

**City Council Building
Chattanooga, Tennessee
February 24, 2004
6:00 P.M.**

Chairman Franklin called the meeting of the Chattanooga City Council to order with Councilmen Benson, Hakeem, Littlefield, Lively, Page, Pierce, Robinson and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
INVOCATION**

Following the Pledge of Allegiance, led by Councilman Hakeem, Mr. Randall Nelson gave the invocation for the evening.

MINUTE APPROVAL

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

**SPECIAL PRESENTATION:
ALLIED ARTS**

Chairman Franklin called on Councilwoman Robinson to make this Special Presentation. She recognized the presence of Don Andrews, Executive Director of Allied Arts, and Mr. Rodney Van Valkenburg, Director. By way of introduction she stated that Allied Arts were here tonight to have the month of March proclaimed as “**Arts in Our Schools Month**”. She went on to say that she thought everyone appreciated what Allied Arts is doing in our schools; that without them our children would not be exposed to music, drama, and the performing arts—that they opened up a whole new experience for them and that we owed them a deep depth of gratitude. At this point she proceeded to read the Proclamation, signed by Mayor Bob Corker. (This Proclamation is made a part of the minute material). The Proclamation proclaimed March of 2004 to be “**Arts in Our Schools Month**” and encouraged all educational communities to celebrate the arts with meaningful student activities and programs that demonstrate learning and understanding in and through the arts. At this time she asked Mr. Don Andrews, Executive Director, to say a few words.

ALLIED ARTS (CONT'D):

Mr. Andrews expressed his pleasure of being with the Council and also his appreciation for the Proclamation. He explained that they were involved with dozens of art educational groups in the schools, as well as their own group; that together they were able to develop programs with depth and scope. He called on Rodney VanValkenburg, Director.

Mr. VanValkenburg thanked the Council and expressed appreciation for Councilwoman Robinson's continued support of the arts. He passed out information to all of the Council, which is made a part of the minute material. He went on to mention an interesting new Study in reference to standards, noting that it is mandated for schools to meet standards and benchmarks and this includes the arts and physical education; that Allied Arts was able to encourage and enable schools to meet these mandates. He continued, speaking of the Allied Arts Newsletter, mentioning participation in a four-day extensive workshop in Washington, D.C. He stated that next week a Kennedy Center artist, Eric Johnson, would present a workshop for schools and teachers. On March 3rd, Allied Arts will feature Eric Booth, a nationally recognized Broadway actor and inspirational speaker. This will take place from 5:00 P.M. to 6:00 P.M. at the Chattanooga Theatre Centre and is free and open to the public. Mr. VanValkenburg continued with information concerning the Arts Initiative Schools, where three schools have arts at their core. 2003 academic scores were compared with 2000 scores, and it was proven that the arts are helping the scores to make great advances. He turned the presentation over to David Testerman, Principal of White Oak Elementary School.

Mr. Testerman stated that when he reflected over his five years at White Oak Elementary, he realized that the poverty in this school was equal to the poverty in some of the Benwood schools; however White Oak Elementary had been able to maintain a rate that had kept them above the failing mark. He stated that when he became principal here he was new on the art scene and was only familiar with the arts through his own kids' participation. He stated that art changes the life of students and told of a young man in his school who was struggling with anger issues and became involved with Dennis Palmer, an engaging art teacher—that the relationship between them developed because of art and was a salvation for this young man as a student and now he is able to focus. He stated that there was also a change in teachers—that they looked at teaching children differently and the children were more engaged in their lessons and art had brought an excitement to the school.

ALLIED ARTS (CONT'D):

Mr. Testerman went on to say that because of Allied Arts, fifteen students were now taking violin lessons, stating that he could not emphasize what it means to have \$35,000 a year for art programs in his school; that if they lost this funding tomorrow, his teachers would still teach the same new way. He stated that this gives him vision and hope and that he was excited; that there is an excitement about learning, and he was happy that his school was part of this initiative.

Councilwoman Robinson thanked everyone for coming, stating that we would celebrate the month of March with them.

Councilman Taylor joined with his colleagues in thanking Allied Arts, stating that Maya Angelou was coming tomorrow night and Allied Arts had made this event possible to a lot of students to attend; that we would be able to see kids light up, and he thanked them.

REZONING

2003-148 (Glasscock Development)

On motion of Councilman Lively, seconded by Councilman Littlefield,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 613 WEST VIEW ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO RT-1 RESIDENTIAL TOWNHOUSE ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2004-009 (Martin McNabb)

Mr. Charles Payne of Washington Hills was present in opposition. He stated that he had a group with him who were opposed to this move in terms of changing the zoning; that they were at the County Zoning meeting and opposed it there also—that they thought it would be done the same way and felt that this infringed on the quietness of their area; that they were told it would be a

REZONING (CONT'D)

warehouse for the Times-Free Press, and they would be totally opposed to this; that they were a homogeneous area and wanted to keep it that way. He continued, stating that that they did encourage business on the front side; that once this is changed, other things will happen. He asked the Council to re-look at this to make sure that the covenants and changes will be adhered to; that the applicant had said one thing to the Council and another to the Planning Commission. He mentioned the traffic at certain times of the night, stating that once this is approved, it will go the way the applicant wants it to. He stated that they tried to enjoy and do things in their community to make things beautiful; that they enjoyed the quietness of the area and felt that this was an infringement and encroachment that they were against. He noted that a group of people were here tonight and a lot of people oppose this. He asked that a Study be done to see what this person is going to do, reiterating that this would encroach on their quietness.

Chairman Franklin noted that Ed Freeman was here last week and Mr. Pace went over this; that the possibility of using this as a Chattanooga Times distribution area was discussed. He explained that with this particular zoning we have the latitude to restrict the actual use in this zone and this was one of the things they made clear; that there could be nothing that would infringe on the Noise Ordinance and nothing that would take away from the neighborhood itself; that it was to be used for a storage building, and we were very, very specific to make sure he understood. He asked Mr. Pace to go over the conditions.

Mr. Pace stated that it was to be used for a storage facility for only the businesses located on the site; and all existing easements were to be retained. He also mentioned the 20 ft. Landscape buffer against residential property and noted that they recommended that only the portion to be used for commercial be rezoned; that some of the properties in the area are split with zones. He reiterated that there were conditions.

Chairman Franklin stated that one of the things that complicated this issue was Swan Rd. that was being developed by another individual and that they had found that the lots were legal and in talking to residents, it had been indicated that they were trying to put a flag lot in—that he thought there was a moratorium on flag lots.

Mr. Pace stated that the lots had 60 ft. frontage on Swan Rd., which was minimal; that there would be no flag lot because this does meet the 60 ft. minimum for road frontage.

REZONING (CONT'D)

Chairman Franklin noted that Swan Rd. abuts this property, stating that he understood the concerns of the residents and was sensitive to this. He asked if there was any problem in deferring this for one week to make sure Mr. McNabb and the community have an understanding. He also noted that Swan Rd. offers no buffer, and this is something we may want to consider. He stated that he had no problem in deferring this for one week to make sure all minds are clear; that there are restrictions on what he can do with this building.

Councilman Taylor agreed with Chairman Franklin but questioned if one week would give them enough time. He asked if there had been any conversation with the developer and the neighborhood association, and the answer was "no".

Chairman Franklin noted that Reumel Washington was with the applicant last week and that Mr. Freeman talked to him.

Councilman Benson stated that this had been going on since the Planning Commission meeting, and it seems like Mr. McNabb would have gotten with the community to give them some assurance; that this had been going on for three months, and he did not know if two weeks deferral would be enough.

It was agreed to give them two weeks.

Councilman Benson asked who would take the initiative in this and Chairman Franklin agreed to do this.

On motion of Councilman Taylor, seconded by Councilman Hakeem,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PART OF A TRACT OF LAND LOCATED AT 5008 HIGHWAY 58, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was deferred for two weeks.

AMEND CITY CODE

On motion of Councilman Littlefield, seconded by Councilman Lively,
AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 16, ARTICLE I, SECTION 2, BY DELETING THE SAME AND INSERTING IN LIEU THEREOF A NEW SECTION 16-2
passed first reading.

CLOSE AND ABANDON

MR-2004-001 (City of Chattanooga)

On motion of Councilman Pierce, seconded by Councilman Taylor,
**AN ORDINANCE CLOSING AND ABANDONING SANITARY
SEWER LINES AND ASSOCIATED SEWER EASEMENTS AT
THE SPENCER J. MCCALLIE PLANNED UNIT DEVELOPMENT,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN
ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
passed first reading.

SALE OF PROPERTY

On motion of Councilman Page, seconded by Councilman Littlefield,
**A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO
EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO
FACILITATE THE SALE OF CERTAIN SURPLUS REAL
PROPERTIES LOCATED AT 0 RAWLINGS STREET, 1928
WALKER AVENUE AND 305 NORTH GREENWOOD AVENUE,
MORE PARTICULARLY DESCRIBED HEREIN, TO W.A.S.
PROPERTIES, LLC, FOR A TOTAL CONSIDERATION OF SEVEN
THOUSAND DOLLARS (\$7,000.00)**
was adopted.

Councilman Littlefield questioned if this was worded correctly, with \$7,000 as total—that he thought it was separately. Mr. Eichenthal verified that it was \$7,000 total.

Councilman Pierce asked if we had any assurance as to whether the developer will start when he says he will—if we had any feedback. Mr. Eichenthal explained that there are specific conditions that go with this and “yes” we have feedback; that the Real Estate Department monitors this.

LEASE AGREEMENT

Councilwoman Robinson stated that both Resolutions (b) and (c) were discussed this afternoon in the Parks, Recreation, Arts and Culture meeting and come with a recommendation for approval.

On motion of Councilwoman Robinson, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS AND CULTURE TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH TENNESSEE ELECTRIC MOTOR COMPANY TO CHANGE THE GOLF CART LEASE/PURCHASE AGREEMENT TO A STRAIGHT LEASE AGREEMENT
was adopted.

LEASE(LITTLE GREENHOUSE)

On motion of Councilman Hakeem, seconded by Councilman Lively,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO NEGOTIATE AND EXECUTE A LEASE OF THE FORMER RAILROAD RIGHT-OF-WAY TO THE LITTLE GREENHOUSE FOR A PERIOD OF TWO (2) YEARS, SUBJECT TO CERTAIN CONDITIONS
was adopted.

AMEND RESOLUTION
TYPHO ERROR

On motion of Councilman Lively, seconded by Councilman Benson,
A RESOLUTION AMENDING RESOLUTION NO. 23965, ADOPTED NOVEMBER 11, 2003, ENCAPTIONED HEREINBELOW, SO AS TO DELETE "IN THE 2900 BLOCK OF LEE HIGHWAY" AND SUBSTITUTE IN LIEU THEREOF "IN THE 9200 BLOCK OF LEE HIGHWAY"
was adopted.

LEASE AGREEMENT
WRIGHT BROTHERS

This Resolution authorized the Mayor to negotiate and execute a Lease Agreement with Wright Brothers Construction Company, Inc., relative to the use of Montague Park for a term not to exceed ten years. **Councilman Lively moved that this Resolution be adopted, and this was seconded by Councilman Pierce.**

Councilman Littlefield stated that this matter came up this afternoon and was discussed with the Attorney after the fact; that he thought this was the most difficult and troublesome way to go about doing this and that he thought this should be studied for a week or so; that the attorney from the other side was pushing this hard; that it was a contract for dirt, and it sounds like it potentially complicates the status of this property for ten years; that it seemed to him a complicated way to accomplish a simple thing, and he was leery about this.

Councilman Benson stated that this was discussed in the Mayor's office earlier today, and it seems like a wonderful opportunity to provide a great savings to the City; that we have to cap the land; that we could defer this for a week if everyone wants to, but we risk the possibility of closing out this deal; that it was recommended by the Parks, Recreation, Arts & Culture Dept., and he asked David Eichenthal to speak to this; that it sounded like a great opportunity.

Mr. Eichenthal noted that Jerry Mitchell was present and asked him to speak to this matter. Mr. Mitchell explained that this was a potential arrangement that could save us hundreds of thousands of dollars; that he had not seen the documentation yet; that we want to make sure that the Department of Environment and Conservation is on board to make sure the dirt is the right kind and to monitor this; that he would leave it up to the Council's pleasure but noted that there is a deadline; that he would not recommend this unless he could see that it was the right kind of dirt.

Attorney Nelson stated that he talked with Mike McMahan about this; that he thought it would be better handled by a direct gift of dirt; however Mr. Anderson could not get the advantages they needed by just giving us the dirt and thought this was the way we needed to go; they are in a real rush to get started and wanted the deadline put into the contract; that they gave us a week to finalize the deal and put the mechanism in place to go ahead; that we do need a mechanism to deal with this problem.

LEASE AGREEMENT
WRIGHT BROS.(CONT'D):

Chairman Franklin stated that we needed to make sure the dirt, itself, is clean and asked if there was anything else we needed to consider.

Attorney Nelson agreed that we needed to know if this was the type of dirt that could be used to cap Montague Park, and this condition could be put into the contract.

Councilman Benson asked where the dirt was coming from, and Mr. Mitchell responded that it was coming from a Signal Mountain Road job.

Councilwoman Robinson suggested getting the mechanism in place and making sure the dirt is permissible, and then we can move forward.

Councilman Page stated that this was talked about in committee, and he did not understand the ten years and asked that this be explained.

Mr. Mitchell stated that he would like the City Attorney to explain this.

Mr. Nelson stated that it was to enable them to get tax credits and in order to do this, they have to hold the property for a minimum of ten years.

Mr. Eichenthal agreed that this was not as straight forward a deal as would be preferred by the City; that we have to decide whether or not it is worth the complications to achieve the results; that it could be over one million dollars worth of savings, and we needed to fashion a mechanism where we don't lose this opportunity, without any of us knowing the final form.

Councilman Page stated that in view of the fact that we need to move expeditiously, could we approve the Resolution subject to this being reviewed by the City Attorney, Chairman of the Council, and Councilman Littlefield, as Chairman of the Legal and Legislative Committee.

Attorney Nelson stated that he would want only one representative from the Council due to the Sunshine Law. Councilman Page stated that in this case— Councilman Littlefield.

Councilman Littlefield still questioned bringing something this complex and expecting the Council to act immediately; that this is a ten-year lease; that he dealt in tax credits and usually the IRS does not look kindly on subterfuge; that it is not so much the quality of the dirt; that he was concerned about getting the Park tied up in "never never land".

LEASE AGREEMENT
WRIGHT BROS.(CONT'D.):

Mr. Eichenenthal agreed that there are complicated implications and agreed that we needed to proceed with care; that he did not think any of the three of them that had worked on this would disagree that this is complicated, and we can't see right here how it all is; that the question is to figure out a mechanism where we don't lose this fiscal advantage.

Councilman Littlefield stated that they had to take the dirt somewhere; that he wished Mr. Anderson was here to explain why it had to be tonight; that it was like signing a blank check; that the ten-year timeframe concerned him; that we need to get the Park back into operating condition as soon as possible; that we don't want it to become a landfill.

Councilman Hakeem stated that he needed to have the understanding with Mr. Anderson to say show us where it is in the Code to wait until the last minute to bring this up; that he would like for him to verify the time line as to whether it has to be this week or next week.

Attorney Nelson stated that he did not think this had to do with the Tax Code; that it is an operational deadline where they had to move the dirt; that if they can't move it to our property, they will move it somewhere else.

Mr. Mitchell stated that Wright Brothers approached them 2-3 months ago and that we asked for a proposal, and it showed up last week with a deadline.

Councilman Hakeem asked if it were asking too much to say if an oversight appears on our part as to something that would negatively impact our ability to accomplish what we need to do, that we would be held harmless.

Attorney Nelson stated that he thought they had the reports on the dirt and had offered to share them with us; that that part is ready to go; that the rest is negotiation.

Councilman Littlefield suggested the Council give the authority to negotiate and deal with the finished product next week.

Attorney Nelson stated that might be too late. Mr. Mitchell agreed that they have to move the dirt.

LEASE AGREEMENT
WRIGHT BROS. (CONT'D):

Councilman Lively stated that we could use the dirt if it is the right kind; that getting rid of the dirt is the main thing; that we could authorize negotiation and work it out so we are not in jeopardy; that we can work this out later; that they really want to get rid of the dirt, suggesting that we negotiate with them and worry about the tax credits later.

Councilman Pierce stated that if it were just a matter of moving dirt immediately that he could suggest an area where they could put the dirt until we could come to a conclusion—if that is the real issue to get the dirt moved; that he joined with Councilman Littlefield; that even Administration admits that this is complicated; that we need to make sure we are on the right track and to not rush into this and questioned if we don't take this tonight that we would lose it.

Chairman Franklin stated that Mr. Anderson was not here; that there might be time to defer this for one week.

Councilman Page stated that we were trying to establish if the City was willing to negotiate; that we could give authority for the City to go into negotiation and the final Contract could come back for approval; that he did not see any problem with the City continuing to move forward with negotiation; that he could not imagine a date being so “dear” that we could lose this opportunity.

Councilman Littlefield stated that no one was telling us when the date is; that we could recess this meeting until Friday afternoon at 3:00 P.M.

Councilman Lively and Councilman Pierce withdrew their motions to adopt this Resolution.

Councilman Littlefield moved to authorize negotiation and recess this meeting until 3:00 P.M. on Friday, February 27th. This was seconded by Councilman Benson, who added that you should not be leasing this property for ten years.

Chairman Franklin stated that we would clear this up on Friday.

Councilman Pierce asked if we would be authorizing Councilman Littlefield to be a part of the negotiation. Councilman Littlefield suggested letting Randy Burns, our CPA, be involved in this.

OVERTIME

Overtime for the week ending February 20, 2004 totaled \$74,051.33.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT :

- ✍ **VAN M. JOHNSON**—Suspension without pay for Equipment Operator, Sr.; effective 2/19—2/20-04.
- ✍ **KIRK P. MCKENZIE**—Termination of Crew Worker, effective 2/17/04.
- ✍ **LAMANORRIO D. WILLIAMS**—Promotion to Concrete Worker, P/G 6/1, \$20,429.00, effective 2/25/04.
- ✍ **YURY KULAKEVICH**—Promotion to Concrete Worker, P/G 6/1, \$20,429.00 annually, effective 2/25/04.

CHATTANOOGA FIRE DEPT.:

- ✍ **MICHAEL JACKSON**—Resignation of Firefighter, effective 3/5/04.

PARKS, RECREATION, ARTS & CULTURE DEPT.:

- ✍ **MARK CLARK**—Reinstate as Crew Worker, P/G 32, \$18,643 annually, effective 2/4/04.
- ✍ **CYNTHIA MARTIN**—Hire as Crew Worker, P/G 3/1, \$18,643 annually, effective 2/25/04.

CHATTANOOGA POLICE DEPT.:

- ✍ **PATRICIA GIBSON**—Voluntary Demotion from Communications Officer to Police Service Technician, Senior, P/G 5/11, \$29,524.00 annually, effective 2/20/04.

PURCHASES

On motion of Councilman Lively, seconded by Councilman Littlefield, the following purchases were approved for use by the Parks, Recreation, Arts and Culture Dept.:

BROOKER FORD, INC. (Lowest and best bid)
Requisition R0074109/B0001249

15 Passenger Van (2)

\$79,900 (\$39,950 each)

AUSTIN FEED & SEED, PENNINGTON SEED, REGAL CHEMICAL, HARRELL'S, LESCO, INC. AND AGRO DISTRIBUTORS (Multiple Contracts by item)
Requisition R0056122/B0001177

Chemicals, Fertilizers and Seed—Landscape Division

(See minute material for various prices)

PURCHASES

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

H&H BROWN (Lowest and best bid)
Requisition R0072066/B0001134

Mechanical Services for Lasta Filter Presses and Centrifuge Systems

(See Minute Material for prices)

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

TELEDYNE TEKMAR CO. (Meets specifications of the City)
Requisition R0069907/B0001175

TOC Analyzer

\$29,735.00

PURCHASE

On motion of Councilman Littlefield, seconded by Councilman Taylor, the following purchase was approved for use by the Finance & Administration Dept. (City Court):

ENFORCEMENT TECHNOLOGY, INC. (Lowest and best bid) Requisition R0069642

Hand-Held Ticket Entry Solution

\$50,200.00

Councilman Hakeem asked how many units this included. Mr. Eichenthal answered, 13 units; however they were starting with 8 units. He explained that they can purchase on a unit by unit basis. Councilman Littlefield verified that this covers maintenance and software.

REFUND

On motion of Councilman Hakeem, seconded by Councilman Pierce, the Administrator of Finance was authorized to make the following refund of stormwater fees and/or property taxes:

ROBERT LOTUFO—Map No. 110F-C-029, \$1,993.45.

BOARD APPOINTMENTS

On motion of Councilman Hakeem, seconded by Councilman Page, the following Board appointments were approved:

HAMILTON COUNTY BOARD OF EQUALIZATION

- ⌘ Re-appointments of **LORA DAWSON AND GRADY RHODES** for terms to expire **May 31, 2006**.

SPOT BLIGHT COMMISSION

- ⌘ Appointments of **BRIAN C. SMITH, ANN GRAY, JAMES MILLER AND GEORGE KANGLES** for terms ending **February 28, 2007**.

CITY ATTORNEY

City Attorney Randall Nelson asked the Council to authorize their office to intervene in a case involving the Chattanooga Community Development Financial Institute versus ICDC, involving dissolving of ICDC. **On motion of Councilman Benson, seconded by Councilman Lively, this authorization was given.**

COMMITTEES

Councilman Taylor invited everyone to come hear Maya Angelou at the Memorial Auditorium. He included the total Council and all citizens in this great event.

Councilwoman Robinson thanked everyone for attending the Grand Opening of the North River Civic Center, mentioning the lovely reception held by the Parks, Recreation, Arts and Culture Dept.

Councilman Page "dittoed" the remarks of Councilwoman Robinson.

Councilman Littlefield reminded everyone of the **Legal and Legislative Committee meeting at 3:00 P.M. on Tuesday, March 2nd**. The intent is to look at the Outdoor Advertising Ordinance in draft form.

Councilman Hakeem scheduled a meeting of the **Public Works Committee at 4:00 P.M. on Tuesday, March 2nd**.

DANIEL DEANE

Mr. Daniel Deane addressed the Council regarding disabilities as defined in Public Rehabilitation Law 504 and seeking assistance in making the Chattanooga area disability friendly, including safe lanes for wheelchairs, architectural violations, and program-trained dogs. He stated that he wished to start a non-profit organization that would directly address these issues and was currently promoting the Service Animal Support Services program. He e-mailed handouts to the Council office to be distributed to each councilmember. (A full copy of Mr. Deane's speech is filed with the minute material of this date). Mr. Deane ended his remarks by expressing hope that after reading the material left for them that each of the Councilmembers would be contacting him in getting this program off the ground.

RECESSMENT

Chairman Franklin recessed the meeting of the Chattanooga City Council until Friday, February 27th at 3:00 P.M.

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
FEBRUARY 27, 2004
3:00 P.M.**

Chairman Franklin called the recessed meeting of the Chattanooga City Council to order with Councilmen Benson, Hakeem, Littlefield, Lively, Pierce, Robinson, and Taylor present. Councilman Page was out of the city. City Attorney Mike McMahan and Shirley Crowover, Assistant Clerk to the Council, were also present.

LEASE AGREEMENT
WRIGHT BROTHERS

Chairman Franklin stated that Wright Brothers was represented by Attorney John Anderson. He called on Adm. Mitchell to go over this agreement.

Mr. Mitchell explained that we were concerned about the quality of dirt and there were questions regarding the lease itself; that they had had a meeting yesterday that Attorney McMahan had attended, and we do still need to test the dirt; that he had also heard we have a three-week window before we have to move the dirt, and he would like to continue to negotiate; that if the dirt turns out well, he stated he thought it was a good thing to do.

Councilman Hakeem asked if there was a simpler way of stating the lease.

Attorney McMahan stated that Mr. Anderson could explain this to the Council.

Mr. Anderson thanked Attorney McMahan, stating that the structure of the transaction is simple but the mechanisms are complex; that Wright Brothers is doing the work on the Signal Mountain Blvd. Project, which involves a retaining wall; that in looking at this, Wright Brothers got with TDOT and decided they could take the hill and slope and do away with the retaining wall and save the State a lot of money, and they would not have to maintain the retaining wall; that this created a problem—"where do they take the dirt?"—and Montague Park came to the forefront and Wright Brothers made the proposal, as it would be economically feasible for them to dump this dirt at Montague; that they thought about two options, one being for the City to sell them the property and then they would give it back, however this was untenable, and he had advised them that for

WRIGHT BROTHERS (CONT'D)

tax credits this was not the way to proceed; the second option was a Ground Lease from the City to the Wrights to let them use the land to spread the dirt and at the conclusion, it would call for a termination of the lease. He explained that the Wrights would be taking property of lesser value and doing something to make it have greater value and would then make a gift of it back to the City, gaining the rights to recoup something from the Federal Government in the form of tax credits. He stated that this was a win-win-win situation for all concerned—that it would help the City, help the Wrights, and save the State of Tennessee money.

Attorney McMahan explained that the purpose of the Ground Lease is for ten years—that when they give it back to the City, they will get a tax credit.

Councilman Benson asked if it had to be for the full ten years under the 1986 laws—if it could not be for five years?

Mr. Anderson explained that it was the most advantageous for the Wrights to do it this way; that it would take 2,000 plus truck loads to Montague Park, which is a great cost to the Wrights; that it will be 2 ft. to 3 ft. of dirt on this site.

Councilwoman Robinson asked why it was necessary to give them a lease.

Mr. Anderson explained that in order for them to be able to claim a deduction, they have to have a proprietary interest in the property.

Councilwoman Robinson asked them what this 10 years gave them the right to do.

Attorney McMahan explained that the dirt spread would have to be approved by CTI and would have to be placed where we need it for the purpose of doing the ultimate cap; that the Wrights would provide the dirt and Gary Cosby of CTI will work with them on the proper way to lay it.

Mr. Anderson explained that there could be two interest types for this property; that this would give the Wrights immediate possession for a term certain as opposed to fee simple for a term not certain; that they planned to make it a gift back to the City in a time shorter than 10 years.

Councilwoman Robinson stated that she thought the dirt itself entitled them to a deduction.

Mr. Anderson explained that the dirt creates value but that they have to have a possession interest for the tax credits; that they would agree to lease the

WRIGHT BROTHERS(CONT'D.)

property for ten years and at some point they would give the property back to the City and this is what gives rise to the tax credit; that the more expeditiously they are able to do this, the more valuable it will be to them

Councilman Lively verified that it would be to their advantage to get this property back to the City as quickly as possible.

Councilman Benson asked if we could not use this property for ten years?

Attorney McMahan explained that they anticipated giving it back to us in one year to get the maximum tax advantage.

Councilman Littlefield asked if they had anything from IRS to give them comfort that this will be acceptable to them; that some things like this have not been treated favorably.

Mr. Anderson stated that they did not have a letter but there was information out there and case laws.

Councilman Littlefield stated that he wanted this to work and thought that it was a great opportunity for all involved to benefit; that his main concern is the property being tied up for ten years; that it would be a real advantage to Wrights Brothers to do this in one year. He stated that if the IRS turned this down, he wanted the City to be held harmless.

Mr. Anderson stated that he did not see any problem; that he could not see the Wright Brothers having any action against the City; that if there were any question, they would be willing to do what they said they would do.

Attorney McMahan stated that one of the obligations of the Lease could be that they would provide us 2,000 truck loads of dirt.

Councilman Littlefield stated that he saw nothing wrong with giving the contractor a generous tax credit for their contribution of dirt; that if it is the right kind of dirt, it is extremely valuable to us; that the credit per load is not as advantageous as their having possession of the property.

Councilman Taylor asked about the capping piece—if they completed the capping?

Gary Cosby of CTI explained the problem—that it would take time to get the material tested; that the problem is getting TDEC's approval for our Closure Plan; that we have to prepare the Closure Plan and get it to TDEC and get their approval; that we can't put this cap down until this Plan is in place—that how long

WRIGHT BROTHERS(CONT'D)

this will take is hard to say; that if we don't have the Closure Plan approved in 30 days, and they have to move the dirt, we can stockpile the material until the Plan is approved; that we might have to stockpile.

Councilman Taylor asked if once we receive the land back, it will be in accordance to the Environmental Plan. Mr. Wright responded that their only responsibility was just giving us the dirt.

Mr. Cosby went on to explain that the material has to be spread to certain compaction standards; that Wright Brothers would get it on site, and we will use the dirt; that the land is not level, and we may have to contour; that just having the soil in place is certainly of value.

Councilman Benson stated that he thought he had a simple question; that we would lease them the property and the payment would consist of their giving us the dirt. He went on to say that he thought it was more advantageous to them to keep the property leased for ten years.

Mr. Anderson explained that the City had to give them possession interest in the land in exchange for the dirt; that a ten year lease creates a value for them.

Councilman Benson asked if the tax was on the value of the added dirt. Mr. Anderson explained that it is on what the dirt adds to the value of the property. Councilman Benson was still unclear on whether they would get as much tax credit on the land if they kept it ten years versus one. Mr. Anderson explained to him that if they kept it ten years, they would get no tax credit.

Councilman Pierce verified that the quicker they could deed it back to the City, the more tax credits it will mean for them. He asked how long it would take to bring this dirt out.

Mr. Anderson responded that they had a year and a day; that they thought it would take less time than that to get the job done.

Councilman Pierce asked if they would be willing to give us a Letter of Intent that they would try to take care of this in 18 months; that we needed a Good Faith Letter.

Mr. Anderson responded that he thought it would be possible to provide a letter stating that this is what they anticipated and hoped to accomplish—that they could do this.

Councilman Littlefield stated that the property owners around Montague Park were concerned about the maintenance of the property. He asked who would

WRIGHT BROTHERS(CONT'D)

keep it mowed and drained; that we need to make sure that there is some knowledge of who is responsible. Mr. Mitchell responded that PRAC would be glad to continue doing this. Councilman Littlefield stated that we need an understanding; that he did not want to get into this and have people calling him about it. He stated that he had one other question—that when Montague Park was closed, it seemed that we would have moved ahead with the capping. He asked if we were already in the process of doing this before this proposal came up.

Mr. Green of Parks, Recreation, Arts and Culture responded that they were working with TDEC but had not had the money to start the capping; that they had not reached the stage of designing the cap. Councilman Littlefield stated that this should have been done six months ago.

Councilwoman Robinson asked when we could use the fields again. Adm. Mitchell responded that capping is one thing, but we also have rebuild the ballfields, and he did not know when we would have the money to do this; that it would take \$200,000 per field, which is quite a bit of money. Councilwoman Robinson asked if we were still obligated to cap this, whether we used it as a ballfield or not. Mr. Mitchell responded in the affirmative—that we are required to put a cap on it.

Chairman Franklin asked if there were any further questions.

Councilman Pierce asked that the flood area be basically addressed. Adm. Mitchell responded that they would be working with Stormwater on this. Councilman Pierce stated that he lived in the immediate area and knew what the flooding is like and questioned what would happen when you start working on the ballfields. Adm. Mitchell assured him that they would have to have a Plan approved by Stormwater.

On motion of Councilman Benson, seconded by Councilman Hakeem,
**A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE
AND EXECUTE A LEASE AGREEMENT WITH WRIGHT
BROTHERS CONSTRUCTION COMPANY, INC., RELATIVE TO
THE USE OF MONTAGUE PARK FOR A TERM NOT TO EXCEED
TEN (10) YEARS**

was adopted.

Councilman Pierce questioned if all of this was part of the Contract. Adm. Mitchell explained that the Contract would not be written until after we have an understanding that this dirt is the correct kind.

ADJOURNMENT

Chairman Franklin adjourned the meeting of the Chattanooga City Council until Tuesday, March 2nd, 2004, 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)