

**City Council Building
Chattanooga, Tennessee
July 26, 2011
6:00 p.m.**

Chairman Ladd called the meeting of the Chattanooga Council to order with councilmen Benson, Berz, Gilbert, 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, Chairman Ladd gave the invocation for the evening.

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.

SPECIAL PRESENTATION: WORLD CHANGERS

Mayor Littlefield invited Vanessa Jackson of Neighborhood Services to join him at the podium and stated some have been around long enough to have seen the World Changers come through to visit us annually; that we have been the beneficiaries of all the good work they have done in many parts of our city correcting some deficiencies in housing for people who otherwise could not be served and could not live in safe and livable environments in their homes today thanks World Changers. He stated he became familiar with them way back, years ago when he was running for office and they were working in a couple neighborhoods and someone who was helping in his campaign drove him around and they visited a home with the typical little old widow lady living there whose bathroom and floors were crumbling and falling and it was deplorable conditions, but they showed them the places where they had started and what they had repaired and he left there with tears streaming down his cheeks because he was so moved by it!

SPECIAL PRESENTION: WORLD CHANGERS
(Continued)

Mayor Littlefield stated he knows that has been repeated again and again here and we want to recognize them noting that they work with some of our local folks; that Brainerd Baptist and other churches have been very active with this. At this point he asked Bobby Boutwell of Soddy Daisy, Pam Rector fro Hixson, Hunter Boutwell of Soddy Daisy, Eric Franks from Sweetwater, Tennessee to join him, as well as Joe Bentley from Mobile, Alabama and Carly Ammons from Houston, Texas; that Richard and David Blanchard and Élan Elaine from North Carolina are also involved but unable to be present.

At this point the Mayor read a proclamation recognizing the group for the good things they do and proclaimed **July 18 – 29, 2011 as “WORLD CHANGERS REPAIR WEEKS”** in our community. (A standing ovation was given by all in attendance.)

Pam Rector expressed thanks for the support that is given to the young people who have come from eleven states this week; that they are serving 26 homeowners this week and maybe more depending upon how the work is accomplished. She stated it is the most amazing program to see these teenagers pay their own way here, sleep on the floor at a church and go out and work in 95+ degree temperature just because they love people and love Jesus! She expressed appreciation to the Council for giving them the opportunity to do this!

Councilman Murphy stated he spoke to them during this term and another year and thanked them because it seems the folks in his district are blessed by them beyond measure every year they come! He stated half of the projects undertaken are his constituents and every year he looks at the list and sees names of people he knows quite well who are very good people, again expressing thanks!

Mayor Littlefield stated we have treated them shabbily in the past; that they have come and had their trailer of tools stolen one year and all these things that were embarrassing to us and thought they would never come back, but they have never let that stop them; that they have smiled through that adversity and have continued to serve us well. He expressed thanks to all of them for all they are doing and stated we look forward to many more years of having the World Changers change our little part of the world!

RECOGNITION OF OFFICIALS

Chairman Ladd recognized the presence of County Commissioner Tim Boyd and former City Councilman John Taylor.

SPECIAL PRESENTATION: REPORTS FOR PLANS OF SERVICES FOR AREAS 3A AND 3C

City Attorney McMahan referenced the screen reflecting Area 3C on the side of Lookout Mountain which basically brings all the property in Chattanooga between the existing city limits and the Lookout Mountain city limits. He stated many people in this area petitioned to come in because it is a “no man’s land” with respect to fire protect and the main thing we are providing these people with respect to municipal services is fire protection. He stated Mr. Leach will address public works and Chief Flint will give a report with respect to fire and police. At this point he declared a public hearing in process and noted anyone desiring to speak with questions or comments after Mr. Leach and Chief Flint have spoken are asked to be recognized and the Chair will recognize them. (*A more indepth report on the Plan is Services for Areas 3A and 3C are attached to minutes of this date.*)

PUBLIC WORKS: Admin. Leach stated the first area is **solid waste refuse collection** and this is really the side of the Mountain; an area that does not have any residential structures so no garbage containers were provided in either 3A or 3C, however they will provide any brush and trash/flash requested through 311. He stated traffic engineers did go out and conducted an on the ground survey and did not determine any striping, signs or signals are needed at this point in time, however they stand ready to provide them, if necessary; that street lighting has not been requested in this area at this point in time.

Admin. Leach stated under **street construction and repair** engineers have gone out and performed testing of falling weight deflectometer and ground penetrating radar on the pavement conditions along with visual surveys of the pavement conditions; that they will take those back if they find issues they will attend to those. He stated 3A has approximately 762 feet of public road while 3C has none.

Admin. Leach stated **under water quality/stormwater** they identified in 3A fifteen water quality structures and in Area 3C nine water quality structures that were done internally by staff. He stated there are 1,437 linear feet of drainage pipe in ditches in 3A and 969 linear feet in Area 3C.

SPECIAL PRESENTATION: REPORTS FOR PLANS OF SERVICES FOR AREAS 3A AND 3C (Continued)

Admin. Leach stated under **zoning and inspection/code enforcement**, at this point in time they have not had any requests for building permits in either area; that the **sewer system** goes back to the original master Interlocal agreement with the city and Hamilton County. He stated at this point in time the Hamilton County Water and Wastewater Authority is still required to provide sewer in this area but obviously that would change if they cede this area.

FIRE DEPARTMENT: Chief Flint stated the Fire Department conducted a review of areas 3A and 3C and in 3A there is one building of significance at 99 Textile Lane; that it does have hydrants on the premises and will not require any hydrants in 3A or 3C. He stated they will service the areas from Station 20 located on Cummings Highway and as construction continues and the facility complete the new Station 3 will also help cover that area.

City Attorney McMahan stated this concludes the presentation by the department administrators of public works and the Fire Chief. He asked if any member of the public desires to comment on these matters, being none, the hearing was duly closed.

REZONING

2011-043: Englewood Enterprises, LLC/Leroy Hurst & Bickerstaff PL/JDK Real Estate, LLC

The applicant was present; opposition was in attendance.

Councilmen Gilbert and McGary made the motion and second to deny this request.

Mike Price of MAP Engineers distributed a list of drawings for the proposed project which showed the beginning of the project and where they are today; that when it first started off there was not much information provided, which was submitted to the Planning Staff and what their recommendation was based on. He stated the second drawing is what was presented at the Planning Commission where some of the issues were addressed in reference to landscaping and more information as it related to how the property would be developed.

REZONING (Continued)

Mr. Price stated the third plan is the one before the Council tonight which was presented at a neighborhood meeting to the community at Chattanooga Church in the Bonny Oaks Industrial Park. He stated there were 29 individuals at the meeting and at the end of the meeting 28 of the people were in favor and one was against; that their issues centered around something to do with nuclear power and (he) is not certain how nuclear power and ethanol intertwine. He stated they wrote up a list of conditions as it relates to the proposed rezoning of what they would restrict the property to which is now only 1.25 acres, not the entire tract.

Mr. Price stated the plan is before the Council and to consider the fact the community has looked at this; that e-mails were sent to each Councilman from Pastor Morty Lloyd of Chattanooga Church who indicated his impressions from that meeting. He stated they sent out the same information to all the residents and communities from Washington Hills and members of the Chattanooga Church who were there and did not receive one phone call back or any indication any information shown was incorrect or that changes were requested. He stated they have gone to the community, presented a plan that they are in support of and asked that they be able to be moved forward tonight just on first reading. He stated they would then take this to the County Commission as there are ordinances required to be heard by the County Commission and if they pass at that point they will come back and have second and final reading. He stated if they fail at the County Commission to get the ordinances passed, then this becomes a moot point and they will not bring it back. He stated they are asking to be able to move it forward based upon the information presented; that the community supports it and this is a plan that is in the best interest of Chattanooga.

Mr. Price stated this is a facility that will be able to be served by the railroads; that he knows there is another competing facility here and their representative is present. He stated if they move forward with their plans and theirs is "killed" there will be in Chattanooga only one railway and no competition as it relates to ethanol being brought into Chattanooga. He stated it is also at a location he would personally see as being a little troublesome as it relates to some issues that have been brought up by CSX; that they received an e-mail today from CSX indicating issues as it relates to who has rail rights and are not certain Norfolk-Southern can even build a facility. He asked that their project not to be "killed" tonight or denied because they are not certain they cannot, maybe they can.

REZONING (Continued)

Mr. Price stated this is free enterprise and asked the Council for consideration to move forward, come back before the Council if they pass at the County and then have another vote at that time as it relates to their facility. He stated they presented a case indicating the community issues have been addressed and is a project that is viable and should move forward.

Councilwoman Berz stated she cannot speak to the community because the community is in Councilman Gilbert's district; however, she has heard several things for consideration; that first, it is moot for us to do anything before the County does their thing in her opinion as it is poor form; that the second thing she is more concerned about is the fact that on three occasions in the minutes Mr. Price stated there was not a need for two facilities and if Norfolk-Southern was going to go forward with theirs, which he was not sure they could, he would immediately withdraw. She stated what is happening at her end is she just got back in town and there are a number of businesses here who had contacted Norfolk-Southern because there was misrepresentation in the presentation of the folks that want to do it now and, perhaps, that would be Mr. Price's people. She stated the Council is of very good faith, however the Council needs to be "playing with a full deck", all the correct information. She stated it is her information Norfolk-Southern will be letting their contracts, meet all the requisites of law from their legal department and she just found this out yesterday; that it is her thought this is premature for us to go forward before the County acts. She stated the third thing is Mr. Price did meet with some people from the Church and set the meeting on a Tuesday night, or somebody set it, when neither Councilman Gilbert nor I could be there or some of the people in the business world there had notice of; that it was more than just the Church. She stated those are the concerns she has and at this point until that process is cleared up she cannot vote for it; that she wanted to be straightforward with that. She stated what she would like to do is hear from the County, the Norfolk-Southern people, from people who are the business people in the area and others from the neighborhood.

Mr. Price stated there were a number of individuals from the Washington Hills community; that they certainly made an effort to contact them and they were there. He stated as it relates to Councilwoman Berz' second point there are two bodies that must approve this that weighs with equal value and it matters not which goes first and it should not matter to this Council which goes first. He stated if the Council's vote tonight is the final vote to approve it prior to the County making their motion to approve, he understands and her point is well taken, but that is not the case.

REZONING (Continued)

Mr. Price stated this simply allows it as a first vote and then sets it aside where it will then go for a second vote; that both bodies have to vote. He stated he does not see that puts the County or Council at jeopardy by approving this motion tonight.

Councilwoman Berz stated it is poor form given strange relations with the County as it is; that it is poor form for us to go ahead and act before they do since it is their industrial park. She stated if they want to move forward with something different, then a week or so is not going to make that much difference and that is her only concern. She stated it may be everything turns out well, but in government there has to be some sort of mutual respect and she does not want to debate it with Mr. Price, but that is why she is doing what she is doing.

Councilman Gilbert stated Councilwoman Berz is correct they were not present; that he sees person in the audience he assumes were there and Mr. Price stated it was a unanimous vote. Mr. Price stated the vote was 28-1.

Councilman Gilbert stated Mrs. Dowell is in the audience and he asked her to relay the opinions from the meeting.

Jacqueline Dowell, President of the Washington Hills Neighborhood Association, responded "yes" they were called to the meeting and they attended; that 24 persons were present and out of the 24 present, 16 maybe 17 called her house and said they were still undecided about the facility and they saw danger in putting it on Bonny Oaks. She stated there are still a lot of questions in her neighborhood as to Mr. Price putting the facility there and suggested he needs to have another meeting or perhaps explain it more as quite a few people did not understand. She stated she received phone calls from residents of Holiday Hills who do not have a neighborhood association; however, they have great concerns and were not present or contacted. She stated she is present as a representative of Washington Hills to say they are against the project at this point.

Councilman Benson expressed appreciation the remarks Ms. Dowell made as there are a lot of unanswered questions and we should possibly give them the time to answer the questions as he does not want to vote this up or down tonight. He stated he does not agree it is poor form for Mr. Price to present it to the Council tonight; that the Council represents the citizens of Chattanooga and we should use our best judgment in exercising leadership and making certain we are responsible for the best interests of the city citizens.

REZONING (Continued)

Councilman Benson stated he wants to hear this and is not certain how the Council will act on it; that it is his thought the last remarks by Ms. Dowell shows we do have to wait on this and does not know how we are going to handle it.

County Commissioner Tim Boyd confirmed as Councilwoman Berz mentioned some relationships between the City Council and the County Commission have been strained of late. He stated on this issue, in a meeting today with Chairman Henry and a couple other Commissioners there does not seem to be the consensus within the Commission they are going to be in favor of this terminal. He stated in light of the fact Norfolk-Southern has let a contract for a similar facility just on the other side of Jersey Pike, it does not seem there will be another facility particularly if any of the covenants have to be changed; it is his understanding there is an opinion from Judge Norton that will be coming forth that there are legal issues about the OT55 rule/regulation by the Railroad Authority. He stated if there are issues of OT55 that is going to be something to be dealt with between CSX and Norfolk-Southern; that it is not something the County or city will be involved with as there are legal opinions from both entities and both are standing fast they are in good standing and the facility will go forward. He stated in representing the Commission he wanted to let this Council know there does not seem consensus from the Commission to be in favor of this project and for them to have that bit of information tonight prior to the vote, which what he is here to do.

Councilman Murphy expressed thanks to Commissioner Boyd for his presence noting that he knows it is not easy to devote extra time to this body when he devotes so much to the Commission; that they always give him a warm welcome every time he visits with them and appreciates that. He stated it is an open question about whether any covenants actually need to be changed by the County Commission, asking if that is correct. Commissioner Boyd responded "from his knowledge, yes".

Councilman Murphy stated that is what the Commission needs to do if it was determined by Council and perhaps by a court that there did need to be a modification of covenants, is that not correct. Commissioner Boyd responded "that is correct".

Councilman Murphy stated it is possible there is not any action the Commission needs to take. Commissioner Bond responded "there may not be any action on covenants that is true".

REZONING (Continued)

Councilman Murphy asked if he heard correctly Commissioner Boyd say simply because another rail line might be able to build a facility that does the same thing, therefore that out to alter our entire decision to not allow these folks that would be served by a competing railroad to build their facility.

Commissioner Boyd stated what he is saying is if covenants have to be changed, if properties have to be rezoned and those kinds of issues have to be voted on by the Commission there does not seem to be consensus that is going to be approved. He stated if those issues do not have to be voted on by the County Commission and this facility can come into the industrial park as covenants written and zoning as is then it is a moot point and there is no argument. He stated when this project was first presented to him and fellow Commissioners there was discussion "on the hill" covenants were going to have to be changed and that is not going to happen in the Bonny Oaks Industrial development, the covenants are going to remain as written. He stated Chairman Henry is of that opinion, he is of that opinion and they are not going to change covenants written some 20 years ago in good faith to the neighborhoods around that facility.

Councilman Murphy stated aside that, another railroad might build a facility that can do the same thing . . . Commissioner Boyd stated that is not an issue.

Councilman Murphy stated it is completely immaterial to him because quite honestly he does not care what rail line gets to bring in tankers of ethanol into the community and if there is competition to bring it in so much the better.

Commissioner Boyd responded "same here"; that they are just saying if there has to be covenants changed they are probably not going to be changed, there is a very good chance they will not be changed; that if this facility requires covenants to be changed to do their operation at that location it is extremely unlikely that will happen and wanted the Council to understand that.

Elizabeth Lawler, Manager of Governmental Relations with Norfolk-Southern based in Montgomery, Alabama which covers a four state territory including Tennessee, stated she wanted to be perfectly clear in her role and presence today. She stated she is not present to speak for or against any other development at all; that she is present at the request of some of the Council members to clarify information they received in regard to what the project is, what they are building and when they are building it.

REZONING (Continued)

Ms. Lawler stated she has available to the Council a sheet of information and maps showing exactly the location of where their facility will be placed. She began by stating "yes" they are building an ethanol facility, "yes" they have let contract on a general contractor and anticipate construction beginning as soon as in the next week or two; that they have sub-contractors they will be signing with, one of which could potentially be from this area has been identified. She stated the site selected for their terminal is on Norfolk-Southern property and was selected due to a demand for ethanol in this area; that this particular piece of land has rail access on Norfolk-Southern tracks adjacent to it and has appropriate and adequate space for building this facility. She stated they have identified it as being legally appropriate in size for this facility and having gone through the legal loop holes railroad are required to do by federal law, they have met all the requirements needed to begin construction and anticipate doing so. She stated there is additional information on the sheets she distributed.

Councilman Gilbert stated one of the questions presented last time was that Norfolk-Southern could not build there because they did not pull any permits. He asked Ms. Lawler to explain how the railroad does things differently from the norm.

Ms. Lawler stated she is not an attorney but it is based on federal law because railroads are innately interstate; that almost all of their regulations exclusively lay in the hands of the federal government; that Congress and the federal regulations set out by the Surface Transportation Board (STB) have authorization over all their operations whether it be construction, track, facilities, development and so on. She stated under federal law they are allowed federal preemption to many state and local ordinances because operating in that manner if they were subject to every single local ordinance there would be such multiple jurisdictions and overlapping jurisdiction, it would be impossible to move freight from "point A in State A to point B in state B" without having to go through 50 different jurisdictions in that area. She stated therefore the federal government and the STB saw fit to put all their regulations as it relates to this type business under one place, "one stop shop" under the STB. She stated there are some circumstances in which they are required to apply for a federal permit, the formal name is the National Pollution Discharge Elimination System, commonly called as the stormwater permit; that they are required to do so for this facility and have acquired that for the city of Chattanooga.

REZONING (Continued)

Councilman Gilbert stated there are a lot in different places in the United States regarding Norfolk-Southern versus other railroads. He asked in the past if they have ever negotiated back and forth sharing different things, or possibly a piece of land "here" can be a piece of land "there" and make it a bargain between both.

Ms. Lawler responded "absolutely" and stated in reference to the relationship between Norfolk-Southern and CSX, the two railroads share a similar footprint in the eastern half of the United States, east of the Mississippi. She stated they have over 14,000 track miles in 22 states as they do, too; that there are many towns and cities in which only Norfolk-Southern has rail and many cities and towns where CSX has rail; that there are many, many more where they both serve. She stated there are areas in which they offer trackage rights to CSX to run their locomotives and their freights for their customers over our rail, and vice versa on a contractual basis. She stated that is on an instance-by-instance negotiation but does happen in order to operate over the same geographic area as they do that frequently.

Councilman McGary asked Ms. Lawler to address one paragraph from the CSX e-mail. Ms. Lawler stated she has not seen it. Councilman Mc Gary read a passage stating, "*CSX has concern with the construction of such facility and how close it will be to the Tyner Branch. CSX is in the process of upgrading the Tyner Branch to be able to operate it 25 miles per hour to serve VW, this will make the Tyner Branch a Class 2 railroad. The Norfolk-Southern site will not meet the LT55 guidelines for handling of such ethanol*". He asked Ms. Lawler to address that.

Ms. Lawler again stated she is not an attorney and something that specific is something she would have to ask her legal department to address as she is not authorized to speak as an attorney since she is not one. She stated she can tell Councilman McGary that the LT55 is an industry guideline, set as a preference as it relates to hazmat off loading relative to the distance to a rail line that all railroads recognize and it is not a law. She stated it is not a "set in stone" rule.

Graham Riley of 6171 Enterprise Park Drive, General Manger of Mac Papers in Chattanooga, expressed opposition to the rezoning from M-2 to M-1. He stated Mac Papers is in opposition because it is a downgrade in zoning for their property; that Mac Papers owns the property where the distribution facility is located, as well as the property directly behind their warehouse. He stated should they ever decide to sell the pieces of property they fear the downgrade in zoning will affect the price negatively; that they purchased the property inside the industrial park because of the favorable covenant.

REZONING (Continued)

Mr. Riley stated as of the April 11 RPA meeting Englewood had not yet sought the approval of the Bonny Oaks Planning Board and he is not sure whether the approval for rezoning has been given pursuant to the covenant. He asked that the Council adhere to the recommendation of RPA and deny the request.

Councilman Murphy stated he was not clear and asked Mr. Riley if Mac Papers owns the property that is being proposed to be rezoned.

Mr. Riley stated he was sorry; that it is their distribution facility at 6171, so it is directly across the street and they also own the property behind it.

Councilman Murphy stated Mr. Riley said the zoning is being downgraded, that M-1 zoning is worth more. Mr. Riley stated it is their opinion related to their property value and that is from their legal department in Jacksonville, Florida; that it is a downgrade in their opinion if it is going to negatively affect their value.

Councilwoman Scott stated she knows we heard the original Planning agency has not recommended this and referenced the changes from the original plan to the subsequent proposal, wanting to know if the RPA had made any follow-up recommendation.

Greg Haynes, Director of Development Services with the RPA, responded "no"; that they have not made any recommendations based on the second version; that this is the third version they received last week, so the only recommendation that has gone to the Planning Commission was to deny for the reasons given earlier when this first came to the Council. He stated the Planning Commission recommended to deny, as well; that as part of their usual process they do not have any mechanism to reevaluate unless it would be resubmitted to RPA and then back to the Planning Commission.

Councilman Murphy addressed Mr. Haynes and stated there has been some discussion about M-2 and M-1 and asked if this type of use is not a listed use under any zone.

Mr. Haynes responded not specifically, "no"; not listed in either zone. He stated it is the opinion of the Zoning Enforcement Department of the city it needs to have the M-1 zone which is why they had to apply to rezone through the RPA office.

Councilman McGary called for the question on the motion to deny.

REZONING (Continued)

Mr. Price stated with reference to Mac Papers he gave them a copy of an appraisal that indicated there would not be an impact negatively as it relates to the property values (of MacPapers); that it is also his understanding, as explained by the Norfolk-Southern representative, that they do not have to have any approvals. He stated the City Attorney's office has asked Norfolk-Southern for documentation of such and at this point has not received any information as it relates to that fact; that he is not certain exactly which rules they may be citing and does not believe the City Attorney's office at this point has gotten a confirmation of that. He stated with respect to going before the County Commission he has talked to every County Commissioner personally and right now the votes stands -- the last he heard and it may have changed since that time -- at four "yes'", two "maybe's", and three "no's"; that the three "no's" include Commissioners Henry and Boyd. He stated that was the vote he had indicated as of last; that he is almost there and again things may have changed and understands things are dynamic. He stated what he heard earlier out of this from Councilmen Berz and Gilbert was there is a lot of information and the Washington Hills community indicated they would like to have another opportunity to look at this. He stated instead of turning it down, defer and let them go back to Washington Hills, move on to the County Commission and if they cannot "jump over the hurdles" then "shoot them down".

At this point, Councilman Murphy made the motion to defer the matter three weeks; Councilwoman Berz seconded the motion.

On motion of Councilman Murphy, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 6162 ENTERPRISE PARK DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE TO M-1
MANUFACTURING ZONE**

Was deferred three weeks (August 15, 2011); on roll call vote:

| | |
|-----------------|------------|
| ROBINSON | YES |
| BENSON | YES |
| GILBERT | NO |
| BERZ | YES |

REZONING (Continued)

| | |
|---------------|------------|
| RICO | YES |
| MCGARY | NO |
| MURPHY | YES |
| SCOTT | YES |
| LADD | YES |

AMEND BUDGET ORDINANCE

Councilmen McGary and Gilbert made the motion and second to approve this Ordinance.

Councilwoman Scott stated that she has questions about definitions; that there is no question in her mind about small businesses and understands what that is and understands what the gender issue is, but would like to know when we pass this or do not pass this how do you define minority, multicultural and are there any people that do not have a culture at all.

Councilman McGary stated that it is his belief the purpose of the language is to indicate the historically Multicultural Chamber has served its purpose and as stated in their mission they serve "minority, women-owned, small businesses" and that language has been duplicated in this particular ordinance; that as the conversation has ensued thus far, no particular organization has been named but in keeping with the same purpose that language is, thus, here. He stated Councilwoman Scott is correct everyone has a culture; that certain groups are minority groups and pertaining to the Census there is majority population that is generally Caucasian, minority groups usually African-American, Hispanic, Asian and American Asian. He stated the language seems to serve only what the Multicultural Chamber has stated their purpose to be and that purpose is the purpose we want to safeguard as a Council.

Councilwoman Scott asked are we saying whatever this \$75,000 is used for would exclude . . . who would it exclude.

AMEND BUDGET ORDINANCE (Continued)

Councilman Murphy stated that it excludes large corporations, large non-disadvantaged owner businesses; that the assistance would not be eligible for CIGNA or VW.

Councilman Rico stated most reasonable people know what we are talking about when we say "minority"; that it does not exclude anybody; that if they want to join they might get a benefit; that we have a lot of white people that are members of the multicultural or black or whatever you call it; that we know what we are talking about when we say "minorities". He stated it is a moot point; that nobody is excluded as anybody can join anything.

Councilwoman Berz stated the original the Multicultural Chamber was a two edge sword as it did assist small businesses but also by their own testimony assisted the CIGNA's, the VW's and the Blue Cross-Blue Shields because that is who they went to when they were looking for help. She stated by their own testimony if the minutes are read they assisted Blue Cross in getting minority people; that the point is with this if you look at the history, the large Chattanooga Area Chamber of Commerce by Mr. Wilson's own words when agencies were appearing before us said their goal is to bring in large businesses and whether you attach the \$75,000 to the Chamber and say it is targeted for small businesses, however you do it, the point is well taken and in this town all large businesses started out as small businesses. She stated we need a vehicle in this community where people of all colors, whatever, when talking about small businesses given this economy they are all disadvantaged and we need a vehicle to help build our economy that particularly addresses small businesses that are also otherwise disadvantaged. She stated her concern would be if we have small businesses that are working hard and run by Caucasians it is almost a reverse discrimination. She stated she wants to make sure we are broad enough so we are balancing the large business push by the Chattanooga Area Chamber of Commerce with a small business push of all colors and races and cultures; that this does not exclude those people. She stated the one word that bothers her, that she likes multicultural, but when we say minority it leaves out small businesses that historically might be labeled Caucasian; that we are a melting pot now and people do not fit into labels. She stated we should give this serious consideration, as the thrust is toward small businesses that otherwise need help and people of all kinds of colors are part of that.

AMEND BUDGET ORDINANCE (Continued)

Councilman Benson stated what Councilwoman Berz stated is a good point; that he was going to make a point to substantiate what she was saying and will follow with an amendment. He stated when we first put this in it was then called Afro-American and spent half a year debating that it needed to be changed and the reason it needed to be changed was because we were having an influx of immigrants coming from all countries and wanted to make them feel assimilated into our city and welcome. He stated we knew they had to have some assistance in getting income from their businesses they were starting and be successful; that we talked with the Afro-American Chamber and agreed to change it to Multicultural and we still have that need. He stated he does not think we have the need for the word "minority" to be in there anymore as he does not know what a minority is. He **made the motion to amend the motion to remove the word "minority" from the amendment** and would then vote for the original amendment that way. **Councilwoman Scott seconded the motion.**

Councilman Gilbert expressed disagreement as minority needs to be in there; that it helps individuals that did not have opportunities in the past and it gives us government money that ask if there are minorities for federal monies to help with projects. He stated that is what the Multicultural Chamber was doing at the time; they were helping a lot of minorities or women-owned businesses or different races to do this. He stated t it is still not equal and we can say we are advantaged but technically we still "are not there, yet"; that there was an argument when the renovation was being done in the city a negative comment was made with reference to minorities that they were not competent enough to built or do renovations which was a stupid and dumb statement because they can! He stated that type of mentality is still there; that places like Volkswagen, Blue Cross-Blue Shield, Memorial and Erlanger actually called the organization to look for minority people to be in compliance with reference to federal dollars. He stated there is a need to keep that in there because of that reason; that in the future maybe not, but right now it is still present and we need to give opportunities where opportunities are needed.

Councilwoman Robinson stated as we read, this in our minds we think it will be a function of the Chamber but she does not know that we have had any indication from them this is something they would want to take on, so there is a question that lingers in her mind about exactly how we are going to go beyond and what this next step might be.

AMEND BUDGET ORDINANCE (Continued)

Councilwoman Robinson stated if they can incorporate this mission into the work they do it would be good; that it is good we have \$75,000 set aside but does not think what the City Council is asking is that somehow a new organization be created to do this. She stated her sense is if we do pass this are going to need to have a conversation with the Chamber and at that point the way the ordinance is written we would put in that the funds "shall" and will encumber the mission we want to accomplish. She stated another word that would be stronger is "shall", that the money "shall" be used for the purpose of supporting the agency with a mission, not a goal, but a mission which is something that is worked on every day.

Councilman McGary stated in reference to Councilwomen Robinson's point the Tennessee Multicultural Chamber is currently undergoing an investigation by the FBI and it is his impression a person is innocent until proven guilty and until we have some final say one way or another he would not like to exclude the Multicultural Chamber as a possible recipient, but that is yet to be. He stated in regard to the language he does not think it is a matter of semantics but maybe it is. He asked the City Attorney about the language "with the goal of assisting" whether that is exclusionary; whether we are saying with the sole purpose of supporting small businesses, multicultural and minority, in other words they have to meet all the above or is the language a little more loose than that, asking that he explain what "with the goal" technically means

City Attorney McMahan stated the language is what it is; that each on the Council can read it with the same degree of accuracy as he. He stated to go to Councilman McGary's point more directly it probably is aspirational and broader and is not as specific as it could be to make it unquestionable.

Councilman McGary stated it is not as stringent or as technical as it seems some are making it; that he does not know why we should be arguing about that point and wish we could move on.

Councilman Murphy stated Councilman McGary is correct; that the purpose he heard from this Council is they wanted to continue the purposes for which the Multicultural Chamber's mission was devoted and a lot of what they did was facilitating small businesses that were minority, women-owned, veteran and other disadvantaged businesses; that it might be a handicapped owner who is white.

AMEND BUDGET ORDINANCE (Continued)

Councilman Murphy stated he is a lawyer and can say with a great deal of chagrin we are arguing about semantics because all we are doing is setting aside money for that purpose and will have to appropriate either to the Multicultural Chamber should they come forth and come through this trying time with great aplomb or some other agency or group. He stated we will interview and talk to them about how they intend to achieve these goals; that this is a whole lot of arguing about something that is going to have to be revised later anyway; that we really need to vote on this.

Councilwoman Scott stated that she firmly believes there should be no discrimination based on skin color, race, creed, and culture – whatever; that it is her thought that is appalling whether it be your next door neighbor, a business or an opportunity. She stated it is her feeling based on looking at what has been done in the past and what she has heard about the Chamber is that the Chattanooga Chamber is basically looking at big business and the Multicultural Chamber was more focused on small businesses; that she had the impression that it was related too much to skin color but more related to whether persons needed startup information, needed to have information about a business plan and needed to be facilitated in that respect. She stated her goal in trying to find the definition or understand what the definitions were was to make sure we were inclusive rather than exclusive of individuals. She stated the other thing she wanted to point out is after the issues came up she went to the Chattanooga Chamber website and they are listed as the Tennessee Office of Minority Business Enterprise that is run by the State and who they serve are potentially established minority businesses, minority contractors, minority business owners and what they do is provide assistance for sharing or starting business; that they are consulting small, minority and disadvantaged which all sounds very similar to what the Multicultural Chamber did. She stated that she does believe there may be a deficit in our focus businesswise for small businesses and has heard a couple Council people mention this; that before we actually allocate this money the City Council needs to ask and find out from the Council where the weaknesses are for small businesses and what they might do for small businesses and the populations that were served and tell us a little bit more about what they can and cannot do because we do not want to duplicate anything. She stated if something needs to be tweaked she would like to hear from the Chamber and from any other organization that thinks they also could “wrap their arms around this”. She stated we need to hear that at a separate meeting and have some proposals come forward and then let us look at what seems most appropriate.

AMEND BUDGET ORDINANCE (Continued)

Councilwoman Berz stated to cavalierly say we are just dealing with semantics is shortsighted; that we want to be careful we understand that this is a community growing and changing and by this original definition our highly Caucasian and very disadvantaged Eastern-European population that is coming in would not fit into a category here unless the phrase "similarly disadvantaged" is added. She stated we are not against the word "minority"; that God knows she fought long and hard for Civil Right and thinks she can say we have to address minorities but not at the exclusion of different kinds of groups that are coming here. She stated semantics are very important and does not think we can cavalierly throw them away; that we tend to live by semantics, so if we leave in terms like "minority", which is fine, we have to say "and other similarly disadvantaged folks" because Chattanooga is growing and changing; that we are not just a black, white or Hispanic black, white or whatever group. She stated some groups are no longer minorities and we need to take a careful look at that and we need to take a look at this very seriously. She stated we need to respect all our citizens here, many of whom are white and terribly impoverished.

Councilman Rico called for the question.

Councilman Gilbert expressed agreement with Councilman Murphy; that the intent of this when he brought it up was to put the money aside, not saying who will get the money as it is just there until we get an opportunity to make that decision. He stated going back to minorities, Caucasian women are in that category; that it is not an issue of black or white; that people now have an opportunity to actually receive something and women are involved in that category and they are Caucasian, reiterating that it is not a black and white issue.

On roll call vote on Councilmen Benson and Scott's motion and second to remove the word "minority" from the ordinance:

| | |
|----------------|------------|
| BENSON | YES |
| GILBERT | NO |
| BERZ | NO |
| RICCO | NO |

AMEND BUDGET ORDINANCE (Continued)

| | |
|----------|-----|
| MCGARY | NO |
| MURPHY | NO |
| SCOTT | YES |
| ROBINSON | NO |
| LADD | NO |

The motion failed.

Councilman Murphy and McGary made the motion and second to approve.

Councilwoman Berz made the motion to amend the motion and wording as it is and add "and other similarly disadvantaged groups"; Councilwoman Scott seconded the motion.

Councilwoman Berz repeated her motion to leave the wording just as it is but add "and other similarly disadvantaged groups" and leave "minority" in there. She stated this includes Eastern Europeans; that we are right about women but are totally leaving out Caucasian men and there are other similarly disadvantaged groups; that there are very poor people whose skin color is white who are coming over.

Councilman Benson stated he does not know what it means; that "other similarly disadvantaged groups" could be handicapped people and asked if they have to be a group. He asked if it could be "other similarly disadvantaged individuals".

Councilwoman Berz stated changing it to "similarly disadvantaged individuals" is fine and **restated her motion to reflect "other similarly disadvantaged individuals"**.

On roll call vote on Councilwomen Berz and Scott's motion to amend to reflect "other similarly disadvantaged individuals":

AMEND BUDGET ORDINANCE (Continued)

| | |
|----------|-----|
| GILBERT | YES |
| BERZ | YES |
| RICO | NO |
| MCGARY | NO |
| MURPHY | NO |
| SCOTT | YES |
| ROBINSON | YES |
| BENSON | NO |
| LADD | NO |

The motion failed.

On motion of Councilman McGary, seconded by Councilman Murphy,
**AN ORDINANCE AMENDING THE FISCAL YEAR 2011/2012 BUDGET
ORDINANCE AND ALLOCATING SEVENTY-FIVE THOUSAND DOLLARS
(\$75,000.00) FROM THE ECONOMIC DEVELOPMENT FUND TO BE USED
FOR THE PURPOSE OF SUPPORTING AN AGENCY WITH THE GOAL OF
ASSISTING SMALL BUSINESSES, MULTICULTURAL, MINORITY, AND
WOMEN-OWNED BUSINESSES IN THE CITY OF CHATTANOOGA**

Passed first reading; on roll call vote:

| | |
|--------|-----|
| BERZ | YES |
| RICO | YES |
| MCGARY | YES |
| MURPHY | YES |
| SCOTT | NO |

AMEND BUDGET ORDINANCE (Continued)

| | |
|----------|-----|
| ROBINSON | YES |
| BENSON | YES |
| GILBERT | YES |
| LADD | YES |

2011/2012 CAPITAL BUDGET

On motion of Councilwoman Berz, seconded by Councilwoman Robinson,
AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2011/2012 AND TO AMEND THE FISCAL YEAR 2011/2012 BUDGET ORDINANCE NO. 12523

Passed first reading; Councilwoman Scott voted "no".

CONTRACT

On motion of Councilman Murphy, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE CHIEF OF THE POLICE DEPARTMENT TO AWARD A CONTRACT TO TERRI KEITH COMPANY FOR CARPET AND BASE REPLACEMENT LOCATED AT THE POLICE SERVICE CENTER, FOR A TOTAL AMOUNT OF NINETEEN THOUSAND FIVE HUNDRED THIRTY-SIX DOLLARS (\$19,536.00)

Was adopted.

SPECIAL POLICEMAN (UNARMED)

On motion of Councilman McGary, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE APPOINTMENT OF ANTHONY COTHERN AS A SPECIAL POLICE OFFICER FOR THE CITY OF CHATTANOOGA, PUBLIC WORKS, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN UNARMED, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

SPECIAL POLICEMAN (UNARMED)

On motion of Councilman McGary, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF CURTIS COLE, III
AS A SPECIAL POLICE OFFICER FOR THE CITY OF CHATTANOOGA,
PUBLIC WORKS, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN
UNARMED, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

SPECIAL POLICEMAN (UNARMED)

Councilman Murphy made the motion that Resolutions (c-f) be approved as one with the same motion; Councilman McGary, seconded the motion; the motion carried.

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZIGN THE APPOINTMENT OF GEOFF KOROUS
AS A SPECIAL POLICE OFFICER FOR THE CITY OF CHATTANOOGA,
PUBLIC WORKS, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN
UNARMED, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

SPECIAL POLICEMAN (UNARMED)

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF JONATHAN
HAGEN AS A SPECIAL POLICE OFFICER FOR THE CITY OF
CHATTANOOGA, PUBLIC WORKS, TO DO SPECIAL DUTY AS
PRESCRIBED HEREIN UNARMED, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

SPECIAL POLICEMAN (UNARMED)

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF MICHAEL
ANTHONY AS A SPECIAL POLICE OFFICER FOR THE CITY OF
CHATTANOOGA, PUBLIC WORKS, TO DO SPECIAL DUTY AS PRESCRIBED
HEREIN UNARMED, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

(COUNCILMAN GILBERT EXCUSED HIMSELF FROM THE MEETING AT THIS POINT.)

TEMPORARY USE

On motion of councilman McGary, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING MARIE FARRAR TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT 204 WEST MAIN STREET FOR THE PLACEMENT OF A SIGN OVER A PORTION OF THE RIGHT-OF-WAY, 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 McGary, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING MITCHELL BALDREE TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT 200 WEST MAIN STREET FOR THE PLACEMENT OF A SIGN OVER A PORTION OF THE RIGHT-OF-WAY, 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 McGary,
A RESOLUTION AUTHORIZING WADE VERBLE TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT 614 EAST MAIN STREET FOR THE PLACEMENT OF A SIGN OVER A PORTION OF THE RIGHT-OF-WAY (SIDEWALK), AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

CONTRACT

On motion of councilman Rico, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF PUBLIC WORKS TO AWARD CONTRACT NO. W-10-003-201 TO WRIGHT BROTHERS CONSTRUCTION COMPANY FOR THE BIRCHWOOD LANDFILL, AREA 2 CLOSURE CONSTRUCTION, IN THE AMOUNT OF FIVE MILLION SIX HUNDRED SIXTY-NINE THOUSAND FIVE HUNDRED SIXTY-THREE AND 48/100 DOLLARS (\$5,669,563.48), WITH A CONTINGENCY AMOUNT OF TWO HUNDRED EIGHTY-THREE THOUSAND FOUR HUNDRED EIGHTY-SIX AND 52/100 DOLLARS (\$283,486.52), FOR A TOTAL AMOUNT NOT TO EXCEED FIVE MILLION NINE HUNDRED FIFTY-THREE THOUSAND FIFTY DOLLARS (\$5,953,050.00)

Was adopted.

CONTRACT

On motion of Councilman Murphy, seconded by Councilman McGary,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO ENTER INTO A CONTRACT WITH THE CHATTANOOGA COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CCHDO) TO PROVIDE CITY-WIDE INSPECTION SERVICES AND OTHER SERVICES RELATED TO THE ROOF REPAIR AND REPLACEMENT PROGRAM IN AN AMOUNT NOT TO EXCEED TEN THOUSAND DOLLARS (\$10,000.00)

Was adopted; Councilman Rico abstained. (Councilman Rico explained that he serves as a member of the CCHDO Board.)

AGREEMENT

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH COMPETITION ATHLETIC CONSTRUCTION, LLC TO INSTALL SYNTHETIC TURF AT FIRST AND THIRD BASE COACHES BOXES AT FIELDS ONE THROUGH FIVE AT WARNER PARK FIELDS FOR AN AMOUNT NOT TO EXCEED FORTY-EIGHT THOUSAND DOLLARS (\$48,000.00)

Was adopted; Councilwoman Scott voted "no".

AGREEMENT

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH COMPETITION ATHLETIC CONSTRUCTION, LLC TO INSTALL SYNTHETIC TURF LOGOS ALONG THE FIRST AND THIRD BASE LINES AT FROST STADIUM FOR AN AMOUNT NOT TO EXCEED TWELVE THOUSAND FIVE HUNDRED DOLLARS (\$12,500.00)

Was adopted; Councilwoman Scott voted "no".

BACK TAX PROPERTIES

City of Chattanooga c/o Dan Thornton

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ACCEPTANCE OF FIFTEEN THOUSAND SEVEN HUNDRED TEN AND 43/100 DOLLARS (\$15,710.42) FROM HAMILTON COUNTY AS THE CITY'S PORTION FROM THE SALE OF THE 2010 BACK TAX PROPERTIES; ALSO AUTHORIZING THE ACCEPTANCE OF FORTY-NINE THOUSAND SIXTY AND 82/100 DOLLARS (\$49,060.82) FOR THE CITY'S PORTION OF THE 2011 SALE OF BACK TAX LOTS; THE CITY ATTORNEY WILL FILE ORDERS NECESSARY TO RESOLVE THE TAX LIEN AND REDUCE THE BASE TAXES TO ZERO

Was adopted.

(COUNCILMAN GILBERT REJOINED THE MEETING AT THIS POINT.)

AMEND OPTION TO PURCHASE REAL ESTATE AGREEMENT

Mr-2009-107: City of Chattanooga c/o Dan Thornton

Councilwoman Scott stated that she does not understand why the price for this property was altered; that she understands there was some question about whether the property or soil there was inadequate and would like to know in what way was it inadequate and how they arrived at a discount.

**AMEND OPTION TO PURCHASE REAL ESTATE
AGREEMENT (Continued)**

Adm. Leach stated that is a great question as he asked the same question; that the soils are elastic and had to physically remove the soils because they would not support and would absorb too much water; that it was just an elastic soil and they actually had to move a lot more soil than intended. He stated they did their borings and tests prior to doing the excavation and they thought they knew what the geology was and thought they knew what the soils were and just missed it. He stated it cost a lot more to move the soil and prepare the site for the initial construction and the pad for the new buildings.

Councilwoman Scott asked why is that the city's fault; that the city of Chattanooga through the City Council approved a PILOT for this company and we have all been through that, but she thought in the original agreement there was the offer to sell at \$35,000 an acre and she does not see after all of that that we should discount the price; that it does not make sense to her. She stated they went in and knew what it was, took borings and now this is our discount to a private company. She stated what we are discounting are dollars we need for the city that owns the property; that she is not going to support a discount on this price.

Dan Johnson stated they negotiated the price down for the discount due to the bad land and the County has already approved it; that we get an expanded industry out of it. He stated we do not get any money out of it at any price as it all goes into that one fund to keep supporting the industrial park. He stated that is all he can say about it; that it was just a negotiated deal and that was the way it came out.

Councilman Benson stated he thought what happened was when they did the drilling and found out it was bad earth and not worth anything it could have been turned back to us and we would not have been able sell it for any more anyway because it was discovered that it was not worth anything.

Councilwoman Scott exclaimed "not worth anything" and begged to differ; that it obviously is worth something or there would not be any kind of negotiated deal here now. She stated it was not the city's fault, it was a contract from the beginning and we already heard we do not have enough land out there anyway and thinks the deal was struck and we do not need to change it.

Councilman Benson stated it was worth something to Gestamp and not worth anything to anybody else.

**AMEND OPTION TO PURCHASE REAL ESTATE
AGREEMENT (Continued)**

Councilwoman Scott stated she is not sure how Councilman Benson knows that, to which Councilman Benson stated he does not know how Councilwoman Scott does not know that!

Councilman Rico called for the question.

Mr. Johnson stated the expenses Gestamp went through was on Tract 8 and had to spend an extra million to be able to build on that site and they had a pretty good idea on their option what it was worth and that is why it came down.

Councilman Rico called for the question again.

On motion of Councilman Rico, seconded by Councilman McGary,
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND
EXECUTE THE FIRST AMENDMENT TO OPTION TO PURCHASE REAL
ESTATE AGREEMENT WITH GESTAMP CHATTANOOGA, LLC, RELATIVE
TO TRACT 19-B OF THE ENTERPRISE SOUTH INDUSTRIAL PARK (ESIP)**

Was adopted; **Councilwoman Scott** voted "no".

INTENT TO ISSUE BONDS

Councilwoman Scott stated there are many items in this \$20 million dollar bond issue which are not priorities and we have as much debt as we need, in fact we have more, and if we pass this what we will be doing is essentially saying we do not mind living beyond our means and if this recession has shown us anything it is this is not a good idea. She stated not every program or project in here is a bad one, in fact some are good ones, but not all of them are and if you vote for this you are essentially giving permission for all of them.

Councilwoman Berz stated there are two issues here; the first is we will also be retiring some debt so this is not an aggregate. She stated more importantly when we are letting bonds we are not approving all of them as we have several more chances; that what we are saying here is the bonds will be used for these purposes, however, there are several more chances to approve the underlying expenses there, so we are by no means giving it the "go ahead". In addressing Mrs. Madison she stated from our deep discussions this is a rather conservative request and knows we are retiring bonds and not adding debt on debt.

INTENT TO ISSUE BONDS (Continued)

Councilwoman Berz stated she does know this is the way governments in their capital budgets finance the bigger issues and the individual issues will have to come before us when it is time for them; that this is just delineating a plan for what these will be used for and asked if she spoke incorrectly.

Admin. Madison acknowledged what Councilwoman Berz has stated it correctly.

Councilman Benson stated there are several things he probably would not vote on if we were allocating money specifically for that tonight but we are not and as Councilwoman Berz has stated this is just a listing how our bonds will be sold in that name, but until we allocate it, there is nothing definite on this.

Admin. Madison stated there is nothing definite and as the resolution states it is an expression of intent not a definite decision at this point. She stated should the Council decide they want to go ahead with any or all projects, this resolution allows the city to do so and be reimbursed from the bond proceeds at the time the bonds are issued. She stated this is a formality that is necessary prior to the actual decision to actually do the project; that another resolution will come at the time we actually issue the bonds.

Councilman McGary stated the amount of debt we are actually retiring will depend upon what projects we ultimately approve and asked Mrs. Madison to speak to the project for the record of how much debt we will actually retire.

Admin. Madison stated throughout the entire city we would retire anywhere between \$14 and \$16 million dollars but they all come from various "pots" of dollars.

Councilwoman Scott asked if Mrs. Madison is saying at the end of this year our debt service will not go up as a result of the "washout" and it was her understanding if we were passing this resolution this gives the ability for money to "flow", asking does it "flow".

Admin. Madison stated in answering the question there is a set amount of bonds that will be retired; that she did not say the retirements will exactly equal the new debt. She stated there will be a minimal increase in the amount of debt outstanding should all the projects in all of this issue be approved; that the city of Chattanooga operates based on benchmarks and the bond rating agency has put in place certain benchmarks under which they use as one of the criteria for establishing ratings.

INTENT TO ISSUE BONDS (Continued)

Admin. Madison stated the city of Chattanooga is well within those benchmarks that the bond agencies use; that there may be a couple benchmarks that are not ideal but those benchmarks are beyond the city's control and the ones that are most interesting to people are the ones that has to do with overlapping debt which has to do with county debt, as well as city debt. She stated the city's net debt is extremely low according to the benchmarks and the percentage of the city's total general fund operations budget that goes toward that service is well within the ten percent benchmark set by the rating agencies.

Councilwoman Scott asked if this money will "flow" or will it not "flow" with this resolution.

Admin. Madison stated the money will not "flow" until we first pass the capital budget, the first step; that the second step is an authorization as approved by a second resolution that authorizes the issuance of the bonds. She stated this is just an intent that is required by the federal government in case a project starts before the bonds are actually issued then we can reimburse the city's general dollars with the bond proceeds.

Councilwoman Scott stated so money will "flow", we are just borrowing it against what we think we will issue in bonds.

Admin. Madison stated money will not "flow" until this Council approves the budget, projects and the construction contract.

Councilwoman Scott asked if the debt service is up, down or equal. Admin. Madison stated the debt service will be slightly up.

Councilman Murphy stated of the \$20 million bond issue proposed to be issued or the intent to issue how much of that will retire existing debt.

Admin. Madison stated actually none of these bonds will retire existing debt; that \$20million is not the amount that is expected to be issued; that the capital budget we currently have has a maximum of \$11.4 million that will be issued as part of the bonds; that \$20 million is an outside number we always put into place because we never know what the final decision of the Council will be.

Councilman Murphy stated the \$14-\$16 million we will retire, that will be retired in the ordinary course of business regardless of what we do with additional borrowing. Admin. Madison stated "that is correct".

INTENT TO ISSUE BONDS (Continued)

Councilman Murphy stated we need clarity on that because anyone listening might think this money will be taken to pay down all debt but that is not what we are doing. Admin. Madison responded "no".

Councilman Murphy expressed thanks to Mrs. Madison. He stated he read in the paper it is expected if Congress cannot get its "act" together it is anticipated not only would U.S. government lose its AAA bond rating but the state of Tennessee, since it is a political subdivision of the U.S. He asked if we have thought about what that would do to municipality bond ratings in the U.S.

Admin. Madison responded "of course", we listen to the news and anticipate like everyone does personally and from a business perspective; however, this act will not change given the minimal impact it has on cities' benchmarks and financial positions; that what the federal government does or does not, she does not think this action is going to make a difference. She stated if the government defaults on the debt, if we did not issue one dime additional debt, our rating will be impacted and she cannot say whether that will be up or down.

Councilman Murphy stated obviously that is something we as a Council are going to have to watch closely because if we take a downgrade from where we are now . . . that he knows we have talked about the difference between AA and AAA not being overly dramatic, but it becomes more dramatic if we get downgraded below AA.

Admin. Madison responded "of course", just like other economic indicators impact our ratings with the federal government this will impact our ratings and we are hopeful that it will not be downward; that she cannot imagine it going up but hopefully it will not impact it negatively.

Councilman Rico called for the question.

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF CHATTANOOGA TO ISSUE BONDS OF THE CITY OF CHATTANOOGA, TENNESSEE, IN THE AGGREGATE AMOUNT NOT TO EXCEED TWENTY MILLION DOLLARS (\$20,000,000.00) FOR THE PURPOSE OF PAYING ALL OR A PORTION OF THE COSTS OF THE FOLLOWING: EASTGATE LIBRARY BRANCH REHABILITATION; CITY HALL CAMPUS; COUNCIL BUILDING ROOF; WAREHOUSE ON MAIN STREET; 11TH STREET POLICE

INTENT TO ISSUE BONDS (Continued)

STATION; ROAD IMPROVEMENTS – ROUNDABOUT SHALLOWFORD ROAD AT JENKINS ROAD; SHALLOWFORD ROAD GUNBARREL TO JENKINS; WILCOX TUNNEL REHABILITATION; GOODWIN DRIVE - SIDEWALKS; GENERAL BRIDGE REPAIRS (CITY OWNED); ENTERPRISE SOUTH INDUSTRIAL PARK INTERSECTION IMPROVEMENTS; SUPPLIER PARK NORTH ACCESS ROAD; POTHOLE PATCHING TRUCK; ASPHALT PAVER; TOOL ROOM BUILDING ROOF REPLACEMENT; PAUL CLARK OPERATIONS CENTER ROOF REPLACEMENT; HIXSON RECREATION CENTER, “SUMMIT OF SOFTBALL” MAINTENANCE BUILDING; FIRE APPARATUS; COMMUNITY THEATRE REHABILITATION; POLICE SERVICE CENTER RENOVATION; CITY-WIDE TECHNOLOGY UPGRADES

Was adopted; Councilwoman Scott voted “no”.

OVERTIME

Overtime for the week ending July 14, 2011 totaled \$15,827.00.

PERSONNEL

The following personnel matters were reported for the various departments:

NEIGHBORHOOD SERVICES:

- **ANJENET BROWN** – Leave of Absence without Pay, Code Enforcement Inspector 1, effective July 5-8, 2011.

CHATTANOOGA POLICE DEPARTMENT:

- **JAMES ADKINS** – Suspension (3 days without pay), Police Service Technician 2, effective July 25-27, 2011.

PUBLIC WORKS:

- **DONNIE UNDERWOOD** – Termination, Plant Operator 1, Waste Resources, effective July 12, 2011.

PERSONNEL (Continued)

- **WALTER BANTHER, JR.** – Leave of Absence (30 days without pay), Equipment Operator 5, Waste Resources, effective July 8 – August 8, 2011.
- **JACKIE MCCRARY** – Action Change (withdrawal of voluntary demotion), General Supervisor, Waste Resources, Range 18, \$42,129.60 annually, Waste Resources, effective July 15, 2011.

INFORMATION SYSTEMS:

- **KAREN TURNER** – Promotion, Systems & Database Specialist 2, Range 23, \$65,000.00 annually, effective July 15, 2011.

REFUNDS

On motion of Councilman McGary, seconded by Councilman Murphy, the following refund of property tax was approved; **Councilman Gilbert abstained:**

LECTRUS CORPORATION -- \$5,267.41

SPIRIT SPE PORTFOLLO 2007-2 LLC -- \$9,185.37

SHILOH HEDGCOXE GENERAL PARTNERSHIP -- \$22,304.15

CD JR LC ETAL C/O SHEPHERD HILLS APTS. -- \$5,363.39

BRIGHT-MEYERS LOOKOUT VALLEY ASSOCIATES LP -- \$28,238.62

PARKRIDGE HOSPITAL INC. -- \$12,432.57

MARKET CENTER PROPERTIES LLC -- \$3,696.18

BOARD RE-APPOINTMENTS/APPOINTMENT

On motion of Councilman McGary, seconded by Councilman Murphy, the following Board Appointments were approved:

BOARD RE-APPOINTMENTS/APPOINTMENT
(Continued)

TREE COMMISSION:

- Re-appointment of **JONATHAN NESSLE**, for a three year term expiring July 1, 2014.
- Re-appointment of **SALLY WENCEL** for a three year term expiring July 31, 2014.

BOARD OF SIGN APPEALS:

- Appointment of **CHRIS ANDERSON** for a three year term expiring July1, 2014 representing District 8.

COMMITTEES

Councilwoman Berz scheduled a meeting of the **Budget and Finance Committee for Tuesday, August 2 from 2 p.m. – 3 p.m.** to continue and hopefully finalize work on the capital budget.

Councilman Gilbert scheduled a meeting of the **Parks and Recreation/Education Arts and Culture Committee for Tuesday, August 9** for a report from "Friends of the Zoo".

Councilman Murphy scheduled a meeting of the **Legal and Legislative Committee for Tuesday, August 2**. He asked the Clerk of Council to send an e-mail to Atty. Fritz and the inspectors from the Police Department to be present for a discussion of beer permits for caterers.

Councilwoman Scott asked that the Clerk of Council also send notification to members of the Beer Board in the event they would like to make comment.

PASSING OF MISTY MAYO

Councilman Rico made Council members aware of the passing of Perry Mayo's wife, Misty, and asked that the Council keep him in their prayers.

NATIONAL NIGHT OUT, AUGUST 2

Councilman Murphy stated he and Councilman Rico are blessed with seven locations to visit next Tuesday!

RULES OF PROCEDURE FOR ADDRESSING THE COUNCIL

At this time, City Attorney McMahan read from the Council's Rules of Procedure with reference to persons wishing to address the Council on non-agenda matters.

MARION LEE FRANCIS

Marion Lee Francis of 953 Boynton Terrace Apartments stated that she was present to speak about the Boynton Center; that there are 200 or more people at the Boynton Terrace Apartments who would not have anything to do but look at the four walls if the Center is closed; that they all meet at the Center as one big happy family; that they would become depressed, stop eating and would stop taking their medication if the Center is closed. She stated they would like for the Center to be open five days a week or at least two-or-three days a week; that they play cards, dominoes, work on arts and crafts, play bingo, have "show and tell" and "inventor's time", exercise, dance and have talent shows at the Center. She stated they meet new friends at the Center and noted prayer would help and asked that the city release the funds for the Center; that all need to pull together to do what they can to keep the Center open because they need the Center to have somewhere to go every day. She stated when someone does not show up at the Center, they know to go and check on them to make sure they are alright and (she) has met new friends since moving here from Richmond, Virginia. She stated she ran in the Senior Olympics and won First Place and has volunteered at the Center since November. She stated she goes to the nursing homes to feed and help patients and provides for night gowns, socks, Vaseline and other products for the residents out of her own pocket. She stated she assists those that need help and asked that the Council help to keep the Center open.

Councilman McGary thanked Ms. Francis for addressing the Council and explained that he discovered from the last time Ms. Francis and others were present that he was taken aback because he thought the city actually funded the Boynton Center and the answer was "no".

MARION LEE FRANCIS (Continued)

Councilman McGary stated he later discovered that Missy Crutchfield under the auspices of the Education, Arts and Culture Department applied for a statewide grant that historically Alexian Senior Neighbors applied for, as well; that Ms. Crutchfield was awarded the grant and specified the dollars would be used for Eastgate thereby taking the monies from Alexian to Eastgate Senior Center. He stated this means the way of life of the seniors at Boynton would be drastically changed if not undercut; that he brings this to the attention of the Council as he has spoken with Ms. Crutchfield and Colleen Combs of Alexian and assured Ms. Francis that he is working as hard as he can to build a consensus to make sure their way of life is not disrupted. He stated a meeting will take place on August 27 at the Chattanooga Housing Authority concerning what could possibly happen both at Eastgate and at Boynton; that as more information is given he will be in contact with them.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, August 2, 2011 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)**

**REPORT ON PLAN OF SERVICES PROVIDED FOR AREA 3A
AND NOTICE OF PUBLIC HEARING
IN ACCORDANCE WITH T.C.A. § 6-51-108(b)**

The City of Chattanooga, Tennessee, hereby reports on the progress to fulfill its Plan of Services for certain properties annexed into the present corporate limits of the City of Chattanooga, Tennessee, on October 27, 2009, which are adjacent to Interstate 24 and the Tennessee River, and shown on the attached map for Area 3A. The Chattanooga City Council shall hold a public hearing on the progress of annexation services in this area on Tuesday, July 26, 2011, at 6:00 p.m. in the City Council Assembly Room located at 1000 Lindsay Street, Chattanooga, TN 37402.

A. POLICE - Patrolling, radio directed response to calls for assistance, crime prevention services, traffic control and accident prevention services and other police protection and support using existing police personnel and equipment has been provided since October 27, 2009.

B. TRAFFIC ENGINEERING - Traffic Engineering and installation of signs and other traffic control devices have been installed as required throughout this annexation area since October 27, 2009, as determined by appropriate planning studies. Currently traffic engineering has installed eight (8) traffic signs or street signs in the annexation area.

C. FIRE

1. Fire protection has been provided to this annexed area by existing personnel and equipment since October 27, 2009. A new fire station within the annexed area is scheduled for ground breaking on June 9, 2011. A Quint (combination ladder and pumper truck)

will be placed in service at that station when it opens. The City has provided emergency medical technicians on every piece of equipment that has served this annexation area as first responders since October 27, 2009. Once the new fire station opens, an Urban Search and Rescue Team will be located at Station 20 within this annexation area.

2. Within six (6) months after annexation, the need for additional fire hydrants was determined for this annexed area. Additional hydrants shall be installed in any areas where water mains of adequate size are available within eighteen (18) months. Placement of hydrants will be on the basis of nationally-accepted standards defined by adopted codes for the City of Chattanooga. As additional water lines of adequate size are extended into this annexation area by Tennessee American Water Company, additional fire hydrants shall be installed as required by the above-mentioned standard when the population density or need for hydrant services is determined by the Fire Chief to be sufficient to cost effectively extend hydrant services to any newly developed properties within this annexation area, subject to appropriation of required funds.

D. REFUSE COLLECTION - Refuse collection has been provided by existing personnel since October 27, 2009. The City has provided 119 garbage cans in this annexation area and has responded to 84 calls related to refuse collection, recycling, traffic flash, and other general maintenance matters since October 27, 2009.

E. ROAD AND STREET CONSTRUCTION AND REPAIR; SIGNS AND LIGHTING, AND STORMWATER AND DRAINAGE

1. Emergency maintenance of streets (repair of hazardous pot holes, measures necessary to maintain normal traffic flow), removal of snow and/or sanding of streets during icing conditions has been provided by existing personnel since October 27, 2009.

2. Street name signs have been installed as needed in all substantially developed areas since May 1, 2010.

3. Street lights have been installed under the same standards as now prevail in the City of Chattanooga. A study was conducted within six (6) months of the effective date of annexation to consider the need for any additional street lights within the annexed area and such additional street lights are being installed.

4. Stormwater and drainage services for all streets within the annexed area was studied within six (6) months of the effective date of annexation, and the City is currently providing additional stormwater and drainage services which have been considered necessary by this study.

5. Erosion and drainage services for the Water Quality Program have been provided to all streets within this annexed area since October 27, 2009.

F. PLANNING AND ZONING - Planning and zoning for this annexation area was established by Ordinance No. 12348, adopted February 16, 2010.

G. RECREATION FACILITIES AND PROGRAMS

1. All of the recreational areas and programs of the City were made available immediately to all residents of this annexed area on October 27, 2009.

2. Recreation programs such as swimming, summer camps, baseball, flag football, basketball, tennis have been available to all residents of this annexed area since October 27, 2009.

H. WATER SYSTEM - Water for all annexed properties continue to be provided in this annexed area by Tennessee American Water Company. Extensions of water services to new

development within this annexation area shall be provided with the City by the Tennessee American Water Company.

I. ELECTRICAL SERVICE - Electricity continues to be provided to all residents of this annexed area by the Electric Power Board of Chattanooga.

J. SEWER SYSTEM - The City of Chattanooga has agreed to provide sewer services to the annexed area within three (3) years of the effective date of annexation, as provided in Paragraph 6(C) of the Master Interlocal Agreement approved by the City of Chattanooga dated May 23, 2001, if the Hamilton County Water and Wastewater Treatment Authority, (hereinafter “WWTA”), cedes its service area to the City within thirty (30) days of the date of annexation. If sewer services for properties within the annexed area are not ceded to the City of Chattanooga or allowed to be provided by the City of Chattanooga because this area is retained by the WWTA, such services will be provided to the residents of the newly annexed area by the WWTA to the extent that lines are available within the annexed area and density of development makes new sewer lines feasible and funds for construction of necessary sewer lines are available as determined by the WWTA Board. The City of Chattanooga and WWTA have been in discussion about ceding all service areas within this Annexation area to the City, but presently the responsibility for sewers is with the WWTA.

K. INSPECTION/CODE ENFORCEMENT

1. The Public Works Department has provided plans review services, inspection, and code enforcement services (building, electrical, plumbing, gas, and unsafe building reviews, land use [zoning], and development services, including flood plain NFIP/FEMA requirements) for this annexed area since November 27, 2009.

2. Neighborhood Services and Community Development has provided code enforcement services for sub-standard housing, litter, overgrowth, and illegal dumping for this annexed area since November 27, 2009. Three (3) complaint calls have been received within this annexation area by Neighborhood Services, and there have been no permits issued for construction since November 27, 2009.

L. ANIMAL CONTROL - The McKamey Animal Care and Adoption Center has provided the services of animal control by contract with the City and has enforced the City's leash laws and other animal control ordinances in this annexation area since October 27, 2009.

**REPORT ON PLAN OF SERVICES PROVIDED FOR AREA 3C
AND NOTICE OF PUBLIC HEARING
IN ACCORDANCE WITH T.C.A. § 6-51-108(b)**

The City of Chattanooga, Tennessee, hereby reports on the progress to fulfill its Plan of Services for certain properties annexed into the present corporate limits of the City of Chattanooga, Tennessee, on November 3, 2009, which are adjacent to Ruby Falls Incorporated and shown on the attached map for Area 3C. The Chattanooga City Council shall hold a public hearing on the progress of annexation services in this area on Tuesday, July 26, 2011, at 6:00 p.m. in the City Council Assembly Room located at 1000 Lindsay Street, Chattanooga, TN 37402.

A. POLICE - Patrolling, radio directed response to calls for assistance, crime prevention services, traffic control and accident prevention services and other police protection and support using existing police personnel and equipment has been provided since November 3, 2009.

B. TRAFFIC ENGINEERING - Traffic Engineering and installation of signs and other traffic control devices have been installed as required throughout this annexation area since November 3, 2009, as determined by appropriate planning studies. Currently traffic engineering has installed eight (8) traffic signs or street signs in the annexation area.

C. FIRE

1. Fire protection has been provided to this annexed area by existing personnel and equipment since November 3, 2009. A new fire station within the annexed area is scheduled for ground breaking on June 9, 2011. A Quint (combination ladder and pumper truck)

will be placed in service at that station when it opens. The City has provided emergency medical technicians on every piece of equipment that has served this annexation area as first responders since November 3, 2009. Once the new fire station opens, an Urban Search and Rescue Team will be located at Station 20 within this annexation area.

2. Within six (6) months after annexation, the need for additional fire hydrants was determined for this annexed area. Additional hydrants shall be installed in any areas where water mains of adequate size are available within eighteen (18) months. Placement of hydrants will be on the basis of nationally-accepted standards defined by adopted codes for the City of Chattanooga. As additional water lines of adequate size are extended into this annexation area by Tennessee American Water Company, additional fire hydrants shall be installed as required by the above-mentioned standard when the population density or need for hydrant services is determined by the Fire Chief to be sufficient to cost effectively extend hydrant services to any newly developed properties within this annexation area, subject to appropriation of required funds.

D. REFUSE COLLECTION - Refuse collection has been provided by existing personnel since November 3, 2009. The City has provided 119 garbage cans in this annexation area and has responded to 84 calls related to refuse collection, recycling, traffic flash, and other general maintenance matters since November 3, 2009.

E. ROAD AND STREET CONSTRUCTION AND REPAIR; SIGNS AND LIGHTING, AND STORMWATER AND DRAINAGE

1. Emergency maintenance of streets (repair of hazardous pot holes, measures necessary to maintain normal traffic flow), removal of snow and/or sanding of

streets during icing conditions has been provided by existing personnel since November 3, 2009.

2. Street name signs have been installed as needed in all substantially developed areas since May 1, 2010.

3. Street lights have been installed under the same standards as now prevail in the City of Chattanooga. A study was conducted within six (6) months of the effective date of annexation to consider the need for any additional street lights within the annexed area and such additional street lights are being installed.

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