

**City Council Building
Chattanooga, Tennessee
November 29, 2005
6:00 p.m.**

Chairman Robinson called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Hakeem, Page, Pierce, Rico and Rutherford present. 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, Chairman Robinson gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2005-185: Trust for Public Land c/o Rick R. Wood

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
**AN ORDINANCE CLOSING AND ABNDONING A PORTION OF THE
UNOPENED 3500 BLOCK OF NORTH CHAMBERLAIN AVENUE, MORE
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**
passed second and final reading and was signed in open meeting.

AMEND CITY CODE

Councilman Benson stated this matter was discussed in the Legal and Legislative Committee meeting and is recommended for approval.

AMEND CITY CODE (Continued)

On motion of Councilman Benson, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 2, BY ADDING A NEW ARTICLE XIII RELATIVE TO BOARDS
AND COMMISSIONS**
passed first reading.

AGREEMENT

Councilman Hakeem stated Resolutions (a) – (d) were discussed in last week's Public Works Committee meeting and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE MAYOR AND THE CITY FINANCE
OFFICER TO EXECUTE AN AGREEMENT FOR THE CLOSURE/POST
CLOSURE PLAN FOR THE CITY LANDFILL, LATERAL EXPANSION AREA 3,
WITH THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND
CONSERVATION, DIVISION OF SOLID WASTE MANAGEMENT, FOR AN
AMOUNT OF SIX MILLION THIRTY-FOUR THOUSAND TWO HUNDRED
NINETY-TWO DOLLARS (\$6,034,292.00)**
was adopted.

MEMORANDUM OF UNDERSTANDING

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AND
EXECUTE A MEMORANDUM OF UNDERSTANDING WITH HAMILTON
COUNTY RELATIVE TO PROPERTY ADDRESSING FOR A TOTAL AMOUNT
NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00)**
was adopted.

GRANT

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ACCEPT A GRANT FROM THE
TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) RELATIVE TO
THE CONSTRUCTION OF TURN LANES AND A TRAFFIC SIGNAL AT THE
INTERSECTION OF LEE HIGHWAY AND CUSTOMER DELIGHT DRIVE**
was adopted.

CONTRACT

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-02-007-201, MAYFAIR AVENUE SANITARY SEWER REHABILITATION PROJECT, TO INSITUFORM TECHNOLOGIES, INC. FOR A TOTAL AMOUNT NOT TO EXCEED SEVENTY-FIVE THOUSAND ONE HUNDRED FIFTY-SIX AND 52/100 DOLLARS (\$75,156.52), INCLUDING A CONTINGENCY AMOUNT OF TEN THOUSAND DOLLARS (\$10,000.00)
was adopted.

PARKING AGREEMENT RENEWAL

On motion of Councilman Rico, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING RENEWAL OF THE PARKING AGREEMENT WITH THE CHATTANOOGA AREA REGIONAL TRANSPORTATION AUTHORITY (CARTA), RELATIVE TO USE OF THE CARTA SHUTTLE PARK SOUTH, 1398 MARKET STREET, BY TENANTS OF THE DEVELOPMENT RESOURCE CENTER, INCLUDING COMPENSATION AND TERM CHANGES
was adopted.

SALE OF PROPERTIES

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE MAYOR OR CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE SALE OF CERTAIN REAL PROPERTIES LOCATED AT THE INTERSECTION OF CENTRAL AVENUE AND MCCALLIE AVENUE, IDENTIFIED AS STATE TAX MAP NOS. 146H-K-011, 146H-K-012, 146H-K-013, AND 146H-K-013.01, TO JOSEPH CHAUDHARI, LLC FOR THE AMOUNT OF ONE HUNDRED FIFTY-NINE THOUSAND DOLLARS (\$159,000.00)
was adopted.

CONTRACT

Councilman Benson stated this matter was discussed in the Legal and Legislative Committee meeting and approval is recommended.

CONTRACT (Continued)

On motion of Councilman Benson, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-05-044-201, ENTERPRISE SOUTH ROADWAY CLEARING PROJECT, TO LOVELL LOGGING FOR A TOTAL AMOUNT NOT TO EXCEED TWENTY THOUSAND DOLLARS (\$20,000.00), INCLUDING A CONTINGENCY AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00)
was adopted.

OVERTIME

Overtime for the week ending November 19, 2005 totaled \$73,699.09.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENTS:

- **DAMANY NORWOOD** – Suspension (14 days without pay), Police Officer, effective November 25 – December 8, 2005.
- **WILLIAM S. ENGLE** – Return to Duty, Police Officer, and effective December 1, 2005.

CHATTANOOGA FIRE DEPARTMENT:

- **WILLIAM MATLOCK** – Promotion, Lieutenant, Pay Grade F3/Step 5, \$36,767.00, effective November 25, 2005.

HOTEL PERMITS

On motion of Councilman Hakeem, seconded by Councilman Franklin, the following hotel permits were approved:

GLENDAL COURTS – 930 Signal Mountain Road, Chattanooga, TN

NORTHSIDE MOTEL -- 442 Cherokee Boulevard, Chattanooga, TN

PURCHASES

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

G.T. DISTRIBUTORS (Lowest and best bid)
R0084816/B0002649

Ballistic Vests

\$65,000.00

MED-ENG SYSTEMS, INC. (Single source)
R0086513

Bomb Suits and Accessories per TCA 6-56-304.2

\$51,162.00

ATTENDANCE OF EPARTMENT HEADS

Councilman Pierce stated that he wanted to speak in reference to the request that has been made for department heads to attend Council meeting each week, indicating his thought that it is a little overbearing. He stated eight of ten department heads are present tonight and only two had anything to report on. He stated committee meetings are held every week and it is his thought if there are things on the agenda that need discussion it would be more comfortable for them to attend at that time; that they should not have to sit at a Council meeting two-to-three hours just to watch the Council do nothing. He stated as far as the departments are concerned the police and fire departments had something to report to us; that if the public is here and asks questions that can not be answered if the department head is not present the matter could be referred to committee, reiterating his thought it is unfair to make them come every week. He stated the Council relaxed this matter three years ago when the same issue came up and it got to the place where we did not require them to be here and now we are back to the position of asking them to be here each week.

ATTENDANCE OF DEPARTMENT HEADS (Continued)

Councilman Benson stated in the first place he did not think the Council is here tonight doing nothing and the second thing is that it is up to the departments (to be present). He stated if he was a department head he would want to be here to speak up either to defend "his" department or support when any citizen questions what is going on. He stated that he would rather have the question answered when the citizen poses the question rather than rest on it all night and have the citizen go away believing what they say is true. He stated this has occurred when stormwater problems have come up and the public works department head was present, reiterating that it is up to the department heads (to be present).

Councilman Pierce stated basically public works is normally here because they usually have something to report, as well as the fire department. He noted that the personnel department is called but usually do not have anything to report as some other departments; that they should not be present unless they had something on the agenda they would need to address the Council about.

Councilman Benson stated maybe they should not be here; that it is up to them to decide if they want problems properly answered on the spot.

Councilman Pierce stated that is good enough and reiterated that they are not required if they do not have to be present.

Councilman Benson stated it was never required that they be present nor at district meetings, either!

Chairman Robinson stated in the words of former Chairman Franklin, "if all minds are clear" we will move on!

COMMITTEES

Councilwoman Rutherford scheduled a **Public Safety Committee meeting for Tuesday, December 6 at 3:30 p.m.**

Councilman Hakeem stated the **Public Works Committee is scheduled to meet on Tuesday, December 6 at 4 p.m.**

Councilwoman Bennett stated an Economic Development Committee meeting was held today. She stated an exciting announcement from United EnerTech was discussed regarding plans for a three year investment of three million dollars in the area and 150 new jobs.

DISTRICT 4 MEETING

Councilman Benson reminded everyone of the District 4 meeting scheduled for Thursday, December 1 at 7 p.m. He cordially extended an invitation to each department head to have a representative in attendance to answer any questions about their particular service, just as they do on Tuesday evenings. He repeated that all he was extending is a cordial invitation for them to come and "be on the spot" in case something comes up that needs to be answered about their division or department.

MIKE MALLEN

Mike Mallen stated that he was present to speak in reference to his excitement about an article published last week in the *Time* magazine which had to do with a city in Colorado. He stated over the past two administrations we have called ourselves the "Boulder of the East" because of our amenities and the lifestyle we offer, which is one of the ways we draw people to our area. He stated *Time* reported that officials in Pueblo, Colorado wrote an ordinance to band cigarette smoking in indoor areas including restaurants, offices and other sites. He stated over a period of eighteen months they were able to statistically demonstrate that the city's heart attack rate dropped from 399 down to a 27 percent reduction with 108 fewer heart attacks and they saved two million dollars on health care cost. He asked that the Council consider banning indoor use of tobacco.

Councilwoman Rutherford stated as a follow-up to what Mr. Mallen spoke about, she attended a luncheon of the American Lung Association last week where Patrick Reynolds, one of the former heirs of the R. J. Reynolds Tobacco Company, was the speaker whose goal in life is to have a smoke free country. She stated there are some state laws that prohibit what Mike is talking about; that Representative JoAnne Favors was at the lunch and she promised, as of yesterday, she would research to see what has to be done in Nashville to lift some of the bans.

Mr. Mallen stated that he is an attorney by training and, historically, there is a statute in Tennessee that prohibits discrimination basically against agricultural products, noting that he did not think they meant oranges and bananas! He stated the thing that has to be done in Nashville is to communicate with the state legislators; that it is his hope the Council could work with them to make this happen. He stated some city in Tennessee has to be the first and it might as well be us!

MIKE MALLEN (Continued)

City Attorney Nelson stated unfortunately there is a state statute which preempts the entire field of legislation in connection with the regulation of tobacco products; that it goes on to say "...any ordinance passed after 1994 is void". He stated the only thing we can regulate under current law is city buildings we either own or lease. He stated if we get legislation changed this statute will have to be repealed.

Mr. Mallen stated this is the body to get that done.

Chairman Robinson inquired as to the process for such an appeal.

City Attorney Nelson stated it would have to be entered into the General Assembly, as any other bill, to repeal that section of the Code that has the prohibition on it.

Councilman Benson stated that it seems like it could be pretty difficult as they are still smoking in the legislative assembly of the state!

Chairman Robinson stated that it was her thought smoking has been banned in the legislative building. Mr. Mallen added that it was his thought it was stopped two years ago.

Councilwoman Rutherford strongly urged everyone on the Council to be in touch with Rep. JoAnne Favors as she volunteered to carry this for us and if she knows we are supportive of her it would be very helpful.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, November 30, 2005 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)**