

**City Council Building
Chattanooga, Tennessee
January 17, 2012
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/Auditor Randy Burns and Clerk of Council Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Benson gave the invocation for the evening.

MINUTE APPROVAL

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

**SPECIAL PRESENTATION: CHATTANOOGA
NEIGHBORHOOD ASSOCIATION COUNCIL (CNAC)**

Lana Sutton, President-Elect, stated CNAC is proud of their new board and are at a historic place in Chattanooga. She invited Council members to the inauguration of the governing board members and stated the new board recently invited every citizen group and neighborhood to be part of their group and voted to expand themselves so they are inclusive. She stated they have always been a "bridge" between the communities and local government and want to expand that role so more people are invited. She again invited the Council to join them on January 23 at 6 p.m. at the Community Foundation for the inauguration noting that they meet at 6 p.m. every fourth Monday of the month unless there is a holiday.

SPECIAL PRESENTATION: CHATTANOOGA
NEIGHBORHOOD ASSOCIATION COUNCIL (CNAC)
(Continued)

Ms. Sutton stated they have always tried to focus on grassroots leadership development and are trying to build leaders in our communities; that people want thriving communities and a whole lot of them want to be able to speak with their community leaders and have a relationship with them. She stated some of them want to be leaders and want to build their leadership among the people in the room and all throughout the community, build a bridge between the Council members and then bring the next generation of leadership in. She stated that is what the CNAC governing board members represent and again invited Council members to join them on January 23. At this point she recognized one of CNAC's founding members and Vice President-Elect, Cynthia Cash, noting that Ms. Cash is a model in citizen involvement and leadership.

Cynthia Stanley-Cash stated CNAC's original mission was to work with city government so that officials could depend on the citizens, and the citizens could be involved with the government as far as neighborhood leaders and citizens. She stated the most basic way a citizen can participate is by voting during city and county elections; that it is their belief citizens and neighborhood association leaders call their Council representatives because they have questions, problems or an issue they want to discuss. She stated Council members often go straight to neighborhood associations when they want to know how the neighbors feel about issues and neighborhood associations are quick to place a call to city government. She stated CNAC was formed in 1999; that they understand besides meeting with citizens to discuss neighborhood issues, Council members also meet with business owners. She stated CNAC's goal is to serve as a unified voice in communicating the needs of the community to city government and to be a liaison for city and county governments; that CNAC was formed in 2001 after a group of neighborhood leaders got together to solve the city's brush and trash pickup problems. She stated because they were able to do that as a group it "caught fire" and the question was could that be done on a bigger scale and help the city resolve bigger issues. She stated the city paid for facilitators to help the group set up bylaws and get started; that Mayor Kinsey invested \$10,000 to initiate the group's formation and (they) were endorsed by Mayors Corker and Littlefield. She expressed hope Council members would attend their meetings; that the organization can be of service to them as they have nothing to fear from them.

**SPECIAL PRESENTATION: CHATTANOOGA
NEIGHBORHOOD ASSOCIATION COUNCIL (CNAC)
(Continued)**

Chairman Ladd expressed appreciation for their presence and sharing their goals. Councilwoman Robinson expressed appreciation for the work neighborhoods do.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT

Councilwoman Robinson made the motion to amend the agenda to include resolution 7(b) on the agenda for next week, January 24, to be read tonight. Councilman Benson seconded the motion; the motion carried.

Councilwoman Robinson made the motion to approve the resolution moved forward on the agenda; Councilman Rico seconded the motion.

At this point the Clerk of Council read the resolution:

**A RESOLUTION AUTHORIZING APPROVAL OF RAY MOSS
DEVELOPMENT, INC.'S PAYMENT IN LIEU OF TAXES AGREEMENT WITH
THE HEALTH, EDUCATION AND HOUSING FACILITY BOARD OF THE
CITY OF CHATTANOOGA**

Councilwoman Robinson continued to say as we discussed at length this afternoon, downtown is the economic engine that runs this community and we collect a huge percentage of property tax which is how we run our districts; that it is a very big "pie" that gets divided up and the money from property taxes raised downtown help to support our community from one end of to the other. She stated each district does have its special needs and we heard a couple things this afternoon mentioned that are worthy projects that ultimately this kind of progress that we enjoy in our downtown will help to promote in our outlying communities and districts one through nine. She stated it is with this belief that she wholeheartedly supports this and expressed hope the resolution will be passed.

Councilman McGary stated vested to this body is the responsibility of approving or declining PILOTs which is one of the chief economic tools we have; that it is in our best interest not to rush into this matter but make sure all our answers and/or questions that may arise from this matter are brought forth.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

Councilman McGary stated he knows for himself there are still questions and he would like the courtesy of having the item discussed more at length; that he is not against this project but to have time to answer and also ask more questions. He stated citizens have asked him questions that he did not have the information for; that it would be pertinent for him to have the information and **made the motion to defer; Councilwoman Scott seconded the motion.**

Councilwoman Scott explained for those in the audience that were not here earlier during this discussion and those not familiar with what a PILOT agreement is, it is to abate or not charge the going rate for taxes but to do it through a "shell ownership" of property through an alternate Board. She stated this allows a property owner that typically would pay property taxes based on what the value of the land is and the building that is existing and it would go up according to the amount of improvements made on that, much as it would if a room is added to a person's home that person's property taxes would go up because the value of what is added to that is taxed based on the assessed value. She stated what we have here is a project which she thinks has merit in that it is a multi-story building that is advocating building retail on the first floor, office space on the eleventh floor and all floors in-between turned into apartments. She stated there is a provision which was passed by the City Council over ten years ago that gave incentives or allowed for projects to be incentivized for basically what they called low and moderate income housing.

Councilwoman Scott continued by stating there are two types of apartments that would be involved for housing and one would be 750 square feet and that would be a rent of \$1100 a month, then the one that has a little more square footage would have a rent of \$1300. She stated if a person is looking at the median income of the citizens of Chattanooga you are looking at an income of around \$35,000; that if a person is looking based on the Ochs Study of average rental rates, that would be approximately \$650 - \$670 a month for middle income based on our population and income of our residents - that we are not talking about Los Angeles, Manhattan or Honolulu - here in Chattanooga. She stated the question before this body is whether to allow that to qualify this PILOT to allow tax abatement on the apartments that are, in her opinion, not moderate income housing, certainly not low income. She stated we have a glut in our city, now, of property at bargain basement prices; in fact, the average mortgage is \$1145 a month; a person could have a mortgage payment that would for a two bedroom house, one and a half bedroom in Chattanooga.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

Councilwoman Scott stated she does not support allowing tax abatement for this particular project, noting that it is a great project and (she) has no problem having apartments downtown with mixed retail, with office – no problem whatsoever. She stated she does not think it should be subsidized and will not be supporting this.

Councilman Benson asked Attorney Alfred Smith to come forward, as well as Kim White of RiverCity and clarified with Councilwoman Scott whether her vote would be “no” now or next week.

Councilwoman Scott responded “based on what I know now”.

Councilman Benson then stated that her vote would be “no” right now and probably “no” later on and with that in mind he has no problem about hearing it tonight. He stated we have been dealing with this building since he became a Council member; that we wanted a hotel to be there. He stated we are not losing any money on this, we are going to get our same taxes and the impression is left the city is going to give them something tax free.

Kim White stated “that is correct”; that what this will do is be a catalyst for downtown redevelopment.

Councilman Benson stated if we “sit on it” it will decrease in assessed taxation value; that they are coming in paying the same taxes during that term of contract for this abatement.

Ms. White stated it would be more, in fact, because there will be tax increases on the first floor of commercial and on the eleventh floor of commercial, so there will be more taxes paid than what is done today.

Councilman Benson stated it will be a “spin off” with the people that are working and shopping on the first floor and the top floor will be corporate headquarters which will be employment opportunities for some people in Chattanooga and in-between the moderate homeowner will be living, which will put us in a better position for getting a comprehensive food store nearby as we are getting close to that population Census level. He stated he does not see any way but anything but a loser and if we delay and lose this; that we have a real problem because we go back where we got a building that is practically worthless and dropping in assessment.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

Councilman Rico called for the question at this time.

Councilwoman Berz stated she does not disfavor the project as it is her thought to bill it as a low income and that is why they get the "break" is very misleading because this is not for low income, it is for middle and upper income people. She asked if it is not okay to get the break if, in fact ... that she hates to hear them billing it for low income when it is just flat out not; however, it is her belief if the original legislation is read the original legislation was faulty but we are stuck with it, which says "low or median or middle income people" and asked if that is correct.

Ms. White stated that is correct; that they have never tried to bill it as low income. She stated the way the program reads is "low or median" and there was a market study done, it is median rent for apartments and that is what the program is. She stated they never said it was a low income project.

Councilwoman Berz stated we do need lower income housing downtown.

Ms. White stated we need real housing desperately downtown.

Councilwoman Berz clarified for people who can afford it at the lower end of the spectrum, asking if Ms. White agrees.

Ms. White stated we need middle income housing, too; that we need rental housing at all levels downtown.

Councilwoman Berz stated forget the low income because it is flat not and asked what the upside is and what the downside is.

Ms. White stated the downside is it is going to sit there like it is today, a vacant building, never get a certain amount of property taxes and that could deteriorate. She stated the building is deteriorating as this is the third development group that has worked on this project. She stated the upside is we have 200 people living right in the heart of our city, corporate headquarters on the eleventh floor, retail on the first floor, the ability to develop an empty block across the street and gives us the density we need to attract the retail we need downtown.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

Councilwoman Berz stated say you are comparing it with an industrial PILOT and things we look at with an industrial PILOT are jobs, other kinds of income. She stated "let's be straight up," is not that the sort of thing you're doing except in the housing market.

Ms. White stated this does not compare to an industrial PILOT; this is a residential PILOT program put in place ten years ago because downtown redevelopment is so difficult to do. She stated if condos are done as a development and it is sold the person gets the money right there and with apartments it takes 10-14 years return and we do not have enough apartments.

Councilwoman Berz asked who gets the rent from the apartments.

Ms. White responded "the developer".

Councilwoman Berz stated the developer himself noting that it is through RiverCity as she saw where the title goes to one of the city entities.

Ms. White stated it is the Health and Ed Board; that RiverCity helps to coordinate the PILOT program in order to get downtown redevelopment for apartments.

Councilwoman Berz stated the developer recoups his cost from rent and not having to pay tax on that income.

Ms. White stated the developer is going out to get a loan of \$7million dollars to put into the property right now that is an embarrassment right in the heart of our city. He is the one "on the hook" for making cash flow for redeveloping it and it is a very difficult project as this is the third developer we have worked with on this project.

Councilwoman Berz stated they are taking something that is bringing no income, now, and brining income into it; that there is not a loss which is what she is trying to "get her arms around".

Ms. White responded "right"; that the building is vacant right now and they are putting \$7 million in it and they have had to do the analysis of how to actually make that work.

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

Councilwoman Berz stated she has one last comment and is doing this for the record that the loss of taxes would be between \$120,000 and \$200,000.

Ms. White stated she has not done the analysis or loss of taxes; that the way they look at it is the city will still be "made whole" and getting exactly what they are getting today on taxes; that in addition there will be additional taxes on the first floor and the eleventh floor commercial space.

Councilwoman Berz asked what we are getting now, zero.

Ms. White stated there is \$49,000 in taxes that are split out; that it what it is bringing in today.

Chairman Ladd inquired as to the time limit on the motion for the deferral.

Councilman McGary stated the City Attorney has prepared a resolution that will defer this development until February 29, 2012 for the purpose of encouraging the development.

On roll call vote on the motion to defer by Councilman McGary and Scott:

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

The motion failed (3 "yes"; 6 "no").

AMEND AGENDA TO INCLUDE PILOT AGREEMENT
(Continued)

On roll call vote on the motion to approve by Councilmen Robinson and Rico:

BERZ	YES
RICO	YES
MCGARY	NO
MURPHY	YES
SCOTT	NO
ROBINSON	YES
BENSON	YES
GILBERT	ABSTAIN
LADD	YES

The motion carried (6 "yes"; 2 "no"; 1 abstention).

AMEND ORDINANCE 12996 – ANNEXATION DATE

There was no one present in opposition.

On motion of Councilman Benson, seconded by Councilman Rico,

AN ORDINANCE AMENDING ORDINANCE NO. 12296 EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 8A, BEING CERTAIN PARCELS ADJACENT TO INTERSTATE 75 AND HUNTER ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP, BY CHANGING THE EFFECTIVE DATE OF SAID ANNEXATION TO DECEMBER 31, 2012

passed second and final reading and was signed in open meeting; **Councilman Gilbert** voted "no".

AMEND ORDINANCE 12299 – ANEXATION DATE

There was no one present in opposition.

On motion of Councilwoman Robinson, seconded by Councilman Benson,
AN ORDINANCE AMENDING ORDINANCE NO. 12299 EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF THE CITY OF CHATTANOOGA KNOWN AS AREA 11A, BEING CERTAIN PARCELS ADJACENT TO THE CURRENT CITY LIMITS OF MORRIS HILL ROAD, EAST BRAINERD ROAD, AND IGOU GAP ROAD WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF CHATTANOOGA, IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP, BY CHANGING THE EFFECTIVE DATE OF SAID ANNEXATION TO DECEMBER 31, 2012

passed second and final reading and was signed in open meeting; **Councilman Gilbert voted “no”**.

REZONING

2011-130: Mitchel Everhart

On motion of Councilman Gilbert, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 1808 SOUTH HOLTZCLAW AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2011-131: Willie Arnold/Ruth Hau

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 629 SHALLOWFOR ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM C-5 NEIGHBORHOOD COMMERCIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

AMEND CONDITION

2011-133: Eric Lovett, Tennessee Temple University, Highland Park Baptist Church

On motion of Councilman Murphy, seconded by Councilman Rico,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO APPROVE AMENDING CONDITION #3 IMPOSED IN ORDINANCE NO. 12257 TO ALLOW USE AS UNIVERSITY HOUSING ON PROPERTIES LOCATED AT 1715 UNION AVENUE AND IN THE 1700 BLOCK OF KIRBY AVENUE, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2011-134: Eric Lovett, Tennessee Temple University, Highland Park Baptist Church

Councilman McGary motioned that the remaining ordinances for Eric Lovett be read as a unit; Councilwoman Robinson seconded the motion; the motion carried.

On motion of Councilman Murphy, seconded by Councilman McGary,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 800 SOUTH BEECH STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2011-135: Eric Lovett, Tennessee Temple University, Highland Park Baptist Church

On motion of Councilman Murphy, seconded by Councilman McGary,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 1901 AND 1907 BAILEY AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2011-136: Eric Lovett, Tennessee Temple University, Highland Park Baptist Church

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 1918 AND 1924 CHAMBERLAIN AVENUE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

REZONING

2011-137: Eric Lovett, Tennessee Temple University, Highland Park Baptist Church

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 2000 CHAMBERLAIN AVENUE AND 2001 BAILEY AVENUE,
MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL
ZONE AND R-3 MD MODERATE DENSITY ZONE TO R-4 SPECIAL ZONE,
SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

REZONING

2011-138: Rachel Conn Collins

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 4200 DODDS AVENUE, MORE PARTICULARLY DESCRIBED
HEREIN, FROM R-1 RESIDENTIAL ZONE TO UGC URBAN GENERAL
COMMERCIAL ZONE**
passed second and final reading and was signed in open meeting.

AMEND CHARTER

Councilman Murphy made the motion to table the matter; however the motion failed for lack of a second.

Councilwoman Berz made the motion to approve; Councilman Benson seconded.

Councilman Murphy stated the intent of this is noble but there are still many, many, many flaws with it, not least of which, he pointed out, our City Attorneys are now in-house counsel and there is the possibility examination of their papers may result in them becoming public records when currently they are subject privileged. He stated we have officers working undercover and their assignment would be subject to inspection and similarly become public records. He stated we have access to FBI and other data bases this person would not necessarily be authorized or cleared to have access to; and in addition, this is essentially carte blanche on a budget and he knows taxpayers will appreciate that. He encouraged the Council to not approve this as it is "so far broken" he could continue for another twenty minutes with the other things wrong with it.

Councilwoman Scott stated this particular ordinance for an amendment to the *Charter* was brought to Council long before Christmas; there was a large amount of discussion at that time, several City Council members made comments, made suggestions and gave feedback. She stated the proposal was amended and it deals with at least three Council people here that made suggestions for this; that the budget is not carte blanche as the Internal Auditor is the person who goes and does an investigation after monies are spent, city tax dollars spent and this individual goes to look and see where it went, who handled it, who got it, whether it was under State law for bids and processes. She stated that if you go to the city's website this is the individual that does all the investigations and publishes them on the web so that citizens can see if there are issues that are illegal, if there is fraud, waste or if abuse gets taken care of. She stated she knows of no example ever where confidential, privileged information has come out of that office.

Councilwoman Scott stated this particular proposal is to allow the organizational hierarchy that the Internal Auditor reports to, to come out from under the City Council which by nature is a political body and take it out of the executive branch, as well, and have it report to an Audit Committee made up of five people that are CPAs and/or can be another auditor recommended by professional groups that have done professional accounting for many years.

AMEND CHARTER (Continued)

Councilwoman Scott stated they cannot be working for the city, cannot have spouses/children employed by the city and have no inner interest in contracts whatsoever. She stated the only way a *Charter* amendment can go into effect is for the voters to vote it in on a ballot and if this body does not approve the amendment it will never get to a referendum, never get the say so as to whether it happens or not. She recommended that the Council vote for this and give the citizens the chance to decide on whether this goes to a ballot or not. She stated if there is a mistake in that she would say the bigger mistake would be in not putting it out for referendum.

Councilwoman Berz stated this is not flawed and we have spent all kinds of hours working on it and the public has the right to have the question brought to them. She stated we ought to have independent, ethical oversight on how your dollars are spent and there is not a doubt in her mind we should vote for it. She called for the question if there are no other lights on.

Chairman Ladd confirmed two other Council members' lights were on.

Councilman Benson stated he wanted to do what Councilwoman Berz said because she is right on target. He stated we have a proposal for an Internal Auditor and is the first time we have ever put it in a format like this and we are going to let the public vote on it; that if a person is against it, tell the public why. He stated unfortunately Mr. Murphy had a car problem today and was not able to get here, so some of his concerns were his (Benson) and had them answered today in the meeting; that there has been some changes and they welcomed the changes and sent them to us, asked us to respond by e-mail and he (Benson) did and they answered his concern. He stated he totally supports this going to the public to let them vote on this as it is a big step forward and we do have to push it pretty fast to get it on the next election; that we need education time.

City Attorney McMahan stated he does not the exact date but it is sometime in May.

Councilman Benson stated we have to have time to educate the public and wished Mr. Murphy could have been present as he would have been happy with it had he heard it today as some of the things he said he was unhappy with were answered today. He encouraged the Council to vote for this.

AMEND CHARTER (Continued)

Chairman Ladd stated the question has been called but would recognize Councilman Murphy's light.

Councilman Murphy stated he has read the most recent draft and it is still incredibly flawed in many ways, one of which was highlighted by Mrs. Scott – that five unelected by definition unrepresentative people are going to be CPAs belonging to these esoteric organizations are representative of your average citizen – not the last citizens he talked with! He stated the reality is it is a position that is supposed to take these things out of politics and then installs a current political appointee in a job functionally for life. He stated he obviously is going to lose the vote here and expressed hope the citizens have more common sense on the ballot.

On motion of Councilwoman Berz, seconded by Councilman Benson,
AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF CHATTANOOGA, AND ALL ACTS, ORDINANCES, AND OTHER CHARTER PROVISIONS AMENDATORY THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT), SO AS TO (1) ESTABLISH AN INDEPENDENT OFFICE OF INTERNAL AUDIT, AN AUDIT COMMITTEE, AND CITY AUDITOR; (2) PROVIDE FOR THE CITY AUDITOR'S QUALIFICATIONS, APPOINTMENT, AND REMOVAL; AND (3) PROVIDE FOR THE OFFICE'S DUTIES AND ACCESS TO RECORDS AND PROPERTY OF THE CITY

passed first reading; **on roll call vote:**

RICO	YES
MCGARY	YES
MURPHY	NO
SCOTT	YES
ROBINSON	YES
BENSON	YES
GILBERT	YES

AMEND CHARTER (Continued)

BERZ	YES
LADD	YES

AGREEMENT

On motion of Councilman McGary, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH BARGE, WAGGONER, SUMNER, AND CANNON, INC. FOR DESIGN SERVICES FOR PROPOSED PARKING AREA IMPROVEMENTS AND MAINTENANCE FACILITY RELOCATION AT THE SUMMIT OF SOFTBALL, IN AN AMOUNT NOT TO EXCEED THIRTY-FOUR THOUSAND SIX HUNDRED DOLLARS (\$34,600.00)
was adopted; Councilwoman Scott voted "no".

AGREEMENT

On motion of Councilman Gilbert, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH NEUHOFF TAYLOR ARCHITECTS TO PROVIDE ARCHITECTURAL, MECHANICAL, PLUMBING, AND ELECTRICAL DESIGN AS REQUIRED FOR EXPANSION OF THE UMPIRE AREA IN COMPLEX B AND TO CREATE AN UMPIRE AREA IN COMPLEX A AT THE SUMMIT OF SOFTBALL COMPLEX AND WILL ALSO PROVIDE ARCHITECTURAL, MECHANICAL, ELECTRICAL, PLUMBING, AND STRUCTURAL DRAWINGS FOR A NEW MAINTENANCE BUILDING ON-SITE, FOR AN AMOUNT NOT TO EXCEED FIFTEEN THOUSAND DOLLARS (\$15,000.00)
was adopted; Councilwoman Scott voted "no".

AMEND CONTRACT

Councilwoman Scott addressed the audience and noted the extremely high amounts of money in resolutions (c), (d) and (e). She stated it is required, important and it is our requirement under EPA guidelines.

AMEND CONTRACT (Continued)

Councilwoman Scott stated the reason she is bringing this up is not because she disagrees we need to pay it, we do not have any choice, but if people look at this and does not participate in a recycling plan or program in their homes they are adding to this figure! She encouraged everyone to consider that the fact the more we put in the landfill, the more we divert to the landfill, the more our costs go up and our cost for a landfill to monitor it, check it for gas and off gassing, for migration of any waters out of it, the life expectancy under care and maintenance after that thing is closed is around 50 years and this has to be paid every year to take care of that. She encouraged everyone to please recycle!

On motion of Councilman Rico, seconded by Councilwoman Berz,

A RESOLUTION AUTHORIZING AN AMENDMENT OF CONTRACT IN LIEU OF PERFORMANCE BOND RELATIVE TO THE CLOSURE/POST CLOSURE PLAN FOR THE CITY LANDFILL WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, ARISING FROM AN ANNUAL INFLATION ADJUSTMENT, BY INCREASING THE BOND AMOUNT FROM SIX MILLION FOUR HUNDRED FORTY-FOUR THOUSAND FOUR HUNDRED THIRTY-SEVEN DOLLARS (\$6,444,437.00)" TO SIX MILLION FIVE HUNDRED NINETY-ONE THOUSAND FOUR HUNDRED SEVENTEEN DOLLARS (\$6,591,417.00)

was adopted.

AMEND CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Robinson,

A RESOLUTOIN AUTHORIZING AN AMENDMENT OF CONTRACT IN LIEU OF PERFORMANCE BOND RELATIVE TO THE CLOSURE/POST CLOSURE PLAN FOR THE CITY LANDFILL, LATERAL EXPANSION AREA 3 WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, ARISING FROM AN ANNUAL INFLATION ADJUSTMENT, BY INCREASING THE BOND AMOUNT FROM SIX MILLION EIGHT HUNDRED SIXTY-EIGHT THOUSAND NINETY-ONE DOLLARS (\$6,868,091.00) TO SEVEN MILLION THIRTY-TWO THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$7,032,925.00)

was adopted.

AMEND CONTRACT

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING AN AMENDMENT OF CONTRACT IN LIEU OF PERFORMANCE BOND RELATIVE TO THE CLOSURE/POST CLOSURE PLAN FOR THE SUMMIT SANITARY LANDFILL WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DECREASING THE BOND AMOUNT FROM TWO MILLION FIVE HUNDRED NINETY THOUSAND FIVE HUNDRED FORTY-SIX DOLLARS (\$2,590,546.00) TO TWO MILLION FOUR HUNDRED NINETY-SIX THOUSAND SIX HUNDRED SEVENTY-SEVEN DOLLARS (\$2,496,677.00)
was adopted.

CHANGE ORDER

On motion of Councilwoman Robinson, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL) FOR STEIN CONSTRUCTION COMPANY, RELATIVE TO CONTRACT NO. E-04-019-201, HUDSON AND TERMINAL ROAD RECONSTRUCTION, FOR AN INCREASED AMOUNT OF FORTY-THREE THOUSAND ONE HUNDRED EIGHTY-ONE AND 40/100 DOLLARS (\$43,181.40), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED FIVE HUNDRED THIRTY-SIX THOUSAND THREE HUNDRED NINETY-FOUR AND 16/100 DOLLARS (\$536,394.16), AND TO RELEASE THE REMAINING CONTINGENCY OF SIX THOUSAND ONE HUNDRED FORTY AND 84/100 DOLLARS (\$6,140.84), AND TO ACCEPT THE CONTRIBUTION OF FIFTEEN THOUSAND DOLLARS (\$15,000.00) FROM STEIN FOR THE RESURFACING OF THE ROADWAY
was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL) FOR TALLEY CONSTRUCTION COMPANY, RELATIVE TO CONTRACT NO. E-11-003-201, 2011 CHATTANOOGA RESURFACING CONTRACT, FOR AN INCREASED AMOUNT OF SEVENTY-EIGHT THOUSAND SIX HUNDRED FIFTY-TWO AND 02/100 DOLLARS (\$78,652.02), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO MILLION THIRTY-ONE THOUSAND SEVEN HUNDRED TWENTY-THREE AND 67/100 DOLLARS (\$2,031,723.67)
was adopted.

OVERTIME

Overtime for the week ending January 12, 2012 totaled \$25,899.98.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **KENNETH SCRIVEN** – Suspension (28 days without pay), Police Officer 1, effective January 11, 2012.

PUBLIC WORKS:

- **HAROLD MURRAY, III** – Suspension (2 days without pay), Equipment Operator 4, City Wide Services, effective January 9-10, 2012.
- **ROGER BURKE** – Suspension (3 days without pay), Equipment Operator 3, City Wide Services, effective December 19-21, 2011.
- **ANNETTE SMITH** – Termination, Crew Worker 1, Traffic Control, effective January 12, 2012.
- **BRIAN CATE** – Suspension (5 days without pay), Chief Electrical Instrument Technician, Waste Resources, effective January 9-13, 2012.

DONATIONS

Admin. Zehnder duly reported seven donations: Fairway Outdoors for six billboards with a value of \$3,000; Craig and Tay Brymer's donation of a maple tree with a value of \$300; several holiday donations at the recreation centers involving Bushtown Neighborhood Association's donation of oranges, apples, nuts and candy with a dollar valuation of \$100 for the Carver Recreation Center. Donations were also received from the Belk Charity Sale in the amount of \$127.00 for the TR program; Randy Carpenter provided food and beverages for an awards luncheon in an amount of \$500.

DONATIONS (Continued)

Other donations were from Sandra Miller who provided sandwiches, chips and cupcakes at the Carver Recreation Center in an amount of \$60 and the Red Hatters provided hot dogs, chips and juice for a function at Carver Recreation Center in an amount of \$50.

Chairman Ladd expressed thanks to Admin. Zehnder noting that she had received a call about the billboard and it was great to know it was a donation.

LIQUOR LICENSE APPLICATION

Admin. Madison reported the application for a liquor license in District 9 for Bradley Whalen to be located at 1501 Riverside Drive under the name of Amnicola Wine and Spirits. The application was distributed for five Council members to sign.

REFUNDS

On motion of Councilman McGary, seconded by Councilman Rico, the Administrator of Finance was authorized to issue a refund due to lowering of the estate by the State Board of Equalization:

VISION CHESTNUT HOTEL GROUP, LLC	\$6,898.07
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RESOLUTIONS OF SUPPORT

Councilman Murphy stated there are two issues in the public’s discussion involving other governments, not the city of Chattanooga, and **wanted to take the Council’s “temperature” whether they would feel a resolution in support of not closing the Taft Youth Center might be appropriate.**

Councilman Benson expressed that it is very good!

Councilman Gilbert seconded the motion.

RESOLUTIONS OF SUPPORT (Continued)

Councilman Murphy stated our area is being affected by some US postal facility closures; that he knows he has heard from a lot of constituents and assumed all have; that he does not know how much good it would do but **a resolution indicating support to maintain service through the postal service here in our community; Councilman Benson seconded the motion.**

Councilwoman Scott expressed her guess that one of the things that has happened is that the postal service has done an incredible amount of work trying to determine those areas whose services could be provided elsewhere and the very ability for our US postal service to continue to function and do it at a rate where someone can actually afford a stamp is what we are looking at. She stated not every post office that is opened everywhere it is opened is constantly as used as it once was and she would hesitate to vote for a resolution based on the fact we just do not want to close any post office without having done any research on it to know if it makes financial sense. She stated if it is brought up for a vote we can debate that and take a vote.

City Attorney McMahan asked when the matters are to be on the agenda. Councilman Murphy suggested next week.

Councilman Gilbert stated the problem is of the places they are going to close a lot of them are in poor areas where transportation is a problem; that the closest area someone can mail something off would be Highway 58 and people from Highland Park will have to travel to Highway 58 to actually mail something off. He stated they might not close all of them and possibly there might be one in a central location where people can go without having to go so far out to mail something. He stated that is the point that was raised, that there needs to be at least one where there is a central location in the middle where they can go and not be so far out.

Councilman Benson stated he spent all his years working with youth and we are the only metropolitan city in Tennessee that does not have a juvenile detention unit. He stated we had to transport all our people that had problems to Taft, which is not close. He stated Memphis, Nashville and Knoxville have one and it is long overdue that we get a detention or correction center for youth here in this area. He stated to even think about doing away with Taft, which has done a good job and has a good record . . . He asked if the matters would be separated and voted upon separately; that as far as the post office is concerned it is a different decision we will all have to make.

RESOLUTIONS OF SUPPORT (Continued)

Councilman Benson stated we need to keep the United States government helping to deliver the mail and if a private intersector wants to take it up and go to US Express that is their business, but it is his thought the taxpayers generally want the post office to survive. He stated he would like to separate the issues, but we need some help right away on the Taft Center and it goes to the Governor who should be able to get our message and maybe it will be effective; that the other goes to the federal government.

Councilman Murphy stated they are separate as proposed.

Councilman Rico stated at one of the meetings in Alton Park it was stated this is strictly a business decision; that his area is poor and Councilwoman Scott's constituents in Lookout Valley have to come over to the Alton Park/St. Elmo area for the post office. He stated the best thing is to go to the meetings in each Council member's area; that he has talked to the Postmaster from Nashville and it is a business decision and is not about politics or whatever; that they are going to do what they have to do as it is business.

Councilwoman Robinson stated in something she read one of the main reasons the post office is under such seize is due to that fact they have to correct their pension fund balance within a period of ten years and they are the only government agency, if she is understanding this correctly, that has been put under that edict; that it is not fair and she wants to talk about it. She stated she is all about wanting to bring it back up and really articulate what is going on as it is not just the normal attrition rate of using postal service, it is something else working here and she is not sure what it is and would like to talk about it.

Councilman McGary stated he generally supports resolutions if this body has some authority on the body to receive the letter that they are asking for input. He stated in regard to Taft he does not have as much of a concern given it is going to the Governor and we as a body are saying it is something for our city, but he does have concern as far as the post office. He stated it is his understanding this decision has been made and asked if they are asking for input.

Councilman Rico responded "yes" they are asking for input; that none will be closed until after May 15; that the Postmaster from Nashville told him it is a business decision and they have to make those decisions on cost cuts and what is cost effective.

RESOLUTIONS OF SUPPORT (Continued)

Councilman McGary asked who would receive the resolution.

Councilman Murphy stated if it passes the Taft resolution will go to the State Delegation and the Governor's office and the postal service will go to the folks collecting comments, as Councilman Rico pointed out. He stated we can do that research and direct it in the right location, assuming it passes.

Councilwoman Berz stated she did not realize the Council would get into a discussion and recused herself (from any discussion), any consideration of this; that the postal service is a client of hers.

Councilman Gilbert stated it does work when we do vote the way we do because on Highway 58 on Bonny Oaks it was subject to close, too, but the citizens and government got involved and it stayed open; that it does make a difference when a governing bodies agrees with the public. He stated he knows it is a business decision but does not want all of them closed.

Councilman Rico stated East Lake and St. Elmo were to be closed but they have not, yet.

COMMITTEES

Councilwoman Scott stated the **Personnel, Performance and Audit Committee will meet on January 31 following Public Works**. She announced that the **Beer Code Sub-Committee will meet on January 27 from 10 a.m. – noon in the J. B. Collins Conference Room** and stated the public is invited.

Councilwoman Robinson stated the **Housing and Neighborhood Services Committee will meet on January 31** following the Personnel Committee.

Councilman Murphy stated the **Legal, Legislative and Safety Committee will meet on January 24 but will not meet on January 31**.

Councilwoman Berz stated **Budget and Finance Committee will meet on Tuesday, January 24 following the Agenda Session**; that there will be a joint presentation regarding the proposed use of the \$75,000.

M. L. KING PUBLIC PROGRAM

Councilman Gilbert stated we had the march on Monday in honor of Dr. King and Pastor McDaniel spoke at the public program. He stated he gave an amazing historical speech similar to Dr. King's and challenged all government officials to do better. He (Gilbert) expressed hope the challenges referenced in Pastor McDaniel's speech would be taken seriously. He stated it was a great speech!

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, January 24, 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)**