

**City Council Building
Chattanooga, Tennessee
August 31, 2010
6:00 p.m.**

Chairman Rico called the meeting of the Chattanooga Council to order with Councilmen Benson, Gilbert, Ladd, McGary, Murphy, Robinson and Scott present; Councilwoman Berz was absent due to personal commitment. 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 City Attorney McMahan gave the invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 31, SEWERS, MAINS AND DRAINAGE**
Passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2010-093: Dale D. Darby

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF A 30
FOOT SEWER LINE EASEMENT MF #52141 LOCATED IN THE 5500 BLOCK
OF CASSANDRA SMITH ROAD, SUBJECT TO CERTAIN CONDITIONS**
Passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2010-074: Yerbey Concrete Construction, Inc.

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
ALONG THE 1900 BLOCK OF CENTRAL AVENUE**

Passed first reading.

AGREEMENT

On motion of Councilman Murphy, seconded by Councilman Benson,
**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 adopted.

INCREASE PURCHASE ORDER NO. 502190

Councilwoman Scott clarified for everyone in attendance that the funding for this comes from the traffic camera fines.

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE INCREASE OF PURCHASE ORDER
NO. 502190 AMOUNT FOR HAMAN'S NEW DRIVERS TO COMPLETE
DRIVER TRAINING CLASSES THROUGH THE SUMMER FOR AN
INCREASED AMOUNT OF EXPENSES OF SEVENTY-NINE THOUSAND
DOLLARS (\$79,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED ONE
HUNDRED NINETY-TWO THOUSAND DOLLARS (\$192,000.00)**

Was adopted.

CHANGE ORDER

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 RELATIVE TO CONTRACT NO. E-04-036-104, ENTERPRISE SOUTH ROADWAY EXTENSION, PHASE II AND SEWER IMPROVEMENTS FOR THE ADDITIONAL ENGINEERING SERVICES WITH BARGE WAGGONER SUMNER & CANNON, INC., FOR AN INCREASED AMOUNT OF TWO HUNDRED EIGHTY THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$280,750.00), FOR AN AMOUNT NOT TO EXCEED FOUR HUNDRED THIRTY THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$430,750.00)

Was adopted.

TEMPORARY USE

On motion of Councilman Murphy, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING DONNA MCCONNICO ON BEHALF OF SIGNAL CENTERS TO USE TEMPORARILY A PORTION OF THE SOUTH SIDE OF MONTVIEW DRIVE AT ITS INTERSECTION WITH GERMANTOWN ROAD, AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

GRANT

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO APPLY FOR AND, IF AWARDED, ACCEPT A STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE (SAFER) GRANT FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) IN THE AMOUNT OF TWO MILLION SEVEN HUNDRED SIXTY-ONE THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$2,761,740.00) WHICH, IF APPROVED, WILL BE USED TO HIRE TWENTY-SEVEN (27) FIREFIGHTERS

Was adopted.

AGREEMENT

On motion of Councilman Benson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AMENDED LOAN AGREEMENT WITH FRIENDS OF THE ZOO RELATIVE TO WARNER PARK IMPROVEMENTS

Was adopted.

OVERTIME

Overtime for the week ending August 26, 2010 totaled \$66,190.94.

PERSONNEL

The following personnel matters were reported for the various departments:

NEIGHBORHOOD SERVICES:

- **DWAIN C. REDDEN** – Retirement, Code Enforcement Inspector 1, effective August 19, 2010.

CHATTANOOGA HUMAN SERVICES:

- **EARLINE CAMERON** – Termination, Teacher Assistant, effective August 22, 2010.

PUBLIC WORKS DEPARTMENT:

- **BENJAMIN T. COX** – Lateral Transfer, Crew Worker 2, Traffic Engineering, Range 4, \$28,136.99 annually, effective August 20, 2010.
- **GEORGE W. DERAMUS, JR.** – Resignation, Crew Worker 1, Waste Resources, effective August 19, 2010.
- **DAVID THORNE** – Resignation, Combination Inspector, Land Development, effective September 3, 2010.

CHATTANOOGA FIRE DEPARTMENT:

- **KENNETH MILLER** – Resignation, Fire Lieutenant, effective August 24, 2010.
- **JOSHUA S. BURCHARD** – Correction: Rescind Leave of Absence, Firefighter Senior, effective August 8, 2010.
- **JAMES WHITMIRE** – Appointment (per *City Code* 17-17), Fire Marshal, Range F7C, \$57,532.17 annually, effective August 13, 2010.

STATE INDUSTRIAL ACCESS ROADWAY

Admin. Leach called upon Bill Payne at this time and stated the Public Works Department has a special presentation to make tonight.

Bill Payne, City Engineer, stated in June of this year the Council authorized application for a road to the northern part of Volkswagen into the State Industrial Access. He introduced Scott Medlin, Project Manager, and Ashley Farless of TDOT who were present to give an informational briefing in response to some of the environmental processes going on with the project.

Scott Medlin read from a prepared statement which has been spread upon the minutes:

The City of Chattanooga in cooperation with the Tennessee Department of Transportation (TDOT) is initiating a Tennessee Environmental Evaluation Report (TEER) for a proposed roadway in Hamilton County, Tennessee. The proposed roadway will provide a link between SR-58 and the Volkswagen plant. Funding for the design, environmental studies and construction of the roadway will be administered through the State Industrial Access (SIA) program. This program provides grants for industrial roadways to provide access to industrial areas and to facilitate the development and expansion of industry within Tennessee. The Chattanooga City Council approved the application process for the SIA grant on June 30, 2009. Project engineers are currently working with TDOT and the City in order to develop a best fit alignment that meets the needs of the Volkswagen facility while minimizing impacts to surrounding resources. Environmental studies expect to continue through the end of 2010 and construction is expected to begin in 2011. Following construction of the roadway, the City of Chattanooga will assume responsibility for the maintenance of the facility. The City of Chattanooga will have information about the project posted on the City's website. For additional information, please contact Bill Payne, Chattanooga City Engineer, at 423-643-6190. (A copy of Mr. Medlin's statement and a map is filed with minute material of this date.)

HOTEL PERMIT

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson, the following hotel permit was approved:

HAMPTON INN – 6145 Weir Way, Ooltewah, TN

REFUND

On motion of Councilman McGary, seconded by Councilwoman Ladd, the Administrator of Finance was authorized to issue the following refund of 2009 property tax due to State Board of Equalization assessment change:

S J CHATT, LLC/HE CHATT. LLC \$1,847.86

PURCHASE

On motion of Councilman Murphy, seconded by Councilwoman Ladd, the following purchase was approved for use by the Public Works Department:

NABCO ELECTRIC COMPANY (Best bid)
R30792

Blanket contract for Traffic Signal Electrical Work

\$40,000.00 - \$50,000.00 - Annual approximation

RECALL INTERVENTION

City Attorney McMahan stated he briefed the Council in Committee this afternoon and was asked to make a brief presentation tonight. He **requested permission of the Council to intervene on behalf of the city in the lawsuit filed by Ron Littlefield, plaintiff, vs. the Hamilton County Election Commission, Defendant, which is a complaint for declaratory judgment and injunctive relief.** He stated the City would not be participating in the call for injunctive relief, but this lawsuit and the impending recall petition against Mayor Littlefield and possibly recall petitions against other members of this body are very important legal issues for the city. He stated the primary issue is the conflict between Chattanooga City Charter Section 3.18 and the Tennessee State Statute TCA 6-5-151; that one of the big issues is how many signatures are required -- if the City Charter controls it would be roughly 9,000 signatures for the Mayor's recall and if the State Statute controls it would be roughly 15,000 signatures required. He stated other issues raised by the Statute, whereas the City Charter would allow a special election to be called, the State Statute clearly provides any such election shall be held at a county or municipal election; that the last county election was August of 2010 and the next county election is August 2012.

RECALL INTERVENTION (Continued)

City Attorney McMahan stated the Election Commission is purporting to put this matter on the ballot November 2010, so whereas that might be consistent with the City's *Charter*, it would be apparently inconsistent with the State Statute which he referenced. He stated there are other issues raised by the Mayor which are not necessarily issues that would be of concern to the city such as whether or not the petitions were properly dated which is also a requirement of the State Statute but not a requirement of the City *Charter* provision; that another issue raised by the State Statute is whether or not the petition itself should have been in the form of a question, should the petition have said something to the effect "Should Ron Littlefield be Recalled?" and then should you have to have another election. He stated there are very important legal issues because of the inconsistencies which exist between the City's *Charter* Section 3.18 and the State Code 2-5-151; that the State of Tennessee always participates in lawsuits which challenge any provisions of the State's Statute. He stated the Attorney General is required by Statute to represent the State unless he is willing to concede that the State Statute is unconstitutional.

City Attorney McMahan stated that he finds himself in essentially the same situation; that the City *Charter* is being challenged by virtue of this recall situation and he does not know whether the City *Charter* binds or the state law binds in this particular situation. He stated it has been looked at by some of the finest lawyers in town and all have come to the conclusion that we do not know for sure; that we need to ask some court to judicially interpret these two inconsistent provisions so they can know for the future how the people in town who want to do a recall, who want to initiate some kind of initiative, know how it is to be done, how it is to be done consistent with the law because it is obvious people have been spending a whole lot of energy, effort and money with respect to this matter and we do not know for sure how it will come out until some judge tells us how it will. He stated from his perspective it is very important the city "be at the table" in the courtroom when these matters are decided so that we can have our input.

Councilwoman Robinson stated we discussed this briefly in Committee this afternoon and **noted she intends to support that this body have presence "at the table" when these deliberations are undertaken and made that as a motion; Councilwoman Ladd seconded the motion.**

Councilwoman Scott stated that she voiced a request earlier to be able to read the document and she has not had a chance to do that; that it her thought she should be able to before having to vote on this.

RECALL INTERVENTION (Continued)

Councilman McGary stated in regard to this being perceived in any manner as a conflict of interest, is that a concern.

City Attorney McMahan responded "no"; that he is not representing the Mayor in this matter, he is representing the city as corporate a entity as the Attorney General would represent the State of Tennessee as a corporate entity.

Councilman Benson stated he wanted to make that perfectly clear that he would not want to vote for it if he thought it was representing the Mayor or him or anyone else on this Council that might be under threat of a recall; that in fact, it is his thinking all on the Council are under threat of a recall until a clear, definite answer as to which law we follow. He stated the citizens of Chattanooga deserve knowing exactly what it takes if they find a public official that is out of line in any way what it takes to get them recalled; that nobody knows right now until we get an answer, a judicial opinion handed down to us the citizens are floundering around, as well as elected officials because we do not know. He stated he strongly supports it with the understanding that the Mayor has his own lawyer and this is not defending the Mayor or any Council member; that every Council member probably has their own lawyer and confirmed that he does! He stated he does not want the City Attorney defending him; that he wants him to defend the citizens of Chattanooga and give them the right to understand what is a clear path and are not wasting their time getting signatures with no dates on it or getting signatures when it is not in the proper form or not even know when they can quit getting signatures. He stated we owe it to the citizens to participate in trying to find which law we are following, the State or the local, and if it is the State we need to start proceedings to change the local Code to comply with the State. He again reiterated his support.

Councilman Murphy stated that he wants it to be clear if his conduct is such that his constituents wish to recall him he wants them to know exactly how to go about it and right now that is what is missing. He stated without having this well explained there could be a misperception which is why he is speaking at this point. He stated we cannot be guaranteed that the lawyers representing other parties and the Mayor sued the Election Commission that they will reach all of the salient issues so that the citizenry going forward will know exactly what it takes to recall him should they desire to do so. He stated it would be horrible if only half the questions got resolved; for example, perhaps the higher number is the number of signatures and then everyone stops and we do not know when the election would be held or we do not know whether it is really supposed to be a one, two or three-step process.

RECALL INTERVENTION (Continued)

Councilman Murphy stated for example the lower number of signatures is found to have been met and the Election Commission and the Mayor's attorneys indicate to go ahead because the Mayor already has a lot of money in the bank and would like to run in two months and a challenger has no money in the bank, so it is to his interest to have a quick election, but the truth is the election should be held at a different time. He stated we owe it to the citizens to make sure never again does someone go this far "down the road" and put in all the work as Mr. McMahan described and still have no idea what they have; that we need to have all the issues resolved. He stated once they are resolved when we get a ruling from a court about what exactly the rules are, should they be different in any respect from what the *Charter* reads currently and it is hope they are not as he hopes the *Charter* has it right, but if they are different we should pass an ordinance to put before the voters an amendment to our *Charter* to conform it to what the law is so that anyone who goes to our website and reads the *Charter* can be correctly informed of how to go about removing himself or any other Council person who may not be performing their job adequately or to the liking of the people or any future Mayor. He stated he does not want people to think this is the Council weighing in on either side of this; that is the Council weighing in for the city and citizens of the future; that it is too late to do much about what has happened to date because as Mr. McMahan said if we get three lawyers together and they still do not know what will happen it will require judicial determination. He stated it is unfortunate that it was not more clear prior to now, but we owe it to the citizens to make sure it is never this ambiguous again.

Councilman McGary piggybacked on Councilman Murphy's comments and stated if we want to make a decision that is in the best interest of our citizens, would it not have been more circumspect on the Council's part to have these questions answered at the very beginning; that it seems now that the recall as far as signatures have been reached these issues have come out. He stated if a citizen picked up a document at the very beginning with the understanding this is what the law is and has operated as such, he is curious could this could have been resolved before and did it take the actual recall to be reached for this to happen. He stated if we are truly concerned about citizens could we not have taken care of this earlier.

City Attorney McMahan responded that the matter has arisen twice in recent years as there was an initiative which is in a slightly different Section of the *Charter* initiated on the two-way streets on M. L. King; that there was also a recall effort previously about the Mayor not initiating an appropriate recycle program and in both of those cases they did not get quite enough signatures.

RECALL INTERVENTION (Continued)

City Attorney McMahan stated the law of justisability is that courts will not issue a ruling on a question until it is ripened into a sharp focus and there are people on "both sides of the fence" who will argue their positions in the lawsuit; that it is not considered "ripe" for judicial determination until there is an actual conflict before the court that the court can actually resolve. He stated "yes" it would have been nice if we could have gone to court a few years ago to ask the judge what it really means; that the courts do not really have jurisdiction to issue declaratory judgment until the issues are sharpened into focus and there are parties on both sides who can represent both sides of the coin with vigor; that the courts do not issue advisory opinions, they require an actual conflict.

Councilwoman Scott stated that it seems to her it would have been in the Council's best interest to have looked at this, even if there had not been this issue come up, at least on the other one; that the City Council has the ability to change the *Charter* by putting it on for referendum. She stated it makes her wonder about how much of the rest of our *Charter* and our laws are failing to state clearly what we need to do; that if we are in violation of state law then obviously it needs to be changed. She stated it is unfortunate that the whole process has to go as far as it does before we find out exactly what the rules "of the road" are; that she understands why citizens would pick up the *Charter*, read it and think this is the "road" that I take whether it is for a good reason, a bad reason or an indifferent reason. She stated that is a worrisome thing; that it is incumbent upon the Council and the City Attorney's office to try and correct those issues that can have this significant impact and expressed hope we would do that as we go forward.

Councilman Murphy explained judicial doctrine by stating that the phrase used in law school is there has to be a matter in controversy; that there actually has to be something to fight over. He stated a court would not just take up an issue, for example, if there is some lesser standard for voter qualifications that we had enshrined in the City *Charter* versus the State Statute unless somebody said they qualify as a voter under the City *Charter* but not the State Law and the Election Commission will not let that person vote. In another example, he stated if the City *Charter* established a \$500 fine for ordinance violations that would be in conflict with State law but a court would not take it up until somebody was fined and raised the issue. He stated there has to be a matter in controversy which is why this Council could not bring this as a hypothetical dilemma before a judge prior to now; that it is what it is and that is judicial procedure. He stated there are practical points and it is horrible it got this far "down the road" but the main thing to focus on is to not let it stay this way and we cannot be absolutely assured that counsel for the respective parties will resolve all the questions.

RECALL INTERVENTION (Continued)

Councilman Murphy stated it is our citizen's interest to make sure in the future the rules are crystal clear. He stated it is a right of the voter and we want to zealously protect that right. He stated on another issue that was raised, the *Charter* is a more difficult "animal" to amend than our ordinance, but this Council has cleaned up many of our ordinances referencing the aviation ordinances which were pointless; that we would not want to leave that on the website as the chapter on aviation and have someone think that their conduct at the airport was governed by that and not TSA or FAA regulations. He stated we have done that and making progress in that regard; that this Council has done a lot in cleaning up the *Code*, things we can do. He stated it is boring, mundane work of government but it is important work and expressed how proud he is to have served and reached resolution on some of those issues and know we will do more before this term is out.

Councilwoman Scott indicated her desire to speak at this time however Chairman Rico noted that she had already spoken twice.

Councilwoman Scott stated she had a question with regard to rules of the City Council noting that she read through them earlier today and if she is not mistaken the rule about speaking twice is that the person that has spoken once does not get to speak the second time until everyone else had had the opportunity to do that; that she did not find a rule that said Council people only get two choices to speak.

Chairman Rico stated *Robert's Rules of Order* says that. He stated the Council could vote whether she could speak. Councilman McGary made the motion to allow Councilwoman Scott to speak.

Councilwoman Scott asked for a point of clarification if the idea is that we need to wait until we get a legal issue to amend the *Charter* or ...

City Attorney McMahan responded by giving a brief history and stated that the last major amendment to *City Charter* was in 2000 and the City Council went painstakingly through the *Charter* and reviewed each and every provision. He stated the primary purpose for doing it at that time was the form of government changed in 1990 and there were still a lot of archaic provisions in there about responsibilities of the Mayor and the old Commission form of government.

RECALL INTERVENTION (Continued)

City Attorney McMahan stated their primary focus during that review was to correct those kinds of problems and they did not try to undertake to correct other problems in the *Charter* at that time because they did not want to confuse the voters with the thought they were doing something other than cleaning up the *Charter* to make allowances for the change in the form of government. He wholeheartedly agreed with Councilwoman Scott that it would be a very good exercise for this City Council to go through the *Charter* again, chapter by chapter with the aid of the City Attorney and staff and to see what is in the *Charter* that needs to be changed. He stated the issue is that needs to be prepared for an election in 2012 and these matters can only be voted on in a general election which is in August 2012; that sometime before August 2012 would be the appropriate time to go through the whole *Charter*. He stated he is sure there are still things that are bad, noting in Section 3.18 there is a provision that allows people to vote based upon property ownership which he knows is clearly unconstitutional and needs to be taken out.

At this point Charlie Wysong indicated his desire to speak. Councilman McGary requested to hear from the audience. Chairman Rico stated he did not think that would be proper as this discussion is for the Council and not a public hearing; that this is a matter for the Council to discuss. He stated Mr. Wysong could have his three minutes at the end of the meeting.

Councilman McGary made the motion to allow the gentleman to speak.

Charlie Wysong stated he represents the 16,000 people who signed the recall petition and 20,000 validated voters. He stated he knows that a corporate attorney would in general support the position of the corporation; that he is curious to know if Councilman Murphy will champion the *City Charter* or champion the State Law.

Councilman Murphy responded by stating he specifically spoke with the City Attorney prior to today when this came up, when the "magic number" was reported to have been achieved by the Election Commission. He stated that he specifically addressed the fact that our Council was not to argue that the *City Charter* is not governing; however, he (City Attorney) is also not in a vacuum, so what he is going to file is something that simply says as an attorney we perceive there are these apparent conflicts between the *City Charter* and the State law and we want the judge to declare what the law is. He stated there is a whole lot less argument on his part that it is simply freeing up all these conflictual issues and saying please reach them all on behalf of the citizens of Chattanooga.

RECALL INTERVENTION (Continued)

Councilman Murphy stated as he discussed earlier the situation could be perceived that the Election Commission and Mayor's attorneys might not reach all those issues either by agreement or what have you. He stated it is important for our citizens that all be clarified so that should this ever come up again folks like Mr. Wysong know exactly what the rules area.

Mr. Wysong stated it was not a matter of them reading the *Charter* themselves; that they went to the Election Commission, asked them what was necessary, they told them and they approved the petitions and everything else. He stated they told them the procedures, they followed them and it is not a matter of them reading a *Charter* and coming to a decision themselves; they did not do that. He stated he is concerned that they are going to find that we are going to emasculate the *City Charter* in the arguments that the Council has for the judge and will raise more issues about the *City Charter* which will then injure any acceptance of a *City Charter* and the citizens wind up not being represented properly by their own city, their own corporation.

Councilman Benson stated that he thought he made it clear that the Council is not asking the City Attorney to represent the Mayor's position or any of the Council; that he does not want that as he has his own lawyer and the Mayor does, too. He stated that we owe it to all the citizens of Chattanooga where we have this conflict of opinion on this, a conflict of quite a number of lawyers, a conflict on the Election Commission, now, where we have them calling us, to get it determined what it takes so time will not be wasted on a bogus situation. He stated Mr. McMahan is just trying to get a definitive answer. City Attorney McMahan responded "absolutely".

Chairman Rico stated we are not saying they (recallers) are wasting their time; that he does not want it insinuated that they are wasting their time. Councilman Benson stated he wants the City Attorney to represent the citizens of this city.

Councilwoman Scott asked if there is a copy she could read and have a short recess to read it otherwise she would have to abstain because she will not be able to vote.

City Attorney McMahan stated there is not a copy that has been finalized; that he has been working on this since Sunday and has a draft of 10-15 pages but it is not the draft he intends to submit to the court as it has material based upon conversation tonight which he will take out of the draft position.

RECALL INTERVENTION (Continued)

At this point the question was called on the motion and second by Councilwomen Robinson and Ladd:

On roll call vote on Councilwomen Robinson and Ladd's motion and second:

ROBINSON	YES
LADD	YES
BENSON	YES
GILBERT	YES
MCGARY	YES
MURPHY	YES
SCOTT	ABSTAIN
RICO	YES

The motion carried.

COMMITTEES

Councilwoman Scott stated she, the Chamber of Commerce, the City Attorney and the Industrial Development Board have been working for several months on a policy for PILOTs. She stated they are now in the latter stages of draft that will go back out to everyone one last time to make sure everyone is as satisfied as they can get with it or pick up the last changes in it; that it will be coming back to City Council. She stated it has been a long effort but wanted the Council to know it is happening.

Councilwoman Robinson scheduled a meeting of the **Health, Human Services and Housing Opportunities Committee for Tuesday, September 7 immediately following Legal and Legislative**. She stated the agenda will include two updated PILOTs for mixed use downtown development; that they are probably four years old and one is the apartment complex slated for Walnut Street and another project in the South side.

COMMITTEES (Continued)

Councilman Murphy stated the **Legal and Legislative Committee is scheduled to meet on Tuesday, September 7 following the Agenda Session** to address matters with the Committee's jurisdiction.

AGENDA: SEPTEMBER 7, 2010

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

SHIRLEY DEAKINS

Shirley Deakins of 222 Baker Street stated that she feels she owes it to the Council and the citizens of Chattanooga to put the record straight as it may be as important as she felt it was from the moment she experienced it. She stated when the storm water fee first came up -- noting she could not remember the year -- she remembered that Zella Tallant, Hubert McNabb, Leon Friese and she went to Nashville to a hearing that Representative Brenda Turner held. She stated the Mayor at the time was Gene Roberts and there was a man there (nothing her thought it was "Sweat" or "Sweet"), from the Tennessee Municipal League (TML) and Randy Nelson representing the City of Chattanooga. She stated when Rep. Turner asked the questions the questions were all answered by either Randy Nelson or whoever the person was from TML. She stated one of the questions that stuck in her mind was when Ms. Turner asked a question, Randy Nelson responded that "the city operated on implied power"; that when they came back to Chattanooga and she inquired of Senator Ward Crutchfield what that meant and he made the statement "you have to get it in a court of law". She stated she tried to say that to people over these last years, not knowing if it is 15 or 20 years, but no one seemed to pay attention. She stated she has a feeling that that very conversation and that very action which was taken by Rep. Turner was a very important thing and the statement of implied power had some kind of meaning and that is all she wanted to say.

ADJOURNMENT

Chairman Rico adjourned the meeting of the Chattanooga Council until Tuesday, September 7, 2010 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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