

City Council Building
Chattanooga, Tennessee
March 25, 2003
6:00 p.m.

Chairman Littlefield called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Hakeem, Lively, Page, Pierce and Robinson present; Councilman Taylor was absent due to personal commitment. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Page gave invocation.

MINUTE APPROVAL

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

ANNEXATION (AREA 6)

Chairman Littlefield stated that this Ordinance excludes property that is going through permitting from Hamilton County; that another annexation of this one piece of property would occur sometime in the future as it is safely grandfathered -in under the county's regulations.

Councilmen Franklin and Lively made the motion and second to accept the substitutions to this Ordinance; the motion passed.

On motion of Councilman Lively, seconded by Councilman Franklin,

AN ORDINANCE ADOPTING A PLAN OF SERVICES AND EXTENDING THE CORPORATE LIMITS OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ANNEX CERTAIN TERRITORY CONTIGUOUS TO THE PRESENT CORPORATE LIMITS OF SAID CITY, BEING AN AREA OF THE JENKINS ROAD EXTENSION IN HAMILTON COUNTY, TENNESSEE, AS SHOWN BY THE ATTACHED MAP

passed second reading. On motion of Councilman Franklin, seconded by Councilman Lively, the Ordinance passed third and final reading and was signed in open meeting.

**"SUBSTITUTE OFFICER TO SERVE IN
ABSENCE/INABILITY OF MAYOR**

City Attorney Nelson stated this Ordinance was added this afternoon in Committee; that it designates the Mayor's Chief of Staff to act in the absence or the inability of the Mayor in the event there is a civil emergency situation and also provides for a sunset. He stated Tennessee state law requires us to name a substitute officer in case the Mayor is out of town when a civil emergency needs to be declared. He stated the matter was presented during Committee and is now ready for action.

Chairman Littlefield stated as discussed in Committee the Ordinance would designate the Mayor's Chief of Staff and is set to sunset at the end of the present Mayor's term; that the next Mayor may designate who he or she wishes.

On motion of Councilman Benson, seconded by Councilman Lively,

**AN ORDINANCE DESIGNATING THE MAYOR'S CHIEF OF STAFF AS THE
"SUBSTITUTE OFFICER" TO SERVE IN THE ABSENCE OR INABILITY TO ACT
OF THE MAYOR FOR THE PURPOSES OF TITLE 38, CHAPTER 9, OF
TENNESSEE CODE ANNOTATED AND PROVIDING FOR THE SUNSET OF
THIS ORDINANCE**

passed first reading.

**CONTRACT: EAST TENNESSEE GRADING
COMPANY**

Chairman Littlefield stated this matter was heard in Public Works Committee a couple weeks ago involving a situation where the low bidder was not awarded the contract. He stated the low bidder, Terry Case, is present with his attorney, Tim Gibbons. He stated that a meeting was held on yesterday with Public Works people and Mike McMahan of the City Attorney's office regarding the matter.

Atty. Tim Gibbons, lawyer with Sample, Jennings, Ray and Gibbons, was present on behalf of Case Construction Services, Inc. He stated Terry Case is the President of the Company and that he is present to address the project award of Contract 81C. He distributed information regarding a time line of events in regard to the Signal Mountain Road sewer relocation project for the widening of Signal Mountain Road for the relocation of the sewer itself for that one particular section. He stated advertisement of the bid went out October 31 of last year and when the bid was tabulated Mr. Case was the low bidder for that project by a significant margin. He stated on January 8, 2003, Public Works issued a notice of award and Case was asked to sign, which was done on January 17.

**CONTRACT: EAST TENNESSEE GRADING
COMPANY (Continued)**

Atty. Gibbons stated after the award, Mr. Case wrote a letter to Public Works raising issues about the project for clarification. He stated in the letter Mr. Case requested a meeting to discuss the issues and that a meeting was scheduled. He stated in the meantime, efforts were made to secure contract documents and bonds for the project; that Mr. Case had a bid bond and made reference to a payment performance bond. He again stated the effort was made to secure contract documents and was told they were not yet available; that they were not made available until the date that was scheduled to meet with the City. He stated Mr. Case indicated that it was his belief there was some communication made between the bonding company and individuals in Public Works, as Public Works personnel indicated there was a huge disparity between his (Case's) and the next low bid that might need to be looked into. He stated Mr. Case wrote a letter to the bonding company and indicated he would provide a payment performance bond.

Atty. Gibbons continued by stating during this time, Mr. Case started layout work on the project and men were on the site January 22 to determine location of lines. He stated on January 29 another invitation to bid went out indicating the project had to be rebid, and on the next day, January 30, the Department of Public Works sent a written notice to Mr. Case annulling the contract, which turn of events surprised him. He stated Mr. Case wrote a letter back to Public Works on February 3 indicating that he was ready to perform the work for the price stated originally and the Department responded on Feb. 6 stating his bid was annulled, as Mr. Case could not get a bond or contract. He stated after rebidding, Mr. Case submitted another bid and was again the low bidder, yet was not awarded the bid this time around. He stated when the matter was on the agenda last week Mr. Case contacted Chairman Littlefield. (At this point, Atty. Gibbons expressed appreciation to Chairman Littlefield for listening to Mr. Case and tabling the matter.)

Atty. Gibbons concluded his comments by indicating that several persons met on yesterday regarding this issue wherein Mr. McDonald stated he did not want to award the bid to Mr. Case this time around and indicated that the State made the Department award it the first time because Mr. Case was the low bidder. He stated he asked why it was not awarded this time and a discussion ensued regarding a series of events that occurred on projects long before this one. He stated it is interesting that the same contractor was the low bidder the first time and there should be nothing changed between that time and this time, except the misunderstanding about the bonding company and the inability to execute contract documents due to the fact they were not available. (The time line information distributed is filed with minute material of this date.)

**CONTRACT: EAST TENNESSEE GRADING
COMPANY (Continued)**

Atty. Gibbons stated they talked about a lot on yesterday and all reasons cited existed the first time the project was awarded. He stated it is his and Mr. Case's view that it should be awarded this time, as well.

Admin. McDonald stated as he recalls when this was presented at the committee meeting, it was presented with his asking for approval to the second bidder because they did not believe the low bidder, Mr. Case, was qualified to do the project based on the history of work he had done for the City on other projects. He stated he did go over the history with them on yesterday and stands by that, as there were serious problems on several projects. He stated the latest project Mr. Case did was on the Highland Park sewer project where there were many problems in getting the project done in accordance with planned specifications. He stated a good example is the "punch list" that was given to Mr. Case on October 18 that had a list of things that needed to be cleaned up behind his work; that his practice is to install sewer lines way out front to completing work behind him. He stated that he was doing work in a neighborhood in which he had to tear down fences and across driveways into neighbors' yards; that he did not go back and do that and they were constantly trying to get him to catch up with that work and he repeatedly refused.

Admin. McDonald continued by stating another example is the "punch list" that was given Mr. Case on or about February 20 and most of the items are still on that same "punch list". He stated this is typical of problems we have had with him on other projects; that his history goes back to 1998 when he was doing projects and some of the same type problems were encountered then. He stated he has done four-or-five projects for us and almost every one had similar problems. He stated he has problems with quality as well as work being done on time. He stated one particular project he remembers was one Jerry Stewart wrote a letter about in regard to having 90 days to complete the project, however 180 days later Mr. Case had only completed 60% of the work.

Admin. McDonald concluded his comments by indicating that Atty. Gibbons made mention of an award to Mr. Case on the first time when this went around; that the Department of Transportation did ask that we award it to him, however, on the second time around they did not. He stated the State agreed with Public Works' assessment; that they met with them and were thankful they agreed. He stated Atty. Gibbons made reference that nothing had changed, however, Mr. Case did not honor his bid and did not provide his bond within a timely manner.

**CONTRACT: EAST TENNESSEE GRADING
COMPANY (Continued)**

Admin. McDonald stated Mr. Case was given the contract, which required that it be returned with the bonds within ten days; that they gave him the notice on January 8 and received notice on January 18 that he intended to get the bond and intended to sign the contract. He stated they waited until he came in on January 22 to a meeting with us, at which time he said he would have the bond and contract back on January 24. He stated January 24 came and they did not have them; that on the 30th they still did not have them. He stated 22 days later after he was notified that the contract would be awarded he still had not provided the contract or bonds to us. He stated at that point, Mr. Case was notified his contract would be annulled.

Councilman Lively asked if the specs were the same the second time as they were the first. Mr. McDonald responded "yes".

Councilman Lively stated even though all three companies have increased their bids, Mr. Case's increase was \$106,000, which put doubts in his (Lively's) mind that somewhere along the line a lot more profit was built in or done for what was bid the first time.

Mr. McDonald stated there were serious questions about that. He stated Atty. Gibbons stated that Public Works contacted the bonding company and that was not the case. He stated the bonding company contacted Public Works because they had questions. He stated they asked if we thought he could do the job for that and Public Works told him it was a matter between the two of them and not for Public Works to make that decision. He stated it does raise a question having been in construction a long time himself it may be one of the reasons why he had problems in the first place as he was substantially low, about 30-35% low.

Councilman Benson stated that it would be his thought Admin. McDonald would have been negligent if he accepted a contract from someone with such previous history of failure to measure up to the required bid specs; that he would have held Admin. McDonald responsible if he had not exercised some supervision over trying to prevent this from happening. He asked Admin. McDonald if he can refuse to accept bids from contractors whose performance has been unacceptable on previous jobs.

Admin. McDonald responded that he was not sure; that he would have to check with the City Attorney as there is no provision for that; that the Council has the authority not to award a contract if they so desire.

**CONTRACT: EAST TENNESSEE GRADING
COMPANY (Continued)**

Councilman Benson expressed his support of Admin. McDonald in this, indicating that he does not want to spend time and money cleaning up after someone has been paid to do a job. He stated at the same time, this young man must suffer the consequences for his actions and inactions and should learn from this as his whole future depends upon his work and performance in accordance with contractual agreements. He cautioned that Mr. Case would have to be proactive and try to prevent himself from getting in this spot. He asked Admin. McDonald if it is his feeling that the City followed due process and that the matter was handled properly.

Admin. McDonald responded "yes"; that he is confident of that or they would not have written the letter to begin with. He informed the Council that it has been confirmed through a couple sources that Mr. Case has been terminated in other places such as Soddy-Daisy and Collegedale; that he spoke with the County Engineer who indicated the County would never do business with him. He stated Chattanooga is not the only municipality that has had problems with Mr. Case.

Councilman Lively reminded the Council that this is not the first time matters such as this have come before them; that the Council can accept the lowest or best bid, which ever is considered in the best interest of the City and its tax payers. At this point he **made the motion to adopt the Resolution awarding the 81C contract to Tennessee Grading Company; Councilman Benson seconded the motion.**

Atty. Gibbons addressed comments made by Councilman Lively with regard to the increase in amount between the first and second bid. He stated the reason was due to what has been previously mentioned regarding the letter Mr. Case wrote to Public Works involving two or three issues he wanted them to look at. He stated one was in reference to the sewer lines in the parking lot of Burger King as there was no indication on the plans that there was an easement granted, the extent of work or an in-advance agreement between the City and Burger King. He stated Mr. Case had in good faith prepared a number of questions the first time around, hoping a provision would be made for that, however they never met to address any issue with him and the only thing he could do was put more in the second bid to cover the worst case scenario.

**CONTRACT: EAST TENNESSEE GRADING
COMPANY (Continued)**

Atty. Gibbons stated in regard to the alleged problems on the other projects, once again he disputes those problems existed; that 80% of his practice as a lawyer is construction litigation and he has never seen a case where one side had all good memorandum and another had bad. He stated construction projects always have problems as many do not know what they're getting into until they start digging. He stated this project was awarded to Case at the insistence of the State as the lowest and best bidder, and nothing changed from "chapter one to chapter two".

Councilman Pierce stated there was a change and that was that the State did not insist on Public Works awarding this contract on the second go-round, which was the change that made the difference. He stated if they had not made the request the first time Mr. Case would not have received it. He stated he has no problem voting in favor of the motion.

Chairman Littlefield thanked Atty. Gibbons and Mr. Case for their patience and participation in this case.

Atty. Gibbons expressed thanks to the Council for hearing them.

On motion of Councilman Lively, seconded by Councilman Benson,
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT 81C, SEWER
RELOCATION FOR SIGNAL MOUNTAIN ROAD PROJECT WIDENING, TO
EAST TENNESSEE GRADING COMPANY FOR A TOTAL AMOUNT NOT TO
EXCEED FIVE HUNDRED EIGHTY-EIGHT THOUSAND TWO HUNDRED ONE
DOLLARS (\$588,201.00)**

was adopted.

CHANGE ORDER

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER
NO. 1, RELATIVE TO RE-ROOFING OF FIRE HALL #20, WITH JDH
COMPANY, WHICH CHANGE ORDER INCREASES THE CONTRACT
AMOUNT BY SEVEN HUNDRED DOLLARS (\$700.00), FOR A REVISED
CONTRACT AMOUNT OF THIRTY-SIX THOUSAND SEVEN HUNDRED
TWENTY-EIGHT DOLLARS (\$36,728.00)**

was adopted.

CHANGE ORDER

Councilwoman Robinson stated Resolutions 7(c) – (f) were discussed in today’s Parks and Recreation Committee meeting and are recommended for approval.

On motion of Councilman Lively, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, RELATIVE TO THE LOOKOUT VALLEY BALLFIELD CONCESSION STAND WITH EASTMAN CONSTRUCTION COMPANY, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY SIX HUNDRED SEVENTY-EIGHT DOLLARS (\$678.00), FOR A REVISED CONTRACT AMOUNT OF TWENTY-EIGHT THOUSAND FIVE HUNDRED EIGHTEEN DOLLARS (\$28,518.00)

was adopted.

AGREEMENT: “FOCAS”

On motion of Councilman Franklin, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO ENTER INTO AN AGREEMENT WITH THE FRIENDS OF CHATTANOOGA ANIMAL SERVICES (“FOCAS”), A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, RELATIVE TO PROVIDING THE USE OF LAND LOCATED IN THE 1800 BLOCK OF CARTER STREET FOR AN OFF-LEASH DOG PARK

was adopted.

AGREEMENT: CARD’S PAVING COMPANY

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS AND CULTURE TO EXECUTE AN AGREEMENT WITH CARD’S PAVING COMPANY, RELATIVE TO REPAVING A PORTION OF THE TYNER RECREATION CENTER PARKING LOT, IN AN AMOUNT NOT TO EXCEED ELEVEN THOUSAND SEVEN HUNDRED DOLLARS (\$11,700.00)

was adopted.

ACCEPT DONATION

On motion of Councilman Franklin, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO ACCEPT A DONATION OF ONE THOUSAND DOLLARS (\$1,000.00), TO BE USED FOR THERAPEUTIC RECREATIONAL PROGRAMS, FROM FRIST TENNESSEE BANK

was adopted.

TEMPORARY USE: STONE FORT INN

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING STONE FORT INN TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 120 EAST 10TH STREET AT COLUMBIA STREET TO INSTALL AN AWNING, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TEMPORARY USE: CHATTANOOGA PATTERN AND FOUNDRY

On motion of Councilman Franklin, seconded by Councilman Page,
A RESOLUTION AUTHORIZING CHATTANOOGA PATTERN AND FOUNDRY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 1334 STUART STREET TO INSTALL THREE (3) TREES, SUBJECT TO CERTAIN CONDITIONS
was adopted.

ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS, SERIES 2003A

Councilman Lively stated Resolutions 7(i), (j) and (m) were discussed in today's Budget and Finance Committee meeting and approval is recommended.

On motion of Councilman Lively, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF AN AMOUNT NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000.00) PRINCIPAL AMOUNT OF THE CITY OF CHATTANOOGA, GENERAL OBLIGATION BONDS, SERIES 2003A
was adopted.

ISSUANCE AND SALE OF GENERAL OBLIGATION SEWER AND SEWAGE FACILITIES REFUNDING BONDS, SERIES 2003B

On motion of Councilman Lively, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF AN AMOUNT NOT TO EXCEED FIFTEEN MILLION DOLLARS (\$15,000,000.00) PRINCIPAL AMOUNT OF THE CITY OF CHATTANOOGA, GENERAL OBLIGATION SEWER AND SEWAGE FACILITIES REFUNDING BONDS, SERIES 2003B
was adopted.

CONTRACT: MORIAH GROUP

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO NEGOTIATE AND ENTER INTO A CONTRACT WITH THE MORIAH GROUP FOR MARKETING SERVICES, RELATIVE TO THE RENEWAL TAX COMMUNITY PROGRAM, IN AN AMOUNT NOT TO EXCEED FORTY THOUSAND DOLLARS (\$40,000.00)
was adopted.

CONTRACT: THINKING MEDIA

On motion of Councilman Franklin, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE MAYOR OR HIS DESIGNEE TO NEGOTIATE AND ENTER INTO A CONTRACT WITH THINKING MEDIA FOR THE KEY TRAIN SOFTWARE TESTING AND TRAINING PROGRAMS, RELATIVE TO THE RENEWAL TAX COMMUNITY PROGRAM, IN AN AMOUNT NOT TO EXCEED TWENTY THOUSAND DOLLARS (\$20,000.00)
was adopted.

TRANSFER OF A PARCEL OF REAL PROPERTY

On motion of Councilman Lively, seconded by Councilman Page,
A RESOLUTION APPROVING THE TRANSFER OF A CERTAIN PARCEL OF REAL PROPERTY OWNED JOINTLY BY THE CITY OF CHATTANOOGA AND HAMILTON COUNTY FOR THE TENNESSEE AQUARIUM EXPANSION, AND AUTHORIZING THE MAYOR AND CITY FINANCE OFFICER TO RESPECTIVELY EXECUTE AND ATTEST ANY AND ALL DOCUMENTS NECESSARY FOR SAID CONVEYANCE
was adopted.

OVERTIME

Overtime for the week ending March 21, 2003 totaled \$71,120.00.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ✍ **ERIN CROSS** – Family Medical Leave, Sanitation Worker, Senior, Citywide Services, effective March 17 – June 9, 2003.

PERSONNEL (Continued)

CHATTANOOGA FIRE DEPARTMENT:

- ✍ **BRYANT K. YOUNG** – Resignation, Senior Firefighter, effective March 18, 2003.
- ✍ **FREDDIE BROOKS** – Suspension/Probation (28-day suspension without pay; one year probation), Firefighter, effective March 26 - April 22, 2003.

DEPARTMENT OF FINANCE AND ADMINISTRATION, MAYOR'S OFFICE:

- ✍ **CHRISTINA W. DAVIDSON** – Resignation, Community Development Specialist, effective March 4, 2003.

CHATTANOOGA POLICE DEPARTMENT:

- ✍ **MARTIN SANTOS** – Suspension (seven days without pay), Police Officer, effective March 23 – March 29, 2003.

PURCHASE

On motion of Councilman Lively, seconded by Councilman Hakeem, the following purchase was approved for use by the Public Works Department:

MCKAY METERS, INC. (Best bid meeting specifications) R0066962/B0000753

Electronic Parking Meter Mechanisms (*Parker Systems submitted two low bids, however, both bids failed to meet specifications*)

(Price information available and filed with minute material of this date)

PURCHASES

On motion of Councilman Hakeem, seconded by Councilman Franklin, the following purchases were approved for use by the Chattanooga Police Department:

PURCHASES (Continued)

PENLINK, LTD. (Single source)

R0065237

Pen Register/Title 3 Analytical Software per TCA 6-56-304.2

\$11,550.00

CISCO EQUIPMENT (Single source)

R0065206

Computer Network Hardware, Federal Technology Package per TCA 6-56-304.2, SWC385 Contract 4026711

\$38,370.30

**DISCUSSION REGARDING BOARD REAPPOINTMENT
OF DR. BESS INGRAM**

Councilman Hakeem made the motion for the Council to consider the nomination of Dr. Bess Ingram for reappointment to the Erlanger Board of Trustees; Councilman Franklin seconded the motion.

Councilman Page expressed that he was not ready to deal with this issue, however, the Council needs to. He stated Erlanger is a very important institution in our community and is right now going through a period of difficult times in terms of changing Presidents and others in administration. He stated there has been a lot of discussion regarding Board members and about developing conflict of interest and ethics statements, and it is his thought it would not be appropriate for this Council, at this point in time, to make an appointment of this nature. He stated this is not say anyone has any conflict of interest, however, until the Board puts in place a conflict of interest statement, it would be unfair to this individual and Council to be placed in that situation. He respectfully indicated to Councilman Hakeem and other members of the Council that he could not in good conscious vote for an appointment to the Erlanger Board based upon the present circumstances.

**DISCUSSION REGARDING BOARD REAPPOINTMENT
OF DR. BESS INGRAM (Continued)**

Councilman Benson stated that he was glad Councilman Page spoke first; that he really felt the same way up until 3 p.m. today when he read the letter from the attorney and other information from Erlanger since then. He stated that it would still be his preference to hold the matter in abeyance yet afraid it would give the wrong impression. He stated that as he looked more into it the person the Council is to approve probably does not have a conflict of interest at all according to the attorney's interpretation. He stated the perception is that many people over there at various times through the years on the Authority Board have had a conflict of interest and probably do not realize it and never misused it. He expressed his intent to go along with voting for approval and indicated he would make a motion later to recommend that the Erlanger Board of Trustees amend the Authority's bylaws to include credible conflict of interest provisions using the IRS conflict of interest model as a guideline. He stated that he knows the Council cannot dictate to them and we should not, yet it is his thought this would be good for all on the Board. He stated that the Board was urged in 1999 to put into place a policy on this and it failed by a very small margin; that it is his hope this can give momentum to get it in place. He reiterated his willingness to go along and vote to reappoint Dr. Ingram today provided the motion is also with the inclusion of the conflict of interest amendment, clarifying this is not an implication toward her; that the amendment would be due to the lack of a policy over there.

Councilwoman Robinson expressed deep appreciation for the number of hours that are volunteered by those who serve on the Erlanger Board of Trustees, indicating that they do not receive any compensation for what they do in their service as community volunteers. She stated it is at times like this, through no fault of their doing, that they find themselves under the scrutiny of a conflict of interest. She encouraged the hospital's Board of Trustees to insist that a conflict of interest statement be drawn up and all sitting Trustees today sign such statement or choose not to sign it; that they could resign and operate businesses or medical practices in any way they choose. She stated if there were a resolution in place, now, she would be very comfortable voting on the candidate who has been placed in nomination because they declare they have no conflict of interest. She stated not having such statement in place and not knowing as much as someone in our position would have to know, she is not comfortable voting tonight. She stated tabling the matter to give the hospital a chance to do what they need to do to get us ready for their Trustees is what she would prefer, indicating that it is her thought that the Council is just out of time on this one.

**DISCUSSION REGARDING BOARD REAPPOINTMENT
OF DR. BESS INGRAM (Continued)**

Chairman Littlefield stated that he did not know if that is the case.

Councilwoman Robinson stated that she would like to see a statement adopted in the meanwhile and everyone given an opportunity to sign; that all Trustees could continue to serve on the Board until their term has run out or until they are reappointed or resign.

Chairman Littlefield stated that the Mayor indicated this afternoon that the terms expired in November of several on the Board; that Dr. Ingram was one of them and all are serving until a replacement is selected. Councilwoman Robinson expressed that that was her understanding, as well.

Councilman Lively stated that he feels the same as Councilwoman Robinson; that all are good people and some may not realize they have a conflict. He, too, expressed that he was uncomfortable voting on this; that there is more than this one that could have conflicts. At this point he **made the motion to table any appointment to Erlanger's Board until a conflict of interest policy is adopted; Councilman Page seconded the motion.**

Councilman Benson asked for a point of information on the motion in not knowing which motion would pass as there is no way to know how to vote.

Chairman Littlefield clarified that Mr. Benson's motion has to do with instruction to Erlanger and could be made later in the meeting.

Councilman Benson attempted to amend the original motion to recommend Dr. Ingram's appointment by adding that the Board of Trustees adopt a conflict of interest statement.

Chairman Littlefield reminded Councilman Benson that a motion to table takes precedence; that the motion to table would be voted upon and the matter of the conflict of interest statement would be discussed further afterward.

Councilman Benson stated if the motion to table is "killed" then the Council is back where we started.

**DISCUSSION REGARDING BOARD REAPPOINTMENT
OF DR. BESS INGRAM (Continued)**

On roll call vote of Councilman Lively and Page’s motion and second to table the matter:

Robinson	“Yes”
Pierce	“No”
Page	“Yes”
Lively	“Yes”
Hakeem	“No”
Franklin	“No”
Benson	“No”
Littlefield	“Yes”

The motion failed.

At this point Councilman Benson asked that the motion to accept Dr. Ingram’s appointment to the Board of Trustees be voted upon.

City Attorney Nelson stated during today’s Committee meeting, the Mayor asked that the Council forward a recommendation to him for his recommendation to the Council to fill this position. He stated the first thing the Council has to do is decide who the Council would like to recommend to the Mayor for his appointment; that State law specifies the Mayor has to make an appointment. He stated then, concurrently or thereafter, the Council can address another matter, but the two are not the same.

Councilman Hakeem asked for a point of order; that he is being told one or two things; that the first thing is that the motion cannot be amended at this time.

City Attorney Nelson responded “yes, we can amend it’; that the Mayor has to accept the Council’s suggestion or add to what he told the Council he would do.

Councilman Hakeem stated that it was his understanding that all we are dealing with is the appointment. City Attorney Nelson responded “yes”.

Councilman Hakeem then indicated if there is an amendment the Council is not telling the Mayor to tell the Board, the Council is going to tell the Board. **At this point Councilmen Hakeem and Franklin withdrew their initial motion and second.**

**DISCUSSION REGARDING BOARD REAPPOINTMENT
OF DR. BESS INGRAM (Continued)**

Councilman Benson then made the motion to request that the Erlanger Board of Trustees amend the Authority's bylaws to include a stronger, credible conflict of interest provision using the IRS model conflict of interest policy for tax exempt organizations as a guideline; Councilwoman Robinson seconded the motion. The motion carried unanimously.

Councilman Hakeem stated the part was not put in about Dr. Ingram. Councilman Lively indicated that would require two different motions.

City Attorney Nelson asked if Councilman Benson would like for the request to be forwarded to the Erlanger Board of Trustees. Councilman Benson responded "yes".

Councilman Hakeem made the motion asking that the Council consider recommending to Mayor Corker the nomination of Dr. Bess Ingram for reappointment as a member of the Board of Trustees of Erlanger Hospital; Councilman Franklin seconded the motion. The motion carried with Councilman Page voting "no"; Councilmen Lively and Robinson abstained.

BOARD APPOINTMENT

Admin. Eichenthal presented to the Council for approval the reappointment of Dr. Bess Ingram to the Erlanger Board of Trustees for a term expiring November 1, 2006.

On motion of Councilman Hakeem, seconded by Councilman Benson, the reappointment of Dr. Bess Ingram to the Erlanger Board of Trustees for a term expiring November 1, 2006 was approved with Councilman Page voting "no"; Councilmen Lively and Robinson abstained.

Councilman Pierce asked if the recommendation presented by Admin. Eichenthal came from the Mayor's office.

Chairman Littlefield clarified once the nomination was made, the Mayor would return it to us; that it did not take the full two weeks for the Mayor to comply, indicating that the matter of the reappointment is now resolved.

REJECT ALL BIDS

On motion of Councilman Lively, seconded by Councilman Hakeem, **approval was given to reject all bids on Requisition R0061548/P0018767** for a twelve month requirements contract to furnish office supplies citywide so that the bid could be readvertised to include the annual office supply usage, which was omitted from the original invitation to bid.

HEARING: FREDDIE BROOKS

City Attorney Nelson stated the request for an appeal to a 28-day suspension without pay has been received from Firefighter Freddie Brooks.

A hearing date of May 5, 2003 beginning at 3 p.m. was scheduled with Councilmen Lively, Page and Franklin serving as the panel hearing the request. Councilman Lively suggested that Councilman Page should serve as Chair.

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee** for a discussion of the pawn tax beginning at **3 p.m. on Tuesday, April 1.**

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, April 1 beginning at 4 p.m.**

JUDGE WALTER WILLIAMS

Judge Williams stated that he would like to make a final report to the Council prior to leaving office, indicating that officially it should be done as he has a few things to say. He stated his last official day is scheduled for May 2.

Tuesday, April 29 was the scheduled date for Judge Williams to make his report as a special presentation at that evening's Council meeting.

ADJOURNMENT

Chairman Littlefield adjourned the meeting of the Chattanooga Council until Tuesday, April 1, 2003 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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