

City Council Building
Chattanooga, Tennessee
September 28, 2004
6:00 p.m.

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Franklin, Hakeem, Littlefield, Lively, Page, Pierce, Robinson and Taylor. 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 Taylor gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilman Lively, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 10, ARTICLE I, SECTION 10-3(e), RELATIVE TO MOVING OF
BUILDINGS**

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

GOLF COURSE RATES

On motion of Councilman Hakeem, seconded by Councilman Lively,
**AN ORDINANCE TO PROVIDE NEW RATES FOR THE USE OF MUNICIPAL
GOLF COURSES, AS SET FORTH MORE FULLY HEREINBELOW**
passed first reading.

INCURRENCE OF INDEBTEDNESS

On motion of Councilman Littlefield, seconded by Councilman Lively,
AN INITIAL RESOLUTION AUTHORIZING THE INCURRENCE OF INDEBTEDNESS BY THE CITY OF CHATTANOOGA, TENNESSEE, OF NOT TO EXCEED TWENTY-FIVE MILLION DOLLARS (\$25,000,000.00), BY THE EXECUTION WITH A PUBLIC BUILDING AUTHORITY OF ONE OR MORE LOAN AGREEMENTS OR OTHER INSTRUMENT EVIDENCING SUCH INDEBTEDNESS, TO PROVIDE FUNDING FOR CERTAIN PUBLIC WORKS PROJECTS, AND TO FUND THE INCIDENTAL AND NECESSARY EXPENSES RELATED THERETO

was adopted.

EXECUTION AND DELIVERY OF LOAN AGREEMENTS

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION TO APPROVE THE EXECUTION AND DELIVERY OF ONE OR MORE LOAN AGREEMENTS FOR THE PURPOSE OF PROVIDING FUNDS FOR FINANCING CERTAIN CAPITAL PROJECTS FOR THE CITY OF CHATTANOOGA, TENNESSEE

was adopted.

TEMPORARY USE

Councilman Hakeem stated Resolutions (c), (d) and (k) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING GREG DAVICK TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 301 NORTH HOWELL AVENUE TO INSTALL A FENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING AMANDA BUCHANAN TO USE TEMPORARILY THE SIDEWALKS ON THE NORTH, EAST AND WEST OF 232 EAST 11TH STREET, THE ALLEY TO THE SOUTH, AND THE CITY'S RIGHT-OF-WAY TO THE WEST BETWEEN SAID PROPERTY AND HOUSTON STREET TO ENHANCE THE AREA, SUBJECT TO CERTAIN CONDITIONS

was adopted.

APPROPRIATION

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE APPROPRIATION OF FIFTY THOUSAND DOLLARS (\$50,000.00) FROM CAPITAL FUNDS TO THE CHATTANOOGA MUSIC CLUB FOR REPAIRS AND RESTORATION OF THE MEMORIAL AUDITORIUM PIPE ORGAN
was adopted.

EASEMENTS

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ACCEPTANCE OF EASEMENTS FROM THE UNIVERSITY OF TENNESSEE, CLEAR CHANNEL CORPORATION, AND CAMPUS DEVELOPMENT FOUNDATION, INC., AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, WITH SAID PROPERTY TO BECOME PART OF THE UNIVERSITY GREENWAY SYSTEM
was adopted.

DONATION OF 1991 FORD 800 FIRE TRUCK

On motion of Councilman Littlefield, seconded by Councilman Franklin,
A RESOLUTION ACCEPTING THE DONATION OF A 1991 FORD 800 FIRE TRUCK TO THE CHATTANOOGA FIRE DEPARTMENT FROM THE ATLANTA GAS COMPANY
was adopted.

ADMINISTRATIVE SERVICES AGREEMENT

Councilman Littlefield stated this matter was discussed in last week's joint meeting of the Legal and Legislative and Budget Committees relating to management of a program for the so-called "untouchables", people who have been retired from the City for quite some time. He stated they are "untouchable" in the sense that their benefits are not changing in any way and wanted to make that crystal clear. He stated when matters of this nature come before the Council it usually sets off a lot of telephone calls, reiterating that nothing is being changed; that there will be continuation of the management program under contract with the company that has been carrying it for many years. He stated next week there would be an ordinance relating to federal guidelines on exempt and non-exempt employees, which would be coming forth as a recommendation for approval from both Committees.

ADMINISTRATIVE SERVICES AGREEMENT
(Continued)

On motion of Councilman Littlefield, seconded by Councilman Lively,
**A RESOLUTION TO AUTHORIZE THE PERSONNEL DIRECTOR TO EXECUTE
AN ADMINISTRATIVE SERVICES AGREEMENT WITH PHP COMPANIES,
INC. D/B/A/ CARITEN TPA SERVICE RELATIVE TO INSURANCE BENEFITS
OF CERTAIN RETIREES**
was adopted.

AGREEMENT

On motion of Councilman Littlefield, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A
MANAGEMENT AGREEMENT WITH CHATTANOOGA DOWNTOWN
PARTNERSHIP FOR OPERATION OF THE MEMORIAL AUDITORIUM AND
THE TIVOLI THEATRE**
was adopted.

LANDSCAPE MAINTENANCE AGREEMENT

Councilman Hakeem stated this matter was discussed in today's Public Works Committee meeting wherein it was stated that various departments were cutting the grass and tilling the soil; that this Resolution will assure there would be one entity or group doing the work. He stated it is jointly funded through the City and County.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A
LANDSCAPE MAINTENANCE AGREEMENT WITH FELKER LANDSCAPING
FOR ENTERPRISE SOUTH INDUSTRIAL PARK MOWING AND
LANDSCAPING, IN AN AMOUNT NOT TO EXCEED EIGHTY THOUSAND
DOLLARS (\$80,000.00)**
was adopted.

GRANT ACCEPTANCE

On motion of Councilman Littlefield, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT FROM THE "SAFE NEIGHBOR HEROES PROGRAM" OF WAL-MART, INC. IN THE AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00) AND EXPRESSING THE GRATITUDE OF THE MAYOR AND CITY COUNCIL FOR SAID DONATION
was adopted.

OVERTIME

Overtime for the week ending September 24, 2004 totaled \$36,914.86

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **ANTONIO D. SANDS** – Suspension (4 days without pay), Heavy Equipment Operator, Citywide Services, effective September 23-29, 2004.
- **DENNIS MARSHALL** – Suspension (4 days without pay), Crew Worker, Sr., Citywide Services, effective September 27-30, 2004.
- **TERRY A. HAMPTON** – Resignation, Crew Worker, Citywide Services, effective September 30, 2004.
- **ANTHONY D. CUNNINGHAM** – Resignation, Equipment Operator, Sr., Citywide Services, effective September 30, 2004.

CHATTANOOGA POLICE DEPARTMENT:

- **DIANE HOLLAND** – Family Medical Leave, Administrative Coordinator, effective September 15 – November 3, 2004.
- **CHANDRA D. FREEMAN, STACY D. TONEY** -- Hire, Communications Officer, Pay Grade 11/Step 1, \$26,402.00 annually, effective October 1, 2004.

PERSONNEL (Continued)

- **WILMA J. BROOKS** – Return to Duty (from military leave), Police Officer, effective September 17, 2004.

PARKS, RECREATION, ARTS AND CULTURE DEPARTMENT:

- **JOYCE NEWTON** – Retirement, Executive Assistant, effective September 30, 2004.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- **SHANDRA FRITZ** – Resignation, Teacher, Head Start, effective September 10, 2004.

PURCHASE

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

SAMSON EQUIPMENT CO. (Best bid)
R0073274/B0001781

Two Mechanical Power Street Sweepers

\$149,831.00 Each

REFUND

On motion of Councilman Hakeem, seconded by Councilman Littlefield, the Administrator of Finance was authorized to issue the following refund due to an error and release per amended report from taxpayer to remove disposed of GP2 equipment:

OLAN MILLS, INC. OF TENNESSEE

\$19,506.22

HEARING: RON ESDAILE

City Attorney Nelson reported that a request for hearing has been received from Ron Esdaile regarding his termination from the Public Works Department.

A hearing for Mr. Esdaile was scheduled for Monday, October 25 beginning at 1:30 p.m. with Councilmen Littlefield, Pierce and Page serving as the panel; Councilman Taylor volunteered as alternate.

HEARING: KENNETH SULLIVAN

Councilwoman Robinson announced that a hearing for Kenneth Sullivan regarding his termination from Public Works was held on Monday and that she and Councilmen Benson and Hakeem upheld Administration's termination of that position.

NOTE OF THANKS

Councilman Page expressed thanks to City staff for their attendance at the community meeting in Hixson. He stated an update of the North-River Plan was accomplished and thanked everyone who stopped by and gave input. He stated that he and Councilmen Lively and Robinson worked together in this effort.

COMMITTEES

Councilman Littlefield stated the **Legal and Legislative Committee would meet as usual on Tuesday, October 5 at 3 p.m.**

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, October 12 at 4 p.m.**

Councilman Franklin reminded Council members of the meeting of the **Parks and Recreation Committee scheduled for Tuesday, October 5 at 4 p.m.**

ATTY. WALTER WILLIAMS

Atty. Walter Williams stated that he wanted to publicly state to the Council that several weeks ago in a Committee chaired by Councilman Taylor a matter was discussed regarding Washington Hills.

ATTY. WALTER WILLIAMS (Continued)

Atty. Williams stated that he wanted to publicly announce and thank Henry Yankowski for coming out to the community immediately following the committee meeting to meet with the community. He stated his coming helped in "going through the issues"; that they are still "going through" them, yet wanted to say Mr. Yankowski didn't have to do it. He stated that he came after hours and stood in torrential rain as they went through the items, again expressing thanks. He stated when a person goes beyond the call of duty they should be recognized and Mr. Yankowski did that!

STORMWATER ISSUE

Chairman Benson stated that Tony Green was before the Council last week regarding storm water flooding during the recent rain. He expressed thanks to Admin. McDonald and others in his department for meeting with him today at 2 p.m. in an attempt to resolve unanswered issues. He stated Mr. Green is not completely happy but no one is completely happy in that situation. He again expressed appreciation to Mr. McDonald for working this out and meeting for a full hour today.

DANIEL DEANE

Daniel Deane of 3105 Dee Drive stated that he is missing a partner; that he had to retire his service dog, Sandy, for inappropriate public behavior and lack of obedience. He requested that the Council obtain ADA compliant building codes; that this would help future businesses that do renovations and protect them from ADA activists, which is what he wants to be! He stated the DOJ approved building codes for ADA compliance and right now the Chattanooga Land Company, over his highest protest, is installing a platform elevator that will require access by a key or other means and will not be for public use; that if they do this the same as other elevators that access the Tortilla Factory, he would have no access at all, which is totally discriminatory. He stated that he has to make a scene in order to be able to use the platform elevator and that is not right and they are installing another in violation of the ADA, and they are doing it with the City's blessing because it is within the City's building code. He stated due to lack of funding he is unable to give the 24-hour advance notice to the Caravan (bus) as required by the Department of Transportation, ADA and other programs.

DANIEL DEANE (Continued)

Councilman Littlefield explained to Mr. Deane that he wants to make it clear to everyone who might be watching the Council meeting by television that the City has adopted the standard building codes and to his knowledge there is nothing in the Code that exempts anyone from the normal ADA requirements. He stated if they are acting on some variance or amendment, it is part of the standard building code and not on the part of the City. He stated the City has been aggressively pursuing implementation of the Act for many years, even way back in the 1980's by installing ramps at street corners and appropriate elevators as rapidly as possible. He stated that he was not familiar with the situation with the Chattanooga Land Company and is certain someone in Codes will see what is going on. He stated that he is almost certain whatever they are doing is permitted under the standard code adopted and enforced.

Mr. Deane stated that it is acceptable under the codes but not ADA, and that is the "deal".

Councilman Littlefield stated our codes are the same that most other cities adopt and (he) is not aware of any not written without ADA incorporated, as it is a federal requirement.

Councilman Hakeem interjected that the issue would be reviewed and reported in Committee.

LARRY WATSON

Larry Watson of 5322 Francis Drive stated that his intent was to complain to the Council about the development off Noah Reid Road, as it is stated within the plan of development that the developer would keep at 25 foot barrier on the property and that is not there. He stated that he called and talked with Councilman Littlefield to make him aware of that and was told that he (Littlefield) had been out and saw where it had been torn down. He stated in reference to storm water the culvert behind his property is unable to handle the water and once the development is completed runoff from the property will go toward the culvert and it will not be able to handle it; that it should go into Friars Branch.

Chairman Benson stated that he and others met over an hour today with Public Works regarding this and they looked at the barrier and the 25 feet where a few small trees had been cut down. He stated the developer is going to replace those with more than he took out.

LARRY WATSON (Continued)

Admin. McDonald stated that the developer agreed he would replace in-kind the trees he cut down and will resubmit a landscape plan which he (McDonald) will look over and approve if appropriate. He stated they reviewed that in detail the runoff issue and the runoff will not affect the other houses adjacent to the site.

Chairman Benson stated Mr. Watson mentioned something about Friars Branch.

Councilman Littlefield stated that Mr. Watson referenced the culvert from Noah Reid Road.

Admin. McDonald stated he would have to look at the culvert; that he is not sure exactly what Mr. Watson is talking about there. He stated runoff from the site will run to Friars Branch and not the culvert. He stated he would investigate but is sure that is the case.

Councilman Littlefield stated that the culvert is the same problem Mr. Green talked about today when channeling water from Noah Reid Road, which never worked properly, indicating his thought that this requires some attention. He stated the other thing mentioned was the 25 foot buffer and the developer showed where he had actually staked out the 25 feet; that he had removed trees which he said were infested with pine beetles. He stated that he told him that he should have had discussion with the neighborhood before cutting down the trees as he cut down sixteen trees facing Noah Reid Road and had certain explanations for that. He stated that the developer did say he would replace those with fast growing trees and hoped to have that whole area shaped up so as not to be the raw mess it is now. He stated that his "heart" goes out to Mr. Watson as his house caught fire in the midst of all that and has had two disasters to deal with. He informed Mr. Watson that the City would help him all they can.

Chairman Benson suggested that Mr. Watson speak with Admin. McDonald or Councilman Littlefield following the meeting.

RED BANK HIGH SCHOOL STUDENTS

Chairman Benson recognized the presence of students from Ms. Patty Skates' class at Red Bank High School. He expressed appreciation for their firsthand involvement in the legislative part of city government and expressed hope that they would take some of the knowledge acquired for good experience. He thanked them for coming.

ADJOURNMENT

On motion of Councilman Littlefield, seconded by Councilman Taylor, Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, October 5, 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)**