

City Council Building  
Chattanooga, Tennessee  
August 10, 2010  
6:00 p.m.

Chairman Rico called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gilbert, Ladd, McGary, Murphy, 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, Councilwoman Robinson gave invocation.

#### **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.

#### **CLOSE AND ABANDON**

**MR-2010-090: City of Chattanooga**

On motion of Councilman McGary, seconded by Councilman Murphy,  
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE  
600 BLOCK OF WEST 18<sup>TH</sup> STREET AND AN UNNAMED ALLEY LOCATED  
IN THE EAST LINE OF THE 400 BLOCK OF HIGHWAY 27, SUBJECT TO  
CERTAIN CONDITIONS**

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

## AMEND CITY CODE

**Councilman Murphy made the motion to adopt the alternate version of this Ordinance; Councilwoman Ladd seconded the motion.**

Councilman Gilbert asked which areas are covered in this new scenic corridor.

Councilman Murphy clarified that he has a motion on the floor which leaves out I-75.

City Attorney McMahan stated the question is what areas are being added which include:

- (q) Hickory Valley Road in its entirety;*
- (r) Jersey Pike in its entirety;*
- (s) Shallowford Road in its entirety;*
- (t) Bonny Oaks Drive from its intersection with Highway 58 eastwardly to its intersection with Old Lee Highway at Interstate 75;*
- (u) Highway 58 from its intersection with Jersey Pike northwardly to the City limits;*
- (v) All of Harrison-Ooltewah Road lying within the Chattanooga City limits;*
- (w) All of Old Lee Highway lying within the Chattanooga City limits;*
- (x) All of Old Cleveland Pike lying within the Chattanooga City limits;*
- (y) All of Hunter Road lying within the Chattanooga City limits;*
- (z) All of Mountain View Road lying within the Chattanooga City limits;*
- (aa) All of Snow Hill Road lying within the Chattanooga City limits;*
- (bb) All of Ooltewah-Georgetown Road lying within the Chattanooga City limits; and*
- (cc) Lee Highway from its intersection with Hunter Road southeastwardly to the City limits towards Bradley County.*

Councilman Benson stated that it is his understanding this keeps I-75 as scenic as it is right now; that it does not provide for any additional signs on I-75. City Attorney McMahan responded "it does not".

Councilman Benson stated it also adds "scenic" to a lot of other well-traveled streets, but there are neighborhoods there. He stated this is really a forward step by the Council to maintain the scenic beauty and harmony with commercial travel with our neighborhoods. He expressed appreciation for support of this as it is very important. He stated that it saves us from having to buy some art if we can keep our natural beauty!

AMEND CITY CODE (Continued)

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 3, SECTION 3-55, RELATIVE TO THE PROHIBITION OF OFF-  
PREMISE SIGNS ALONG SCENIC CORRIDORS**

Passed first reading.

2010-2011 CAPITAL BUDGET

Councilwomen Berz and Ladd made the motion and second to approve.

Councilman McGary made the motion to remove the downtown police precinct from the Capital Budget; Councilman Murphy seconded the motion; on roll call vote:

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

**The motion carried.**

At this point a roll call vote began on the original motion to approve on first reading.

Councilwoman Scott stated if this vote is to pass the budget, she did not remember the discussion; that she heard an amendment but did not hear any discussion and when did we skip discussion.

## 2010-2011 CAPITAL BUDGET (Continued)

Councilwoman Scott stated that she understands the amendment portion of that and has some discomfort; that she knows in Committee we talked about passing this budget and then amending it to include possibly some other things later. She stated her concern over that is by passing this the things that we want to have amended would require additional funding and her desire is not to increase the amount of spending but reorganize the priorities on the spending we are making. She stated she has concerns about passing this budget and then being turned around later on and saying we do not really have that money and will have to find it; that if we have allocated these funds already then these will be the projects that will go and that does not mean the other projects we have talked about will go and therefore cannot support the budget as written and as amended.

Councilwoman Berz stated what we were asked to pass after a great deal of discussion takes out the money for the time being for the parking deck, the \$6.5 million, and at Councilman McGary's request it takes out the police precinct at \$350,000. She stated what we have planned for the next meeting is that there were other things discussed like fixing the Wilcox Tunnel, road repairs which we all think are very important, fire hydrants in the areas that are already incorporated which we think are also very important, and next week the administration is to come forward with a plan. She stated some of those funds already have money in them and we passed the money that is already in them; that we have asked the administration to come back with a plan for those additional added funds and that is where we are. She stated the reason we went ahead and suggested that it be passed with those two exceptions is that we have contracts out there; that the majority of the capital budget all of us agree with; that there are just some areas, six areas that we still had to work on and have taken care of several of those and have asked administration to come back with their plan for how they are going to ameliorate those other areas. She stated the comment was made that we cannot hold the bulk and breadth of the budget hostage for those little areas because we do have contracts we have to let to run the business of the city; that the Council by consensus decided to go forward with what we could with the understanding at next week's meeting at 1 p.m. the administration will come up with a plan for meeting those other needs which we thought were not sufficiently met.

Councilman Gilbert expressed agreement with Councilwoman Scott that he could not vote for this budget; that he wants to actually know what will be in there as there is no guarantee next week we will agree on anything.

## 2010-2011 CAPITAL BUDGET (Continued)

Councilwoman Scott stated what we have been told from administration is that they are taking the \$6.5 million for the parking deck and also said they are going to bring it back. She stated if they are bringing it back anything we would do or that we are interested in doing with regard to increasing the amount of money spent on roads and adding money for fire hydrants for areas that are serviced by water and do not have them, she is afraid there will not be any money there once all those things are put together. She stated that concerns her and she is quite willing to take her one vote to hold this city hostage when it comes to roads and fire hydrants!

Councilman Murphy stated that he understands what Councilwoman Scott is saying; that second reading is what matters and it is going to be amended next week and there will be additional spending on roads and fire hydrants and the issue of rearranging the dollars that are in this budget does not mean we are doing more bonding is a good question, but it is his thought we need to be specific because he has not heard anybody say other than perhaps the marina project, what else is in the budget we could rearrange. He recommend if this passes tonight a motion is made specifically what to carve out and reallocate next week or bring it up in Committee; that certainly we can make motion here if it is felt there is money that could be moved from one portion of this capital budget to another. He stated the most likely outcome is we will spend more on roads, which is a high priority for all of our citizens, and the hydrants are a public safety issue which will amount to more borrowing; that they are going to come back later on the parking deck unless they do not get anybody to "chip in" in which case they will not come back.

Councilman Benson stated they can always bring things back; that just the threat of bringing something back does not concern him because we can act on it then with deliberation with whatever they bring back. He stated what has him concern now is what Councilwoman Berz said – we cannot "put the brakes" on this government right now and the services we need to start providing. He stated we have contracts we need to let and this is only the first reading; that if we can get this first reading over and then if we want to delay the second one, fine, but when we do pass the second one we have two weeks even then before any of this goes in force.

City Attorney McMahan stated the way it is written it is two weeks, but we can pass an emergency ordinance to be effective immediately.

**2010-2011 CAPITAL BUDGET (Continued)**

Councilman Benson stated we are going to be in an emergency situation pretty soon on some of these things; that we should deal with the first reading this week and next week we can do what we want to but when we do move on it we do not have to wait another week for another reading.

Councilwoman Berz reiterated what Councilman Benson said; that Councilwoman Scott is right that the administration has said they will bring it back; however, they always have the right to bring something back. She stated as she has said over and over again we talk about five year plans, anything after the first year is illusory; that a Council can only bind for present time and she is not concerned about them saying they are going to bring it back, that is another discussion. She stated she is very concerned about the same things Councilwoman Scott is and that is the quality of our roads, the fire protection of hydrants; that she happens to think the way we get that done is to pass the body of the budget; that when the body of the budget is passed it protects the money that is already in those funds for the things you want and she fully intends to start learning how we can add money to it to get it to its fullest capacity. She stated she does not think there is any disagreement; that we are just coming in at different approaches. She stated she wants to protect the \$1.5 million that is already in the road fund and wants administration to figure out how they will come up with the other so our roads are in good shape. She stated she does not think there is any disagreement at all.

On motion of Councilwoman Berz, seconded by Councilwoman Ladd,  
**AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2010/2011 AND TO AMEND THE FISCAL YEAR 2010-2011 BUDGET ORDINANCE NO. 12410**

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

<b>MCGARY</b>	<b>YES</b>
<b>MURPHY</b>	<b>YES</b>
<b>SCOTT</b>	<b>NO</b>
<b>ROBINSON</b>	<b>YES</b>
<b>LADD</b>	<b>YES</b>

2010-2011 CAPITAL BUDGET (Continued)

BENSON	YES
GILBERT	NO
BERZ	YES
RICO	YES

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 8, RELATIVE TO AVIATION, SO AS TO REPEAL ARTICLE I AND  
ARTICLE II**

Passed first reading.

AMEND ORDINANCE 12414

On motion of Councilwoman Berz, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND SECTION 5 OF ORDINANCE NO. 12414,  
ENTITLED "AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,  
PART II, CHAPTER 2, ARTICLE I, SECTION 2-3, IN GENERAL, AND  
ARTICLE III, DIVISIONS 1 THROUGH 7, SECTIONS 2-136 THROUGH 2-  
174, AND TO REPEAL SECTION 2-193 OF THE PERSONNEL ORDINANCE"  
SO AS TO DELAY THE IMPLEMENTATION OF CHANGES TO OVERTIME  
AND COMPENSATORY LEAVE TO AUGUST 27, 2010**

Passed first reading; Councilman Gilbert voted "no".

CHARTER AMENDMENT

Councilwoman Scott stated the reason why she has concerns about this is not about the discretion of having a judge or a panel assigned by the City Council; that her only objection is the fact that there are two referendums.

City Attorney McMahan stated it is written as one referendum but there are two separate sections of the current *City Charter*; that the fire and police have different rights of appeals and procedures than general employees have; that it is written in two segments because of the difference that already exist.

## CHARTER AMENDMENT (Continued)

Councilwoman Scott stated her objection is that all city employees are not being given the same rights and the fire and police have a right which is more of a benefit than the rest of all the city employees and she cannot justify or understand why they would be different and the fact that it is a precedent in the *Code* where we are in the process of changing the *Code*; that she does not understand why we would codify it again unequal between general employees and fire and police.

Councilman Benson stated that is not the way he reads it; that it says fire and police and then says "and employees of the city of Chattanooga". He stated that would be all employees; that he agrees with Councilwoman Scott's problem with that; that he wants all employees to have the same rights.

City Attorney McMahan stated the way the ordinance is written is basically not taking away any rights that either group currently has; that it is not taking any right the firefighters and police officers might have and not taking away any rights general employees may have. He stated it so happens under current *Charter* provisions that the fire and police department has somewhat more rights than general employees with respect primarily to the issue of demotions and suspensions. He stated the fire and police provisions currently existing say if the firefighter or police officer is demoted or suspended they have a right to a hearing, period; that the ordinances that are in existence for general employees say if they are demoted or suspended and that demotion or suspension arises more than ten percent of their annual wages, they would have a right to a hearing; that we can certainly change the ordinance which is already on the books to give the general employees exactly the same rights to appeal as fire and police employees. He stated the *Charter* amendment will allow City Council by ordinance to set up due process procedures by ordinance to have such hearings, which means the Council can improve by ordinance the policy they are currently providing for city general employees, but would not be taking away any rights that the firefighters or police officers currently enjoy; that they can improve the others by ordinance.

Councilman Benson made the motion to amend.

Councilwoman Scott stated even though it is not changing anything that fire and police have as she is not trying to do that, and not changing anything general employees have, it is essentially by continuing the disparity in these two groups with regard to their benefits to be able to appeal.

## CHARTER AMENDMENT (Continued)

Councilwoman Scott stated that is hard to explain and hard to understand; that if we look at the ordinances it does say "other employees" under the part that is fire and police but if we look at the other portion of it, it can be seen as separate and different.

Councilman McGary stated Councilwoman Scott raises a very valid point, however it is his thought we are on some time constraints to have this appear on the next ballot; that we have to pass this particular ordinance so we can put it on the ballot. He stated that he understands her concern about this being somewhat backward; that it would behoove the Council to first rectify the ill that Councilwoman Scott described and then pass the ordinance, but being that we find ourselves under some time constraints we have to put the "cart before the horse" so to speak and being that these are two separate issues, by addressing this issue we are in no way placing our stamp of approval on the old way of doing business as that can be addressed at a separate point and hopefully that will be soon.

Councilman Benson stated this is a case where we need to get this reading out of the way to meet the deadline for getting it in on the referendum in the next election. He stated we could work on it next week to bring it up to include all general employees.

City Attorney McMahan stated he could rewrite it for an amended version next week to provide that general government employees will have the same rights as the fire and police employees have.

Councilman Murphy stated far be it from him to be a descending voice; hat if he were to standardize he does not think he would liberalize it for our regular employees and that presents a functional problem and if we take it the other direction we have two groups of people who will lobby against this passing when it goes to the voters. He stated he has not had a fireman or police officer bring a two-day suspension in front of us, but if he did they need to understand that we have the right to modify that and they had better be right. He stated it is a lot of time, money and effort to do these hearings and we have a two-day suspension, want a hearing and (he) honestly thinks it is the wrong direction to open that up to the entire work force. He stated it is perfectly rational to treat different classes of employees differently; it is perfectly rational and nothing wrong with it in his way of thinking.

At this point the question was called.

**CHARTER AMENDMENT (Continued)**

On motion of Councilman Benson, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AUTHORIZE A REFERENDUM TO AMEND CERTAIN PROVISIONS WITHIN TITLE 3 AND TITLE 13 OF 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, TO MAKE CERTAIN CHANGES TO THE DISCIPLINARY APPEALS PROCEDURES FOR RIGHTS OF POLICE OFFICERS, FIREFIGHTERS, AND EMPLOYEES OF THE CITY OF CHATTANOOGA RELATIVE TO THE ADMINISTRATIVE PROCEDURES FOR EMPLOYEE DISCIPLINARY APPEALS**

Passed first reading; Councilmen Scott and Gilbert voted "no".

**AMEND CITY CODE**

On motion of Councilwoman Robinson, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND SECTIONS 2-436, 2-437, 2-439 AND 2-442 OF ORDINANCE NO. 12413 ENTITLED "AN ORDINANCE AMENDING CHATTANOOGA CITY CODE, PART II, CHAPTER 2, ARTICLE III, SECTIONS 2-151 THROUGH 2-153, BY DELETING THESE SECTIONS IN THEIR ENTIRETY AND INSERTING A NEW DIVISION 19 ENTITLED 'INJURY ON DUTY PROGRAM.'"**

Passed first reading.

**LIFT CONDITIONS**

**2010-096: Bell Development Company, Inc.**

On motion of Councilman Benson, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO LIFT THE CONDITIONS IMPOSED IN ORDINANCE NO. 11983 (CASE NO. 2007-086) ON TRACTS OF LAND LOCATED AT 7726 AND 7730 STANDIFER GAP ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

## WAIVE LANDFILL FEES

Councilman Murphy stated the following resolutions are substantially identical except for the entity to which they refer and asked if it is permissible to entertain a motion to consider Resolutions (a) – (e) and (m) and any other one identical to that in one vote and debate. City Attorney McMahan confirmed that it is permissible.

**Councilman Murphy made the motion to consider Resolutions (a) – (e) and (m) in one vote and debate; Councilman McGary seconded the motion.**

City Attorney McMahan stated the Resolutions provide in general times authorization of the waiver of landfill fees for a non-profit corporation.

Councilwoman Ladd stated what has occurred in the past is that the non-profit organizations that operate a thrift store have been allowed to bring refuse they cannot recycle or otherwise use to our landfill with no charges or cost to them at all for that service. She stated this came under question during an internal audit that questioned our waiver of those fees for non-profits when others are charged for that service. She stated there was a change to adopt an ordinance charging these non-profits that operate thrift stores for use of services at the landfill which has raised several different questions; that the material that is brought by the non-profit thrift stores to our landfill is material that we do not want to put in that landfill. She stated the city of Chattanooga, when it has like materials, has had to pay to take those materials to a private landfill and pay fees; that last year we paid fees that totaled almost \$210,000 rather than put that material in our landfill. She recommended that the Council deny this service free of charge and make an amendment to correct the ordinance so that the Council does not hear waiver of these fees in the future and recommended to the non-profits that they also take their refuse to a private landfill that would charge less cost than the city would charge thereby getting us out of this line of business altogether.

Councilman Benson stated he has been out to one of these and looked at it; that they had a big compacter and they have been a tremendous organization serving many people and has never seen anything like it. He stated we might not want some of that trash in our landfill but we are going to get it one way or another; that we are not going to be able to force anyone, and does not want to force anyone, to any private business.

### WAIVE FEES (Continued)

Councilman Benson stated if they want to go private, fine, but we are going to have to pick up that trash one place or another and he would rather have it compacted as he has seen happen at Samaritan Center and they do a good of it; that it will end up in our landfill anyway unless we put them in such a position and private enterprise can make it cheaper than we can, and if private enterprise can make it cheaper than we can then maybe we are doing something wrong. He expressed that he does not believe he could be opposed to continue with this waiver because of the wonderful jobs these various agencies provide. He stated we very well could end up closing down a number of centers – Bethel, Orange Grove, Chattanooga Food Bank, the Samaritan Center; that it very well could be counter-productive to our cost to do that.

Councilwoman Berz stated as she told several folks, including the Samaritan Center, that she is a great supporter of these centers and several of them financially. She stated the problem she has and the reason it gives her pause is what we are doing is using taxpayers money to subsidize this and the amount of money we are having to make up for the difference runs into several hundreds of thousands of dollars and she has a problem with that. She stated she has an obligation to the taxpayers and would almost rather make a larger donation to these places. She stated the thing is the ecological point of view; that Councilwoman Ladd made a good point of view that these are things we are taking for free into our landfill that we do not want to begin with; that what we should be doing is “beefing up” alternative ways for folks to do very, very good works to dispose of their refuse and work in a private public partnership. She stated the ordinance as written she cannot in good conscience support and will vote against it.

Councilmen Gilbert stated as he mentioned last time we give millions of dollars to non-profits because they do a service for our service; that the same non-profits not only serve the city but the county, yet we still give money to them for service. He stated they are doing a service for our community and are taking items that could go to the landfill; that the bottom line is we are still going to pay that higher price if they take it back to somewhere like Airport Road and dump it with C&D, we will still pay. He stated we would be paying more because when the close down that is more stuff the city will be accumulating and sent to the same place they are sending it. He stated it is a service they are giving us with less stuff going to the yard instead of more going to the yard because more can go to the yard if they close down, not all of them but some of them.

Councilman McGary stated he would like to hear from the applicant as a couple ideas have been “tossed” and (he) is curious to have his thoughts.

### WAIVE FEES (Continued)

**Tony Dahlberg**, Executive Director of the Samaritan Center, expressed appreciation to speak to the Committee last week and at that time the statement was made from those representing the landfill that for all the years they have been doing the local non-profits a favor and not charging tipping fees; that we all agree that has been a tremendous favor and blessing and has allowed them to use those funds that have otherwise been spent in tipping fees for the operation of their various outreaches. He stated the week before last a woman came to them for help as her expectant daughter had to have an emergency C-section; that they live together and now her daughter and new grandbaby are home; that unfortunately her water was cut off last week which made it difficult for her to care for the baby and the mother. He stated it was one of those times when they put their assistance limit aside and helped with approximately \$400 in utility help for electric and water bills and gave them a new born baby kit of at approximate cost of \$200. He stated the landfill fee of \$30.50 per ton would annually cost \$17,000 for them and would definitely put pressure on their ability to respond like this. He expressed hope the Council could see in the process of fulfilling their respective missions the non-profits are returning a favor to the city; that they help extend the life of the city landfill, take pressure off the city's social services, assist in preventing homelessness and brighten the outlook for our community as a whole. He stated the truth of the matter is whether or not the city continues to give them this favor the non-profits represented here are going to do their best to benefit the citizens, taxpayers and city.

Mr. Dahlberg addressed Councilman Benson's concern from last week about the city landfill being filled with waste from county donations since they are located near the county line; that while some county trash may make its way to the landfill the flipside of the situation is that many useable donations from the county are sold and the proceeds used to help city residents. He stated overall the city actually benefits from county donations more than they are hurt by them. He referenced Jerry Lee Lewis' Song, "A Whole Lot of Shakin' Going On!" and expressed that for our community the song could be rewritten that there is "A Whole Lot of Benefittin' Going On!". He stated people feel good when they donate to our local non-profits and when they volunteer there; that people hired by these non-profits are happy to have a job and the city is happy when they pay their taxes. He stated their shoppers are glad to be able to stretch citizens' dollars and the city benefits from the sales tax; that people are grateful to receive help from the Center and the city is happy when the non-profits help people get back on their feet.

**WAIVE FEES (Continued)**

Mr. Dahlberg stated the non-profits keep many items out of the landfill and strengthen the community as a whole so there is "a whole lot of benefittin' going on"! He requested that the Council not remove their benefits from the cycle and either way they will continue to receive theirs. He expressed thanks for making a decision that will truly strengthen our community.

**At this point the vote was taken on the motion and second by Councilmen Murphy and McGary to consider Resolutions (a) - (e) and (m) in one vote and debate; the motion carried.**

Councilwoman Ladd made the motion to deny and go back and amend the ordinance to close the waiver coming to the Council; Councilwoman Scott seconded the motion.

On roll call vote:

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

The motion failed.

Councilman Benson made the motion to approve, with Councilman Murphy seconding the motion.

**WAIVE FEES (Continued)**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR  
THE CHATTANOOGA AREA FOOD BANK, A NON-PROFIT  
CORPORATION**

Was adopted; on roll call vote:

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

**WAIVE LANDFILL FEES**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR  
THE SAMARITAN CENTER, A NON-PROFIT CORPORATION**

Was adopted.

**WAIVE LANDFILL FEES**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR  
THE SALVATION ARMY, A NON-PROFIT CORPORATION**

Was adopted.

**WAIVE LANDFILL FEES**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR  
THE BETHEL BIBLE VILLAGE, A NON-PROFIT CORPORATION**  
Was adopted.

**WAIVE LANDFILL FEES**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR  
THE ORANGE GROVE CENTER, INC., A NON-PROFIT CORPORATION**  
Was adopted.

**FIVE-YEAR CAPITAL IMPROVEMENT PLAN**

On motion of Councilman Benson, seconded by Councilwoman Ladd,  
**A RESOLUTION ADOPTING A FIVE-YEAR CAPITAL IMPROVEMENT PLAN,  
SUBJECT TO FUTURE REVISION, A COPY OF WHICH IS ATTACHED  
HERETO AND MADE A PART HEREOF BY REFERENCE**  
Was adopted; **Councilmen Scott and McGary** voted "no".

**AGREEMENT**

Councilwoman Scott that she would like for the Council to consider adding the name of the property that this is referring to because it just says "city property" and it is her thought it would be clearer what it is in retrospect that we have voted money for. Councilman Murphy expressed agreement with Councilwoman Scott's suggestion.

City Attorney McMahan stated it is the old Hixson Middle School Site and can be added if the Council desires.

**On motion of Councilwoman Scott, seconded by Councilwoman Ladd, "the Old Hixson Middle School site" was added to the caption in open meeting; the motion carried.**

AGREEMENT (Continued)

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH FRANKLIN ARCHITECTS TO PROVIDE PROFESSIONAL PLANNING AND DESIGN SERVICES FOR COMPLETING AN ASSESSMENT AT THE OLD HIXSON MIDDLE SCHOOL SITE AND POTENTIAL RE-USE PLAN OF CITY PROPERTY, CONDUCTING DETAILED COMMUNITY PLANNING AND VISIONING EXERCISES, FOR A FEE OF THIRTY-FIVE THOUSAND DOLLARS (\$35,000.00) WITH A CONTINGENCY AMOUNT OF THREE THOUSAND FIVE HUNDRED DOLLARS (\$3,500.00), FOR A TOTAL AMOUNT NOT TO EXCEED THIRTY-EIGHT THOUSAND FIVE HUNDRED DOLLARS (\$38,500.00)**

Was adopted.

SPECIAL POLICEMEN (UNARMED)

On motion of Councilman McGary, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF LATOYA WILLIAMS AND DONNOVAN BASEK AS SPECIAL POLICE OFFICERS (UNARMED) FOR THE DEPARTMENT OF PARKS AND RECREATION, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

AGREEMENT

On motion of Councilwoman Ladd, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS – WASTE RESOURCES DIVISION TO ENTER INTO AN AGREEMENT WITH JACOBS/JJ&G FOR PROFESSIONAL ENGINEERING SERVICES RELATIVE TO GREENHOUSE GAS EVALUATIONS AND REPORTING FOR CITY LANDFILL, SUMMIT LANDFILL, AND THE MOCCASIN BEND WWTP CONTRACT NO. W-10-002, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)**

Was adopted.



## ADVANCE FUNDS (Continued)

Amin. Madison stated we are asking instead of being in a position that when the loan payment comes due again, which is September 30, we be in a position or before that situation comes to pass that we pay off that loan by an advance to Dogwood Manor LLC, which is the entity to which the bank lent the funds so that we will no longer have to refinance that loan at a varying interest rate and pay loan re-origination fees. She stated it is really just refinancing the loan to essentially eliminate the financing costs and then Dogwood Manor would pay the city a set interest rate to be determined instead of paying the bank that interest rate for a property that is owned by the city anyway.

Councilman Murphy stated CNE purchased this apartment complex originally as Dogwood LLC and asked how is it that the city came to own it.

Admin. Madison stated the city purchased the property; that CNE managed the property through a management agreement with the city and then the Dogwood Manor LLC was an entity that was established to enter into a loan agreement with a bank to finance the renovation.

Councilman Murphy stated CHA did not buy it; that the city of Chattanooga just with general funds bought this property, this apartment complex.

Admin. Davis responded "yes" and stated she did not know all of the specifics of the transaction, but the property was about to go into default due to issues with HUD and rather than have that facility go away and the residents not have a place to stay the city assumed responsibility for the project.

Councilman Murphy asked if this is an ongoing revenue producing and produces a profit.

Admin. Madison stated what it is doing right now is covering its own operation costs; that the city has not incurred any additional cost as a result of this activity; that this activity, which is a city entity, is incurring an unnecessary amount of finance cost because of the arrangement.

Councilman Murphy stated that he asked if it is producing a profit and Admin. Madison indicated it is producing revenue enough to cover its operating costs. Admin. Madison quickly added "and pay the loan".

Councilman Murphy stated it is paying down the loan at approximately what rate. Admin. Madison stated it is paying off the loan at the amortization rate set by the bank.

### ADVANCE FUNDS (Continued)

Councilman Murphy asked when we can expect to get the \$2.5 million back. Admin. Madison stated the city would set up the terms of that loan such that the payments on the loan would be equal to or greater than what they currently are, but at least equal to what they currently are; that more of the loan payment will go toward relieving principle and not interest to the bank.

Councilman Murphy stated he understands the purpose of not refinancing again; that the question he has is when this asset will pay off this debt, how many years. Admin. Madison stated it depends upon the term of the loan.

Councilman Murphy asked how much revenue has it been producing... what was the term of the loan it was in, if it was amortized at 20, 25, or 50 year amortization.

Dan Johnson stated it is his thought it is a 25 year amortization with a balloon payment.

Councilman Murphy asked how many years into that 25 year amortization did they get. Dan Johnson stated we hit the balloon payment.

Councilman Murphy stated he understands the balloon payment and asked how many years they have paid into the 25 year amortization.

Admin. Madison stated she would have to find out; that it was structured so that a large part of the payment was going toward interest and that is why it is a 20 year amortization period, which means most of the dollars are going toward interest up front.

Councilman Murphy stated Mr. Johnson said 25 years; that as of today we are extending this credit and may not see this money back for 15 years.

Dan Johnson stated we currently have two prospective buyers looking at it and has been up for sale since we have been in office. He stated whether or not we are able to sell it he does not know; that the terms of the refinancing has not been worked out but we would work it out in a manner that the debt service can be handled by the project and in order words we would not have to put any more money into it. He stated what the amortization turns out to be is what we will do; that it is to ourselves at that point.

### ADVANCE FUNDS (Continued)

Councilman Murphy inquired as to the worth of this property. Mr. Johnson stated they have an old appraisal; that this is a HUD project; that it is worth probably \$3 million at most.

Councilman Benson asked Mr. Johnson to give a little bit of the history and how important this is to this community and especially the elderly poor people; that where in the world would they go if they did not have this which is why it was built in the first place.

Mr. Johnson stated back in 1970 when he was President of the Chattanooga Jaycees they were able to get a HUD loan and build this, actually this was the second one built; that it was originally built for retired teachers. He stated what happened later on in the life of it is it was originally 68 efficiencies and used to be 204 apartments and now it is 136 one bedrooms and the Jaycees owned it under a separate corporation for a long period of time and tried to get HUD to renovate it into all one bedrooms because the market for efficiencies just went out. He stated after he "aged out" they eventually turned it over to HUD since they would not loan the money for renovation and got the city to take it and then proceeded to make the renovations they originally wanted to make them all one bedrooms. He stated Ms. Madison explained the rest of the history of that project that it was managed by CNE and the debt incurred to make that renovation to the project was in Dogwood Manor LLC, but it is still a city property and just the debt was in the LLC.

Councilman Murphy asked what recourse does Regions Bank have other than the property. Mr. Johnson responded that it is his thought the city is on that debt and is not real sure on the transaction or that security.

Admin. Madison stated at this point the only recourse they have is that they can repossess the property; however at this point, unless we want to default on the loan in accordance with the term of the management agreement with Chattanooga Housing Authority we have agreed to subsidize any deficit that is required to pay off the loan. She stated those were the only conditions under which we could.

**ADVANCE FUNDS (Continued)**

On motion of Councilman Benson, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE CHIEF FINANCE OFFICER TO ADVANCE FUNDS TO DOGWOOD MANOR, LLC IN THE AMOUNT OF APPROXIMATELY TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00) TO PAY THE OUTSTANDING LOAN BALANCE TO REGIONS BANK, PLUS LEGAL FEES OWED IN CONNECTION WITH PAST LOAN EXTENSIONS; THESE FUNDS WERE USED TO RENOVATE DOGWOOD MANOR, LLC WHICH IS A CITY-OWNED FACILITY; AND FURTHER AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH DOGWOOD MANOR, LLC FOR REPAYMENT OF SAID ADVANCE FROM REVENUES DERIVED FROM THE OPERATIONS**

Was adopted.

**AGREEMENT**

On motion of Councilman Murphy, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH FRIENDS OF THE ZOO FOR THE LEASE AND MANAGEMENT OF THE CHATTANOOGA ZOO AT WARNER PARK**

Was tabled two weeks.

**WAIVE LANDFILL FEES**

On motion of Councilman Benson, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE WAIVER OF THE LANDFILL FEES FOR THE CHATTANOOGA GOODWILL INDUSTRIES, A NON-PROFIT CORPORATION**

Was adopted.

**ACCEPT FUNDS**

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ACCEPT FUNDS FROM HIXSON DEVELOPMENT PARTNERS, LLC, FOR AN EASEMENT ACQUISITION FROM TENNESSEE WILDLIFE RESOURCES AGENCY RELATIVE TO CONTRACT NO. E-08-028, OLD HIXSON PIKE IMPROVEMENTS, FOR A TOTAL AMOUNT OF FIVE HUNDRED DOLLARS (\$500.00)**

Was adopted.

**ACCEPT FUNDS**

On motion of Councilman McGary, seconded by Councilman Benson,  
**A RESSOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ACCEPT FUNDS FROM BUFFALO WILD WINGS FOR SIDEWALK AND STREETScape TREES RELATIVE TO CHERRY STREET (1<sup>ST</sup> STREET TO 2<sup>ND</sup> STREET) FOR A TOTAL AMOUNT NOT TO EXCEED FOUR THOUSAND DOLLARS (\$4,000.00)**

Was adopted.

**AGREEMENT**

On motion of Councilman McGary, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH VOLKERT, INC. FOR THE CONSTRUCTION ENGINEERING INSPECTION (CEI) PROFESSIONAL SERVICES, RELATIVE TO CONTRACT NO. T-09-003-401, CBD SIGNALIZATION UPGRADE PROJECT, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED NINETEEN THOUSAND FIVE HUNDRED DOLLARS (\$119,500.00)**

Was adopted.

**AGREEMENT**

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH ENVIRONMENTAL MATERIALS TO ALLOW THE CITY TO REMOVE AND TRANSPORT DIRT FROM C&D FOR THE MUTUAL BENEFIT OF THE CITY AND C&D**

Was adopted; Councilmen Scott and Gilbert voted "no".

**LEASE**

**Councilmen Ladd and Benson made the motion and second to adopt this Resolution.**

Councilwoman Scott stated that she has a question for Public Works about this noting that she sent an e-mail and has not had a chance to check messages; that she wanted to know the answers to the questions she submitted.

## LEASE (Continued)

Jerry Stewart stated that he received them but had a couple other issues going on the last couple days and has not been able answer them or address them. He stated on this particularly thing we are only talking about the lease of the area where the generators are located and the building he displayed last week that would be fenced in an area probably 100 X 100.

Councilwoman Scott stated that there are three resolutions, one for the lease of property at Summit, the other for a landfill gas agreement and the third is for an easement for electric power relative to the same project. She stated her concern is the answer to her question about the landfill gas agreement relates to how she would vote on the other two issues; that she does not think Volkswagen would care to have a lease if they could not have a gas agreement and they are all linked. She stated her question is when she read the agreement there were specifications for the gas that would come out of the landfill with regard to quality, quantity and contamination and one thing she cannot recall, it said if they could not get the gas with those specifications there would be an automatic correction of deficiencies included in that. She stated it further stated if the city and the consultant that would be hired by Volkswagen did not agree on what would be done the consultant for VW could just go ahead and have the repairs made and then bill it to us. She stated that she finds that a little bit one-sided; further, that typically when methane is obtained it comes out of a naturally formed reservoir and in this case the methane is coming off a landfill which may have different contaminants. She stated it is a ten year lease and how can we guarantee for ten years those specifications and be "under the gun" for correcting all issues related to that; that is sounds open-ended and a little one-sided.

City Attorney McMahan stated that he, Wade Hinton, Volkswagen's attorney, and Mr. Aiken have been working diligently on this with consulting engineers; that the document in front of the Council is a working draft. He stated they are under some time constraints and is the reason for presenting the Council with a working draft. He stated Volkswagen is not interested in entering into a contract with the city unless the experts tell us there is sufficient amount of useable gas out there to work the generators to pay well over \$3 million worth of investment, which is what it will take to put this project into place.

**Atty. Wade Hinton** stated City Attorney McMahan is absolutely right; that the point of having JJ&G Consultants come on board to work with them and other interested parties is to try to determine exactly how much quantity and quality of gas will be delivered to us.

### LEASE (Continued)

Atty. Hinton stated right now they have done a lot of studying but have a lot more homework to do before going forward with the purchase of equipment and making additional investments. He stated with respect to the question about the consultants, certainly if it is determined by the consultants prior to entering into any agreement to purchase equipment, the contract has been written in such that all parties can step away from the agreement, reiterating that they are still in negotiations. He stated if they enter the agreement and it comes to a situation where the city is unable to make repairs and we have to have the consultant go in and make repairs on VW's behalf, they are not looking to get into the landfill gas business; that they want to make sure they have the gas delivered and not looking to bill the city anything; that it is something they are still discussing now.

Councilwoman Scott asked if it is not a part of the contract that if the consultant feels it has not been corrected the city will pay whatever it takes to get it to that point, asking if that is not part of that.

Atty. Hinton stated it is part of the agreement and again noted that they are negotiating that and not looking at anything where the consultant or even the building would look to make a profit with respect to whether work repairs will have to be made on the landfill and it is part of it; that they are negotiating and he did not think they will look to going into the landfill gas business; that they want to make sure the gas they are getting is working for them.

Councilwoman Berz asked Atty. Hinton to speak in English! Atty. Hinton stated he has learned more about landfill gas and just wants to build a car, too!

Councilwoman Berz stated the idea is that VW wants to harvest the methane gas to use for energy. Atty. Hinton responded "absolutely right".

Councilwoman Berz stated that is a great idea; that the quit pro quo for the city is ... Atty. Hinton stated they would purchase the gas from the city and they are still negotiating the actual purchase price, but will be consistent with the Green initiatives the city has and is the same with VW.

Councilwoman Berz stated where she is getting a little off track is how can the city guarantee that our part is going to be with what VW needs and what would we have to pay on our side to make that happen.

## LEASE (Continued)

Atty. Hinton responded hopefully before they get into any other agreement they will know that there is going to be the quantity and quality of gas; that before they go forward they have to know that. He stated that is where JJ&G will help them and other consultants will help them, too; that they will be able to make that determination before entering that agreement. He stated if, indeed, they enter the contract and there is no more gas and if repairs need to be made they would first go through the city and ask that the repairs be made and if they fail to do that, certainly part of the contract is they will provide and they would then have to go in and make sure that the gas has been delivered which could involve bringing on a consultant.

Councilwoman Berz stated that is where she is getting a little "iffy"; that she could see VW coming to the city asking that the corrections be made and we are saying on tax payers dollars to help you "we don't think so" and then are we in some sort of breach with VW.

Atty. Wade stated not really; that they are still negotiating; that there could be possibly instead of paying, that the city would be paid on a monthly basis for the gas and could be used to offset whatever bill the consultant sends.

Councilwoman Berz asked why this is a "time is of the essence thing" until all those negotiations are worked out.

Atty. Hinton stated part of this is that we have a Green initiative they are trying to get certain objectives met and they have deadlines for that. He stated they have other parties that they are negotiating with that have deadlines, as well, and it is his thought they want to get this done as quickly as possible.

Councilwoman Berz asked how long it would take for the negotiations to be complete so the Council will know exactly what they are approving. Atty. Hinton stated that is up to JJ&G to determine how much gas and the quantity and quality is in the landfill, which is all subject to their findings.

Councilman Murphy stated the gas at the landfill has very, very little if any value to the city right now and is mostly just flared; that the concern the Council would have is if repairs are recommended that exceed the value, for example, for all the gas VW might use that year, you will get gas for a year and we get a bill which is the concern. He stated he does not know if anyone has looked at that economic model, yet, whether the cost of maintaining production in a dump, which is not always the most reliable place to extract gas, could exceed the value of the product extracted.

## LEASE (Continued)

Atty. Hinton stated they have not made that determination in terms of the model and are still negotiating; that based on the amount that they expect to pay the city each month for a year, he finds it highly unlikely that the repairs will exceed that value for the year.

Councilwoman Scott stated that she is uncomfortable about voting for something she knows so little; that the price is not included and knows that will be negotiated, but Atty. Hinton indicated it is a considerable amount. She stated the Council has no way of knowing what that would be so that it would be covered; that the other thing is that it is her thought there should be considered a cap for expenses and expressed that she was a little surprised when she looked at the other Resolution as she thought there were three Resolutions tied together on this but sees actually the one she thought was mostly dealing with the EPA is actually also tied to this. She stated there are four Resolutions and we are spending \$100,000 on Resolution (i) which we approved, she thought was to meet EPA's regulation. She stated that she knows greenhouse gases and methane are related, but it sounds like it is also including engineering services to see whether this would be a good venture for VW which she did not know was part of that and would have appreciated knowing that when they got the other information.

Atty. Hinton stated they have invested an amount in terms of doing research on this and to address the question of price, they are looking at \$80,000 - \$100,000 for payment which is a significant amount.

Councilman Benson stated we got in a bind or "burned" on the Summit deal a few years back and does not want to have that occur again. He stated Resolution (r) says to execute a lease and (s) says to enter into a landfill gas agreement and does not know if the way they are written they have to come back to the Council if we approve either one tonight and does not understand why the rush.

Atty. Hinton stated they do have deadlines in place; that they are taking their time to do due diligence as they are here as a partner and know the city wants this as part of their initiatives and as part of VW's. He stated they are not here to leave the city "hanging" like the last particular deal; that they are here to work and partner with the city!

Councilman Benson asked if this comes back to the Council to see before the lease goes into effect, the contract, will we get another shot at it.

**LEASE (Continued)**

City Attorney McMahan stated the way it is written it will not come back and suggested that the matter be deferred one or two weeks to work it out. Atty. Hinton suggested deferring one week.

**Councilman McGary made the motion and defer this matter and Resolutions (s) and (t), as well; Councilwoman Ladd seconded the motion.**

On motion of Councilman McGary, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE A LEASE WITH VOLKSWAGEN OF CHATTANOOGA OPERATIONS, LLC OR ASSIGNEE FOR A TRACT OF LAND AT SUMMIT LANDFILL**  
was deferred one week.

**LANDFILL GAS AGREEMENT**

On motion of Councilman McGary, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A LANDFILL GAS AGREEMENT WITH VOLKSWAGEN OF CHATTANOOGA OPERATIONS, LLC OR ASSIGNEE**  
Was deferred one week.

**EASEMENTS**

On motion of Councilman McGary, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE EASEMENTS WITH THE ELECTRIC POWER BOARD FOR ELECTRIC DISTRIBUTION LINES ACROSS SUMMIT LANDFILL PROPERTY**  
Was deferred one week.

**ALLOCATION**

On motion of Councilman Murphy, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF NEIGHBORHOOD SERVICES AND COMMUNITY DEVELOPMENT TO ALLOCATE UP TO SIXTY-ONE THOUSAND DOLLARS (\$61,000.00) IN NEIGHBORHOOD STABILIZATION PROGRAM FUNDS TO 28<sup>TH</sup> LEGISLATIVE DISTRICT COMMUNITY DEVELOPMENT CORPORATION FOR THE PURPOSE OF DEVELOPING AFFORDABLE HOUSING**

Was adopted.

**FINAL PUD**

**2010-012: D and M Properties, LLP**

There was no opposition in attendance.

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**A RESOLUTION APPROVING A PROPOSED FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS FISHERS LANDING PLANNED UNIT DEVELOPMENT, FORMERLY MACKEY GLEN PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 1091 MACKEY AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE FINAL PLANNED UNIT DEVELOPMENT PLAN ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

**LEASES**

Councilman Murphy stated there was some urgency but that urgency has been removed by action by the Planning Commission on Monday and there may be some additional agreements beyond leases that are worked out that set a precedent for how to deal with these properties in the future.

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICE TO EXECUTE LEASES WITH HIGHLAND PARK NEIGHBORHOOD ASSOCIATION AND MISSIONARY RIDGE NEIGHBORHOOD ASSOCIATION**

Was tabled 90 days (November 9, 2010).

## OVERTIME

Overtime for the week ending July 29, 2010 totaled \$63,392.90 and for the week ending August 5, 2010 totaled \$10,866.46, for a grand total of \$74,259.36 for the two weeks.

## PERSONNEL

The following personnel matters were reported for the various departments:

### MULTICULTURAL AFFAIRS:

- **SOLOMON HATCH** – Reduction in Force, Community Outreach Specialist, effective July 30, 2010.

### CHATTANOOGA HUMAN SERVICES:

- **TIMOTHY R. WILLIAMS** – Reduction in Force, Utility Worker, effective July 23, 2010.
- **ALICE WILLIAMS** – Reduction in Force, Receptionist, Social Services, effective July 30, 2010.

### PARKS AND RECREATION:

- **STUART A. INBODY** – Resignation, Fiscal Analyst, effective July 28, 2010.

### CHATTANOOGA FIRE DEPARTMENT:

- **THOMAS BLACKBURN** – Return to Duty from Military Leave, Firefighter Senior, effective July 26, 2010.
- **JOEL NIX** – Return to Duty from Military Leave, Firefighter, effective July 29, 2010.
- **KELLY SCHROYER** – Return to Duty from Military Leave, Firefighter Senior, effective August 5, 2010.

## PERSONNEL (Continued)

### NEIGHBORHOOD SERVICES:

- **BRAD C. GARDNER** – Reduction in Force, Manager of Codes and Neighborhood Relations, effective July 16, 2010.

### CHATTANOOGA POLICE DEPARTMENT:

- **ELVIRA FOY, CLEON WALKER** – Resignation, School Patrol Officer, effective July 26, 2010.
- **JAMIE RIDDLE** – Return to Duty from Military Leave, Police Officer, effective July 28, 2010.
- **PATRICK O'BRIEN** – Retirement, Police Sergeant, effective August 3, 2010.

### PUBLIC WORKS:

- **JASON E. SILVERS** – Promotion, Refuse Collection Inspector, City Wide Services, Range 10, \$28,137.00 annually, effective July 26, 2010.
- **MICHELLE C. MEEKS** – Promotion, Administrative Support Specialist, City Wide Services, Range 10, \$28,137.00 annually, effective July 16, 2010.
- **PAUL E. BLACK** – Retirement, Crew Worker 1, Traffic Engineering, effective August 6, 2010.
- **STEPHEN WARE** – Promotion, Plant Operator 2, Waste Resources, Range 11, \$29,544.00 annually, effective July 30, 2010.
- **AARON M. DAVIS** – Suspension (2 days without pay), Crew Supervisor 3, City Wide Services, effective July 26-27, 2010.
- **RANDELL S. JORDON** – Promotion, Equipment Operator 4, City Wide Services, Range 10, \$28,137.00 annually, effective July 30, 2010.
- **VICTOR J. WUGHTER** – Resignation, Accident Investigator, City Wide Services, effective July 22, 2010.

### PERSONNEL (Continued)

- **MICHAEL GRAVETT** – Suspension (5 days without pay), Equipment Operator 5, Waste Resources, effective June 28-July 2, 2010.
- **MICHAEL GRAVETT** – Suspension (10 days without pay), Equipment Operator 5, effective August 2-13, 2010.
- **GARY S. SKIDMORE** – Retirement, Chief Plant Operator, Waste Resources, effective July 31, 2010.

### REFUNDS

On motion of Councilman McGary, seconded by Councilwoman Berz, the Administrator of Finance was authorized to issue the following refunds of property taxes pursuant to State Board of Equalization assessment change:

**C-K COURTS AT WATERFORD PLACE LLC** -- \$2,168.58

**THE PARTNERSHIP FOR FAMILIES, CHILDREN & ADULTS, INC.** -- \$20,040.92

**TENNESSEE PAPER MILLS #3330** -- \$2,049.72

**RESERVE AT CREEKSIDE** -- \$14,821.69

**MOMI LLC**-- \$11,660.77

**LAUREL RIDGE REALTY CO. LLC** -- \$6,895.98

**HIDDEN ACRES LTD.** -- \$3,354.38

**GIDEON PARTNERS LLC** -- \$6,730.24

**FREEMAN WEBB CO. REALTORS, ATTN: KARI BROWN, PROPERTY MGR.** -- \$24,655.19

**ASHFORD PARTNERS LLC** -- \$4,914.56

**INLAND AMERICAN TENNESSEE DISTRIBUTION LLC** -- \$8,418.85

**ROCK-TENN COVERTING CO.** -- \$6,881.55

**HAVENS AT COMMONS PARK LLC** -- \$67,856.18

**REFUNDS (Continued)**

UNITED HOUSING PARTNERS -- \$1,560.18

**PURCHASES**

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

**LAKESHORE FENCE, LLC (Lowest and best bid)**

**R27695**

Purchase Fence for Summit Landfill

\$72,696.00

Councilman Murphy inquired as to the fences. Jerry Stewart responded that the fences are for the old landfill. Councilman Murphy clarified that it is not where we are trying to harvest, to which Mr. Stewart responded "no".

**INGRAM EQUIPMENT COMPANY (Per City Code Sec. 2-552)**

**R31568**

Purchase of One Used Jetter Truck

\$132,500.00

**LEE-SMITH INC. (Lowest and best bid)**

**R26703**

Purchase of Service Truck

\$144,362.00

**BOARD RE-APPOINTMENT**

On motion of Councilwoman Berz, seconded by Councilwoman Ladd, the following Board re-appointment was approved:

## BOARD RE-APPOINTMENT (Continued)

### GENERAL PENSION PLAN BOARD OF TRUSTEES:

- Re-appointment of **TERRY LAMB** for a term expiring July 31, 2013.

### HEARING: MAURICE FITTEN

City Attorney McMahan stated Maurice Fitten has requested an appeal hearing for two days of back pay which goes with the option discussed earlier wherein employees would not be entitled to an appeal for a two-day suspension. He asked Admin. Leach to verify and report whether the information is accurate or inaccurate. Admin. Leach responded that it is "accurate".

**City Attorney McMahan stated Mr. Fitten is not entitled to a hearing before the Council.**

### COMMITTEES

Councilwoman Berz scheduled a work session of the **Budget, Finance and Personnel Committee for Tuesday, August 17 from 1:00 p.m. – 3:00 p.m.** to discuss the Capital Budget amendments and the Five-Year Plan.

Councilwoman Ladd scheduled a meeting of the **Public Works Committee for Tuesday, August 17, immediately following the Agenda Session.**

Councilman McGary scheduled a meeting of the **Education, Arts and Culture Committee for Tuesday, August 17, following Public Works** to discuss the proposal and cost benefit analysis regarding wine and alcohol sales at the Tivoli and Memorial Auditorium.

Councilman Murphy stated the **Legal and Legislative Committee would not meet next week.**

### NEXT WEEK'S AGENDA: AUGUST 17, 2010

Chairman Rico stated the agenda for next week was discussed earlier during the Agenda Session.

## COUNCIL RULES OF PROCEDURE

City Attorney McMahan stated that the Council asked that he read the Rules of Procedure with respect to recognition of members of the public on non-agenda items:

*“The following procedural rules relative to recognizing members of the public who wish to address the Council on a matter not on the regular meeting agenda shall apply: 1) Each speaker wishing to address the Council shall be recognized only at the microphone provided for that purpose. 2) The speaker may address the Council only upon matters within the legislative and quasi-judicial authority of the Council. 3) Each speaker shall limit his or her remarks to three (3) minutes, unless permission for additional time is provided. 4) The speaker shall not be permitted to use any vulgar or obscene language. 5) The use of the floor by persons addressing the Council shall not be used to personally attack or personally denigrate others. 6) The Chair is prohibited from recognizing any person, neighborhood association or organization to speak to the City Council during the “non-agenda matters” portion of the agenda more than twice in any thirty (30) day period.”*

Chairman Rico reminded non-agenda speakers when the three-minute time has expired their time is up.

## CYNTHIA STANLEY CASH

**Cynthia Stanley Cash**, President of the North Brainerd Neighborhood Association, stated that she wanted clarification and asked if she could receive a copy of the Rules the City Attorney read. City Attorney McMahan stated he would provide a copy following the meeting. She inquired as to the proper time for persons to speak regarding items on the agenda and asked if they could get up at that time if there are questions or attend committee meetings with questions. City Attorney McMahan stated persons could raise their hands asking permission to be recognized during the agenda time if there is an interest in that item. It was also noted that persons could attend committee meetings, as well. Ms. Cash stated she wanted to attend the Committee meeting next week when the discussion regarding the Wilcox Tunnel will be raised.

Councilman McGary suggested that Ms. Cash notify the Chairman of the particular committee that they would be present so the Chair could know beforehand and acknowledge them.

### CYNTHIA STANLEY CASH (Continued)

Councilwoman Berz stated she is the Chair to be notified and notification has been given; that Councilmen Gilbert and Murphy have represented the neighborhoods well and clarified that the matter will be discussed during the 1:00 p.m. Budget Committee work session. Ms. Cash stated Vice President Williams and the Vice President of the Menlo Association would be present. She then referenced Resolution (v) with regard to neighborhood groups wanting to speak; that they are not clear where that is located. Councilman Benson responded that he was talking about Mackey Avenue in East Brainerd.

### LANA SUTTON

**Lana Sutton** of 7203 Sylvia Trail stated she would like to get the Council updated; that at the last meeting one person was allowed to speak and asked for an investigation of the Mayor's office for not fully disclosing "stuff" to them through open records requests. She stated she would like to give the Council an update on where that is and would like for the public and press to know that not one Council member responded to our request that the Mayor's office be investigated for not giving public documents to the public who paid for them and for whom they are supposed to be helping. She stated that is gravely concerning that not one, even through personal e-mail and Billy spoke at the last meeting asking for the investigation for non-disclosure and cover-ups and no one got back to them. She stated the State Comptroller's Attorney did get back to them and their lawyer spoke with the Counsel for the State Comptroller's office and this lawyer has told her personally that they think they can get the information from the Mayor's office anyway; that they will have to give them the public documents because legally they are supposed to. She expressed "no thanks" to the Council and stated they might actually get some public records; that Mr. Noblett has been communicated with, noting it is nice Mr. Noblett will speak with the State but will not speak with citizens, which is incredibly unresponsive that citizens' groups can come and get no disclosure and get told they cannot speak but, yet, the Council's lawyer will suffer the State's attorney to speak with him. She stated that she does not appreciate the Council getting into the real estate business; that she pays taxes for schools, roads and emergency services and in looking at the agenda tonight she is so sick of seeing the Council get into the real estate business, pay for all these things for contractors and developers and "sweet deals"! She stated the Council is supposed to be representing the citizens' interests not the developers, "fat cats" and people in the "millionaires club"; that they are supposed to work for us; that they ("fat cats") elected the Council and paid the money to get them elected to do their bidding.

### LANA SUTTON (Continued)

Councilman Murphy stated that he was not present the last time and was absent and apologized. He stated he received an e-mail from someone from Ms. Sutton's group that he responded to and provided the referral information to go to that mediator with the State on the Open Records requests. He stated that it is his thought she found that person because he gave that information. Ms. Sutton stated she had already contacted them long before this.

Councilman Murphy clarified that Ms. Sutton was not on the e-mail he received and had no idea when she got the information; that open records happen all the time and it is not up to the Council to get in-between every single one. He stated there are disputes people have about open records requests weekly with this city and if this Council got in the middle of mediating each one of those rather than let the established process work that is pretty much what we do. He stated the e-mail also included a lot of allegations that the Mayor and his administration are engaged in criminal activity and he referred the e-mailer to the District Attorney General, the FBI and the U. S. Attorney's office. He stated this body has no investigative capacity; that every police officer in this city does not work for this Council they work for the Mayor and Chief of Police who works for the Mayor. He pointed out that the Council has no prosecutorial power, so airing information they have about suspected criminal conduct to this body is not only not the appropriate place, it is counter-productive. He stated if they are going to do a public corruption investigation, the last thing they want to do is let the target know that it is coming! He stated that is not the appropriate way to handle these things and expressed hope that Ms. Sutton's group is wrong that there is no criminal conduct; that it is not up to him to either investigate or prosecute it.

Ms. Sutton stated if the Council can give him (Mayor) money surely the Council can do due diligence and look into it and see what he is doing with it.

Councilman Murphy stated the Council does do due diligence; that the problem is when a criminal allegation is raised the Council is powerless to do anything about that; that the Council is not the appropriate body. Ms. Sutton stated that they are asking the Council to investigate open records. Councilman Murphy stated he explained that.

Councilwoman Scott stated the Tuesday this issue came up a couple people came up to her that she assumed were from the group and asked about this issue; that she told both those individuals about the State office that essentially does "watch dogging" of these types of things; that they have control over that.

### LANA SUTTON (Continued)

Councilwoman Scott stated in addition she received an e-mail and gave that person the very same information; that it is a State funded office that does nothing but look at this and that is the administrative body to look at those particular discrepancies between the State law for open records and the practice wherever that might be. She stated that she also takes exception to the fact that the Council was totally unresponsive to that complaint!

Ms. Sutton stated she sent an e-mail and no one responded and was told by a reporter that the Council did not get their e-mail which was sent to each Council person on the city email which gets in the Spam filter, which should be a concern to the Council that the information is not coming to them.

Councilman McGary stated every resolution and contract is an open public process and the Council in no way is allowed to prohibit someone from applying on a contract because they are a millionaire or a "fat cat" as that would be discriminatory. He stated the amount of money in their account is of no concern to the Council but what is of concern is they are ethical, will perform the contract as specified and that is an open process whereby that decision making of who receives that contract is all done in the public; that she and anyone else is invited to come to the Council's public meetings and ask questions about the process, but to attribute the Council to be in collusion with people who have "bought" them certainly in no way is true.

### CHARLES WYSONG

**Charles Wysong** of 6872 Robin Drive stated after watching tonight's Council meeting one of the great institutions that western civilization has held and cherished is the jury system; that most people think a jury is there to decide right or wrong, guilt or innocence, but the primary function of both the grand jury and trial jury is to protect the citizens against governmental oppression. He stated that it is his thought in the same way this Council is to filter things that come out of the administration and protect us as citizens from injury; that in this case, in the past several months, financial injury. He expressed appreciation that the Council turned down the \$6.5 million dollar request for half of a parking garage and Mr. Murphy's pointed questions about the Dogwood housing project tonight and the Volkswagen project; that they were wonderful comments and pursuits on the part of the Council whether this is necessary, prudent and beneficial to the people of Chattanooga.

**CHARLIE WYSONG (Continued)**

Mr. Wysong stated the Council very well appropriately acted by saying that an open ended matter where Volkswagen comes back and says anything and the city has to pay for it is unreasonable; that the Council very well appropriately identified that and addressed that tonight. He stated he was very pleased with tonight's discussion and pleased there was some questioning of where the administration is taking us as a city; that he did not think he will ever get over the comment when he came to the Council and heard Mr. Littlefield in the Budget meeting and Mr. Johnson during Council meeting state that the recession is over; that he will never get over that comment! He expressed thanks to the Council for what they have done tonight!

Chairman Rico stated that the Council does this every Tuesday during Committee meetings.

Councilwoman Scott stated that she wanted to make sure everyone knows and it should be stated at every meeting they are invited – everyone!

**ADJOURNMENT**

Chairman Rico adjourned the meeting of the Chattanooga Council until Tuesday, August 17, 2010 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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