr. Kellogg stated that he had quit a paying job to obtain this position. He stated that existing programs were insufficient, inadequate, and underutilized. He stated that he did not have kids, but it was unacceptable what was happening to kids in this neighborhood, and he would not allow this to happen. He stated that his neighborhood was able to overturn elections, and he wanted to pull at the Council's heartstrings to do things that are tangible. He stated that he was trained to be effective, and they would achieve their mission but needed assistance from the Council immediately or otherwise, kids would die. He stated that we had to do things immediately—tomorrow or at least start on Thursday; that we had to do something; that often he disagreed with the Mayor but was about preservation of life. He mentioned the conference concerning Coolidge Park and stated that he was going to funerals everywhere.

Councilman McGary congratulated Mr. Kellogg on his new position and urged everyone to work together.

**JESSIE PHILLIPS**

**Ms. Phillips** addressed the Council, stating that she had some questions; that she had been here since 3:00 p.m., and she had observed that the Council was not going by rules of order. She also stated that the Council did not speak up and that everyone in the audience did not have hearing aids. She stated that she could not hear the people who represented her and did not know what they said; that the person reading the Ordinances did not read them loud enough. She asked that the Council be approachable and nice to the people, stating that everyone needed to learn to live with each other. She stated that she was appalled at what the Council was doing, noting that she got along with the Police Dept.; that people needed help from the Council, and she did not see it. She mentioned that when one calls Public Works about brush pick-up, there can be brush right across the street, and they will go on by and don't pick it up. She stated, also, the Mayor needed to be at this meeting; that he was not doing what he needed to do. She stated that she called yesterday about some

**JESSIE PHILLIPS (CONT'D)**

hedges, and they are still there and questioned why this was going on; that we needed to get together and work as human beings.

Councilman McGary thanked her for coming out and thanked her for her feedback. He asked her to tell the Council how they could be of greater benefit. He stated that there had been a lot of complaining about brush and trash and that he had taken a personal tour last year and that actually the drivers are under a timeframe all over the city; that if a citizen calls 311, they will pick up the brush and trash; that he had spoken to the driver about neighbors who were within the same time period, and the driver indicated they had to stay on a time schedule, and they would pass it by.

Councilman Murphy asked if Mrs. Phillips could hear him, stating that she had his phone number and could call him anytime. He explained to Mrs. Phillips that she could call for her neighbors to have brush picked up; that she could give them the address.

**CHRIS BROOKS**

**Chris Brooks of 961 East Fifth Street** read from the following e-mail that he had sent to Councilmembers:

*Last Tuesday, River City Co. President Kim White was publicly asked whether the River City Company was seeking to recruit a grocery store downtown. "We don't have the density of people living and working downtown, and until that happens, it will be a while", was her response.* Mr. Brooks stated that he would encourage the Council to take the time to review the evidence he had provided in the e-mail which proves that her statements are, in fact, untrue and lacking in any credible scientific validity. He stated that he had a copy of the Chattanooga Hamilton County Regional Planning Agency report entitled "Briefly Speaking—Downtown Grocery Stores for Chattanooga." This Report stated that residents in downtown Chattanooga have the buying power to support an average-sized supermarket grocery store. In other words, not only is there enough buying power downtown to support a medium sized grocery store, but the lack of a grocery store is actually resulting in a drain from our downtown economy as people must go further out to purchase these goods. He stated that according to David Eichenthal, President and CEO of the Ochs Center for Metropolitan Studies, *"the poor are paying more, whether it's in higher prices (at corner stores) or in the cost of transportation"*. He went on to say that the lack of access to healthy food by poor communities is resulting in epidemics of

**CHRIS BROOKS (CONT'D)**

preventable diseases that often go untreated until they become medical emergencies, which results in a rise in cost for everyone.

Mr. Brooks stated, in summary, not only is there more than sufficient buying power downtown to support a medium sized grocery store but there is an economic and moral imperative to procure one. *“In the end, getting a retail grocery downtown shouldn’t be a game of wait-and-see, but rather something to peg down and pursue”.*

Councilman McGary stated that he had no record of this e-mail from Chris Brooks coming in and questioned if it were going to a spam folder? He asked the City Attorney how e-mails got into the spam folder? Attorney Fritz responded that he did not know the answer.

Since Mr. Brooks’ e-mail had not reached the Council, Mr. Kellogg questioned if the letter he had given to Ms. O’Neal had reached them. He was assured by Ms. Crownover that Ms. O’Neal had distributed the letter.

**ADJOURNMENT**

Chairman Rico adjourned the meeting of the Chattanooga City Council until Tuesday, March 29<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)**