

City Council Building
Chattanooga, Tennessee
January 29, 2013
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. Assistant City Attorney Phil Noblett, Management Analyst/Auditor Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE

Councilwoman Robinson led everyone in attendance in the Pledge of Allegiance.

MINUTE APPROVAL

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

AMEND CITY CODE

Councilman McGary stated he would be voting against this ordinance. He stated as an individual who has a large family and recycles regularly we should limit receptacles to one container to encourage people to recycle; that having two containers even with large families works against that purpose.

Councilwoman Scott stated for the record she would like to hear from Public Works confirmation even though there are recycle containers that can be purchased people can still recycle without a container at the curb side.

Admin. Leach expressed confirmation by the response "you may".

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 18, GARBAGE AND REFUSE RELATING TO SERVICE
LOCATIONS AND SPECIAL CONTAINERS**
passed first reading; **Councilman McGary voted "no"**.

CLOSE AND ABANDON

MR-2012-095: City of Chattanooga c/o Bill Payne

On motion of Councilman Murphy, seconded by Councilman Rico,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
BUCKLEY STREET RIGHT-OF-WAY BETWEEN CHAMBERLAIN AVENUE
AND DUNCAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN**
passed first reading.

INTERLOCAL AGREEMENT

On motion of Councilwoman Robinson, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN INTERLOCAL
AGREEMENT WITH THE HAMILTON COUNTY GEOGRAPHIC
INFORMATION SYSTEMS DEPARTMENT RELATIVE TO PLANIMETRIC
PHOTOGRAPHY, IN THE AMOUNT OF THIRTY-FIVE THOUSAND DOLLARS
(\$35,000.00), PLUS A CONTINGENCY OF FIVE THOUSAND DOLLARS
(\$5,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED FORTY
THOUSAND DOLLARS (\$40,000.00)**

was adopted.

PARTNERSHIP AGREEMENT

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A PARTNERSHIP
AGREEMENT WITH DAN ROSE OF THE FLYING SQUIRREL RESTAURANT,
PROJECT NO. S-11-004-801, JOHNSON STREET ROADWAY AND
GREEN INFRASTRUCTURE PROJECT, WITH THE RESTAURANT TO
PROVIDE AN IN KIND DONATION IN THE AMOUNT OF SEVENTEEN
THOUSAND FIVE HUNDRED DOLLARS (\$17,500.00)**

was adopted.

TEMPORARY USE

On motion of Councilwoman Berz, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING TERESA S. JUMP C/O ROBERT C. TAYLOR,
CITYSCAPE DEVELOPMENT SERVICES TO USE TEMPORARILY THE RIGHT-
OF-WAY LOCATED AT 320 EAST MAIN AND A PORTION OF WILHOIT
STREET FOR ENCROACHMENT AT SUBGRADE FOR FOOTINGS AND
OVERHEAD PROJECTING AWNING, AS SHOWN IN THE ATTACHED**

TEMPORARY USE (Continued)

DRAWINGS HERETO AND MADE A PART HEREOF BY REFERENCE,
SUBJECT TO CERTAIN CONDITIONS
was adopted.

PARTNERSHIP AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A PARTNERSHIP
AGREEMENT WITH TERRY JUMP OF THE CENTER FOR INTEGRATIVE
MEDICINE, PROJECT NO. E-06-012-801, WILHOIT STREET AND EAST
MAIN STREET STREETScape PROJECT, AND TO ACCEPT IN KIND
DONATIONS FOR THE PROJECT, IN THE AMOUNT OF SEVENTEEN
THOUSAND DOLLARS (\$17,000.00)
was adopted.

GRANT

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE
DEPARTMENT TO APPLY FOR AND, IF AWARDED, ACCEPT THE 2012 FIRE
PREVENTION AND SAFETY GRANT TO PROVIDE A FIRE CODE
ENFORCEMENT AND SPRINKLER AWARENESS EDUCATIONAL
PROGRAM FOR BOTH BUSINESSES AND HOMEOWNERS, FOR THE CITY
TO PROVIDE A COST SHARE OF NON-FEDERAL FUNDS OF TWENTY
(20%) PERCENT OF THE TOTAL COST IN THE AMOUNT OF FIVE
THOUSAND TWO HUNDRED FIFTY DOLLARS (\$5,250.00)
was adopted.

RETAIN SEPARATE LAW FIRMS/EXPERT WITNESSES

On motion of Councilwoman Scott, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CITY ATTORNEY'S OFFICE TO RETAIN
SEPARATE LAW FIRMS AND TO RETAIN EXPERT WITNESSES TO ASSIST IN
THE DEFENSE OF INDIVIDUAL POLICE OFFICERS WHO HAVE BEEN SUED
IN THE LAWSUIT ENTITLED, "TATUM V. CITY OF CHATTANOOGA, ET AL",
DUE TO MULTIPLE POLICE OFFICERS BEING SUED WHICH ARE
DETERMINED TO BE NECESSARY IN THE OPINION OF THE CITY
ATTORNEY
was adopted.

AGREEMENT

On motion of Councilman Benson, seconded by Councilwoman Berz,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH MCKAMEY ANIMAL CENTER AND CHATTANOOGA GOODWILL INDUSTRIES FOR THE OPERATION OF A DOG PARK LOCATED AT HERITAGE PARK IN CHATTANOOGA, TENNESSEE

was adopted.

DECLARE SURPLUS AND CONVEY

MR-2012-079: City of Chattanooga c/o Dan Thornton

On motion of Councilman Rico, seconded by Councilwoman Robinson,

A RESOLUTION TO AMEND RESOLUTION NO. 27267 WHICH DECLARED 0.27 ACRES AS SURPLUS AND AUTHORIZED CONVEYANCE OF A MAINTAINED AREA BETWEEN MCCALLIE AND BAILEY AVENUES TO HEALTHSOUTH SUBJECT TO FUTURE ROADWAY NEEDS OF THE CITY TO REFLECT "IF THE PROPERTY IS REQUIRED FOR ROADWAY IMPROVEMENTS, THE CITY WILL RESTORE ANY INFRASTRUCTURE SUCH AS LANDSCAPING OR SIDEWALKS CONSTRUCTED BY HEALTHSOUTH WITHIN THE RIGHT-OF-WAY BETWEEN BAILEY AND MCCALLIE AVENUES AT THE EXPENSE OF THE CITY OF CHATTANOOGA."

was adopted; Councilwoman Scott voted "no".

CONTRACT

Councilwoman Scott stated Mayor Littlefield stated this authority would cost nothing back in November noting that is "double speak", for this \$100,000 contract will be paid for by tax payers' fees and not the general fund; that apparently that equals nothing. She stated the Mayor is trying to launch too many things at one time and one of those things is the wastewater, the other is regional sewer water and the third is regional drinking water; that she is afraid there has not been enough due diligence done on this and tax payers in her district are significantly afraid of this and there is good reason for that. She stated to do something regional requires earning goodwill and the cooperation of regional partners and asked where the partners are and where is the regional goodwill. She stated the city has sued Tennessee-American twice and the city is currently suing WWTA and that is the other major portion of a local sewer authority.

CONTRACT (Continued)

Councilwoman Scott stated the Mayor's plan is to build a big sand box, anyway, and the question is why are people not all excited about this and it is her thought it has to do with the fact it is very ill timed; that it is hard to trust, hard for entities, rate payers and tax payers to trust individuals that have personally overseen a sewer system with so many failures and also hard to try a storm water system that has had so many failures over eight years, and who can blame them. She stated part of it is "my way or the highway" kind of a diplomacy that has not worked well; that this administration has a failed track record when it comes to management of all liquids and not one person who is responsible for all of those failures has ever been fired or demoted, yet those fees have gone up and went up even before there was a consent decree. She stated now the question is why should the very same administration "take the wheel" and lead us to the next big step; that there is merit in considering sewer water processing from a regional perspective.

Councilwoman Scott continued by stating the current administrators and this Mayor should really not have his hands involved in this process; that she is not against regional planning but it is somewhat insulting to think regional planning starts with unilateral decision making without partners already sitting ready to join this process. She stated there is not a good reason to appoint temporary board members or to approve a contract that will start to promote authority over private water companies; that if the region desires to have a truly regional authority let it resurface under a new Mayor and under true regional stakeholders and the next City Council. She stated we should give the next Mayor time to generate the good will and trust and give the tax payers the ability to look at for the next four years the individuals they want to hold accountable for what happens from a regional perspective. She stated we let the regional stakeholders create the regional authority and they should appoint the leadership; it should not be created unilaterally and then "served up" to them. She **stated** she knows the "rubber stamps" are going to come out on this one but it is her thought **it would be better to table this four months** and then let this be taken up by individuals that would be responsible.

Chairman Ladd asked if that is Councilwoman Scott's motion; Councilwoman Scott responded "yes it is". (No second to the motion was given at this point.)

Councilman Benson stated he could not disagree more; that we have been thorough this for so long and without this we will perish; that we know from our past experiences with the monopoly we are the only city of any size that has to go through a monopoly to get a water rate.

CONTRACT (Continued)

Councilman stated TRA does not represent the consumer and we have to represent the consumer; that we know this is a "cancer" and we are the only city locked in by private utility for the necessity of life. He stated \$100,000 is a cheap price to pay to move in through due diligence and do a good job; that we have to do something as we cannot continue to go on with the water company raising rates. He stated we paid lawyers to fight it and they pay lawyers to defend it, then it goes to Nashville and we pay lawyers and they pay lawyers and it all comes from the citizens for the lawyer fees. He stated we are wasting money and we are not using what has happened in the past as guidance for the future. He stated what is past is prologue and it is his thought it is a shame if we do not take advantage of this administration and whether we like it or not or recall him (Mayor Littlefield) or not, he is the best prepared, knows more about public works, engineering and everything the city has that relates to water, and then it is said "throw it" to a brand new Council -- then it will be delayed as it would have to be while they are getting their "feet on the ground". He stated it is his thought it is wrong and we should move on this.

Councilman Murphy commented for the record that Councilman Benson is getting ahead of himself in referencing the water company; that this is dealing with the sewer authority and potentially stormwater. He expressed agreement with Councilmen McGary and Gilbert there is no "fire" here and we can take another week.

On motion of Councilman McGary, seconded by Councilman Gilbert,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A CONTRACT FOR PROFESSIONAL SERVICES WITH MWH AMERICAS, INC. FOR THE FORMATION OF THE MOCCASIN BEND CLEAN WATER AUTHORITY, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)

was deferred on week: on roll call vote:

GILBERT	YES
BERZ	YES
RICO	YES
MCGARY	YES

CONTRACT (Continued)

MURPHY	YES
SCOTT	NO
ROBINSON	YES
BENSON	YES
LADD	YES

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE PERSONNEL DEPARTMENT TO ENTER INTO AN AGREEMENT WITH LIFE SERVICES, EAP FOR AN EMPLOYEE ASSISTANCE PROGRAM (EAP) FOR A ONE (1) YEAR PERIOD WITH THE OPTION TO RENEW FOR FOUR (4) MORE YEARS, IN THE AMOUNT OF THIRTY-THREE THOUSAND ONE HUNDRED THIRTY-FIVE DOLLARS (\$33,135.00) PER YEAR
was adopted.

OVERTIME

Overtime for the week ending January 24, 2013 totaled \$24,843.20.

PERSONNEL

The following personnel matters were reported for the various departments:

PERSONNEL:

- **RICHARD BEELAND** – Appointment, Deputy Administrator Personnel, Range 29, \$73,000.00 annually, effective January 25, 2013.

PERSONNEL (Continued)

PUBLIC WORKS:

- **ALPHONSO MCCLENDON** – Suspension (5 days without pay), Codes Enforcement Inspector 1, Codes and Community Development, effective January 17, 2013.
- **MARTY HAWKINS** – Suspension (4 days without pay), Project Engineer, Engineering, effective January 18-24, 2013.

CHATTANOOGA HUMAN SERVICES:

- **BRANDY MURPHY** – Resignation, Teacher Assistant, Head Start, effective January 17, 2013.

CONGRATULATIONS!

Admin. Zehnder reported that Brian Smith of the Parks and Recreation Department had been working with the National Recreation Park Association at the end of last year in putting together a calendar for 2013 and out of the entire country there are photos in the calendar for May and November from Chattanooga Parks and Recreation. He stated this is a national calendar and Brian was able to get great pictures in on two of the twelve months. He stated all are very proud of his accomplishments and wanted to bring it to the Council's attention!

REFUNDS

On motion of Councilman McGary, seconded by Councilman Gilbert, the Administrator of Finance was authorized to issue the following refund of water quality fees and amended report from TMA audit, respectively:

COVENANT TRANSPORT	\$18,217.80
VACON INC.	\$2,882.37

PURCHASES

On motion of Councilman Rico, seconded by Councilwoman Berz, the following purchases were approved for use by the Public Works Department:

WASCON, INC. (Best bid) **R69113/302347**

Purchase of Four (4) Multi Smart Pump Station Managers

\$48,160.00

TELEDYNE ISCO (Lowest bid) **R69261**

Purchase of One (1) ISCO Monitoring System

\$37,625.00

CITY ATTORNEY MCMAHAN TO RETURN

Assistant City Attorney Noblett reported that Mr. McMahan would be back with the Council next Tuesday night!

UPDATE ON LED STREET LIGHTS

Councilwoman Scott asked for an update on the LED street lights wanting to know where we are with that, when will they be put up and have we already paid for them.

Mr. Johnson reported the city received 500 lights this month and some of them have been installed at the Main Terrain Park and some on Eleventh Street, but in February we will start with 3,000 a month until they are finished.

COMMITTEES

Councilwoman Berz reminded Council members that next Tuesday would begin the education sessions for the Budget and Finance Committee according to scheduled sessions from 1 p.m. – 2:45 every Tuesday.

COMMITTEES (Continued)

Councilwoman Berz stated for those running for office this would be a good time to get educated about what the city is spending money on so when the budget comes out from administration everyone will understand fully what is going on and will have heard from the agencies. She stated the education sessions are not public hearings; that Councilwoman Scott previously stated she would like for candidates to be able to ask questions, however, time will not allow for that; that permission has been received from the agencies that should anyone, including the Council, have further questions the agencies and department heads will be happy to answer those.

Mr. Johnson stated Richard Beeland is in charge of putting together a forum whereby each department will present for thirty minutes what their department is all about and at the end of that all day session questions will be taken.

Councilwoman Berz stated this has to do with the budget noting a forum could be available for them to ask questions so everyone, when it comes time to approve the budget, will have the information they need. She stated beginning Friday all the requests in full will be posted on the internet including the schedule and expressed hope this meets all the transparency needs; that everyone should be present and to please listen.

Councilwoman McGary inquired as to the date for the candidates' event. Mr. Johnson stated it is scheduled for Friday, February 8 from 9 a.m. – 4 p.m. in the Council Assembly Room.

NEXT WEEK'S AGENDA: FEBRUARY 5, 2013

Chairman Ladd referred to next week's agenda and inquired as to whether there were questions; being none, the meeting continued.

DR. ELNORA WOODS

Dr. Elnora Woods, Executive Director of the Alton Park Development Corporation and Ms. Sharon of the Corporations Community Outreach, invited Council members to come out on February 23 to Miller Plaza as they honor the Howard Class of 1960 for the sit-ins staged in February, 1960, which opened up Chattanooga and ended segregation.

DR. ELNORA WOODS (Continued)

Dr. Woods stated a large crowd is expected, with people coming from out-of-town; that they will be dedicating a bronze plaque that will be erected in Miller Plaza where Kresges used to stand noting that the students were arrested but their records expunged. She stated there will be a parade beginning at 2 p.m. with the program starting at 11 with the dedication ceremony. She stated all city officials can participate in the parade, noting the theme is "Black History" with a contest for the best float. She asked that all neighborhood associations be encouraged to participate and distributed fliers regarding the event which is free to everyone. She noted the website is www.altonparkcdc.org where all of the information can be retrieved.

Councilman Murphy inquired as to whether the proper permits have been secured. Dr. Woods stated permits have been received for the parade and for erecting the plaque in Miller Plaza, which will be between the bus stop and the tree in the 850 block.

Councilman Murphy stated he saw some confused looks and wanted to make sure all the paper work had been taken care of!

PATRICK KELLOGG

Patrick Kellogg of 2510 Oak Street stated before criticism is given one must be lavished with praise, yet be truthful about the issue at hand noting it has been a long road on this administration and there are highlights with a vibrant downtown, an increase in commercial investment, social activism and a social entrepreneurial community raring to undertake its next cause. He stated today wisdom prevails to allow additional time to review the specifics of the Moccasin Bend Water Authority in its commitment to be a top ten leader of energy, the city is undertaking using compressed natural gas as a fueling source which will reduce the carbon footprint from emissions. He stated within the organization there is always an opportunity for growth; that this past Thursday he was informed he would not be allowed to sit in on the Gang Task Force Steering Committee meeting the next day. He stated while this organization is housed in a public building with security access it is not exempt from complying with the Open Meetings Act; that his situation was independently verified by at least one Council person and two media outlets. He stated he filed ten open records requests last year covering a range of issues and of the ten requests only one was responded to which was partial; that as for the other nine requests not even a denial was given.

PATRICK KELLOGG (Continued)

Mr. Kellogg referenced the Rebecca Little case in Chancery Court wherein the city was ordered to pay \$61,000 in costs to bring the action to closure; that Chattanooga is appealing the decision in State Supreme Court whether they should be liable to pay for the cost Ms. Little incurred. He stated Court precedence is on Ms. Little's side and if she prevails the cost may increase to over \$100,000 over a public document. He presented a packet of information noting the information is admissible in court by putting a declaration on it.

Councilwoman Berz asked if Mr. Kellogg stated there was a public meeting of the Gang Task Force and he was not allowed to come in.

Mr. Kellogg responded "yes"; that he received the material information that was to be discussed and it was confirming the problem statement which would be used from the implementation plan to get a plan on the ground. He stated the Open Meeting Act as defined by Tennessee Code Annotated indicates if there is a portion of a public meeting that is privileged or confidential based on discussion of legal matters, that portion must be held first and after that the meeting not under that exemption be allowed to be open to the public.

Councilwoman Berz stated she knows the law and asked if someone said he could not come because it was an attorney/client meeting. Mr. Kellogg responded "no"; that he was told on Thursday that he would not be able to come because it was not open to the public.

Councilwoman Berz stated she fails to see how any agency using public funds can have meetings not open to the public, but can look further into that.

Councilman Gilbert stated if there is an open meeting portion, the portion dealing with the legal should be first and the remainder of the meeting open to whoever wants to come.

Assistant City Attorney Noblett stated if this is a body that would make recommendations to a legislative body their meeting should be open; if there is some issue that a portion of that was attorney/client privileged that attorney/client privileged session could occur outside and there could not be any deliberations toward any matter that might come before this body.

Councilman Gilbert asked if Councilman Benson was present for the meeting. Councilman Benson responded that he was not.

PATRICK KELLOGG (Continued)

Assistant City Attorney Noblett stated he was not present and did not give any advice that it was closed and will have to check on it.

MONTY BELL

Monty Bell stated he is a homeless journalist with no address he can call his own; that he is present in hopes in the future he can believe that the United States government understands law, particularly where it applies to being able to identify one's self on the street. He expressed hope the U.S. government can tell him he is an American citizen, a tax payer and entitled to all the benefits afforded all Americans. He presented his driver's license that was suspended five years ago and as a homeless individual, taxpayer and citizen, it is imperative that all Americans are able to identify themselves on the city's streets; that it is unfortunate many public and elected officials have worked diligently on his behalf and many African American men to violate the due process of law and the affordability to be able to identify one's self. He stated if he had been able on yesterday to travel to Cohutta, Georgia where he was charged and stopped for driving on a suspended license it is his belief the Cohutta judge would have dismissed his case because on December 17 he sat in the judge's court as he dismissed five cases of suspended drivers licenses; that he if had been able to travel there with a new insured vehicle and an up-to-date drivers license he is certain his case would have been suspended. He stated he was forced to stay in his home state and be deprived of information that is free to the public with just a request. He asked the City Attorney if they would be willing to work with him prior to February 14 as he will be 50 years old and for 20 years he has fought the Council, County Commission, the Mayors and many public and elected officials to just be able to be a professional broadcast journalist in his home town. He stated he has volunteers working on his behalf and could not get a copy of his criminal court history records; that it has come to his attention even a federal case he filed had made its way on the internet and does not know who is doing it, no idea who has the funding for it as those persons who requested his personal and credentialed information from the court houses have all told him unless they are paid they will not provide that information.

Chairman Ladd cautioned that Mr. Bell's time was up; that if he has a records request concern he has previously been directed to the City Attorney's office because they handle that and are the only ones who will know where they are in that process.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, February 5, 2013 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

**(A full digital audio of the Council meeting of this date is filed in
the Clerk of Council's Office)**

**(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS FILED
WITH MINUTE MATERIAL OF THIS DATE)**