

City Council Building  
Chattanooga, Tennessee  
August 19, 2008  
6:00 p.m.

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Page, Pierce, Rico, Robinson and Shockley present; Councilwoman Gaines was absent due to personal commitment. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

### PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Rev. Walter Knapp, Pastor of Mountain View Presbyterian Church gave invocation.

### REZONING

**2008-094: Dennis Neal**

On motion of Councilman Rico, seconded by Councilman Pierce,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 2300 BLOCK OF EAST 19<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM M-2 LIGHT INDUSTRIAL ZONE TO R-1 RESIDENTIAL ZONE**  
passed second and final reading and was signed in open meeting.

### REZONING

**2008-126: William J. Patterson, Jr.**

On motion of Councilman Page, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED IN THE 200 BLOCK OF FOREST AVENUE AND 109 HARTMAN STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-3 RESIDENTIAL ZONE AND O-1 OFFICE ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed second and final reading and was signed in open meeting.

## REZONING

### **2008-131: Bowman & Associates**

On motion of Councilman Benson, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 8509 AND 8515 EAST BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE AN DR-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE SUBJECT TO CERTAIN CONDITIONS**  
passed second and final reading and was signed in open meeting.

## AMEND ORDINANCE NO. 11433

Councilwoman Robinson stated that a real estate question came before the Council from a resident in the area of Riverview who wishes to use a portion of a roadway to access the rear of his property. She stated this roadway is in question as to who built it, owns it and controls the right-of-way there. She stated there are two citizens who live in that area that really built the roadway and has been using it to access their properties. She stated the question, as she understands, is the right of the across the street or alley neighborhood to access the rear of his property; that the roadway does extend up and is adjacent to the third party's property, however, the road was paid for with private funds by people using the roadway now and there has been a lawsuit about this. She stated there have been many opinions handed down about this and it is her thought this evening the Council finds itself in a position that knowledge of law is not sufficient to guide us to know exactly what to do. She asked City Attorney Nelson to explain or summarize.

City Attorney Nelson stated that the Council has the right to close and abandon unopened rights-of-way, unless the proposed right-of-way is the sole method the abutting properties have to go to his own property, then he still has the right to use the right-of-way. He stated if there are no houses up above or some place around an open street, there is no problem with the Council abandoning the right-of-way.

Councilman Pierce stated that he did not think we were talking about abandoning the right-of-way; that this is just allowing use of it. He stated the city has a sewer line in there and we can not abandon it.

### AMEND ORDINANCE NO. 11433 (Continued)

Councilwoman Robinson stated one of the parties is in the audience and she would like to hear from him as he was unable to be present this afternoon.

Chairman Bennett stated this ordinance involves some unopened portions of some streets and this is a housekeeping matter.

Adm. Leach stated that the ordinance is really a correction and clarification to an ordinance previously adopted by the Council in 2003; that apparently the description and some of the attachments had discrepancies and needed to be cleaned up. He stated Resolution 7(a) is to be heard next week involving Mr. McCain; that this amendment clarifies language and corrects the previous ordinance. He clarified that this ordinance does not involve the temporary use for Mr. McCain.

Councilwoman Robinson expressed appreciation for Adm. Leach and Nelson's comments. She suggested that the Council go ahead with this on first reading tonight and give the neighborhood a chance to review and make sure it is something they are comfortable with. She stated on our agenda for next week is Mr. McCain's temporary use which is very critical to the outcome of how this body will dispose of it.

**Paul Mallchok** of 1405 Winding Way stated that he is the property owner adjacent to Manchester and Glenn Road. He stated he was not privy to the meeting held prior and has not spoken with the neighborhood requesting this change. He stated this could not have been abandoned and referenced Chancellor Brown's decision in 1999 and questioned the reason why this is on the map as it was not included; that it was actually taken out of the "red and blue" section on the color coded map. He stated he does not have an opinion one way or another whether to pass by 7(a) next week.

City Attorney Nelson urged Mr. Mallchok to get a copy of Chancellor Brown's decision; that it specifically says the Court will not declare ownership of property in there. He stated the city was not before the Court in that case; that we would reserve our right to unopened alleyways as we have already put a sewer in. He stated the dedication was back in the days of the old Hill City and was accepted when the sewer line was put in.

Mr. Mallchok indicated that he has a copy of the opinion inquired about the sewer line and the road easements.

**AMEND ORDINANCE NO. 11433 (Continued)**

City Attorney Nelson stated that the road accompanies that; that when the road is occupied with a sewer it is tantamount to acceptance of a dedicated right-of-way.

Councilwoman Robinson stated that she would like to have this discussed in committee next week; that Mr. Nelson is telling us the right-of-way was not abandoned.

City Attorney Nelson clarified that Chancellor Brown could not declare ownership of property.

Councilman Page stated to his understanding there are two separate issues; that the first ordinance the Council is voting on is simply an update covering some language we failed to do at the time as he understood from Mr. Leach; that the other issue comes up next week.

Mr. Mallchok asked if this change would materially affect the property in question. City Attorney Nelson responded that it should not.

Councilman Shockley stated that Mr. McCain left this afternoon's session with the understanding he would not need to come back next week.

City Attorney Nelson stated he ought to be so advised.

Chairman Bennett stated that we usually do not have property owners in the conversation.

Councilman Page stated the matter could be taken in committee or in front of the Council; that he understood the discussion was completed in committee and approve the right-of-way for the property owners.

Councilwoman Robinson stated in view of the fact one of the adjoining property owners was unable to be present this afternoon at 4 p.m. she requested the Council's indulgence to have the benefit of a lawyer's opinion during Council committee.

Councilman Pierce stated this afternoon we left with the understanding there would not be another meeting and would give the other property owner use of the right-of-way. He asked if this is going back to committee meeting.

Chairman Bennett stated there is new information.

**AMEND ORDINANCE NO. 11433 (Continued)**

Councilman Pierce asked if the new information is other than Mr. Mallchok not being there.

Mr. Mallchok stated one other property owner, Mr. Gentry, was not able to be there and was not part of the discussion, either. He stated Mr. Gentry is the one that is adamant about this and is trying to find out what is going on.

Councilman Benson stated that we had to take up a lot of committee time today on this and suggested that persons not present at today's meeting come to next week's Council meeting and go to the podium; that it is his thought we have had our day in committee.

Councilman Pierce stated he would like for someone to notify Mr. McCain as he was under the impression we "signed off" on it.

City Attorney Nelson advised Mr. Mallchok that that he might talk to Mr. McCain. Mr. Mallchok stated that he has not heard from him.

City Attorney Nelson stated communication goes both ways; that he is not saying Mr. Mallchok should make the contact or Mr. McCain, but it is his thought the two need to speak so each could be brought up-to-date on what is being asked.

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 11433 (CASE NO. MR-2008-052), ENTITLED, "AN ORDINANCE CLOSING AND ABANDONING SEVERAL UNOPENED RIGHTS-OF-WAY BETWEEN WINDING WAY, EDGEWOOD CIRCLE, MANCHESTER STREET AND GLENN ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE," TO CORRECT THE LEGAL DESCRIPTION THEREIN**

passed first reading.

**CLOSE AND ABANDON**

**MR-2008-053: Bob Franklin c/o Girl's Preparatory School**

On motion of Councilwoman Robinson, seconded by Councilman Rico,  
**AN ORDINANCE CLOSING AND ABANDONING THE 700 BLOCK OF FRAZIER AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was deferred one week (August 26).

**CONTRACT**

On motion of Councilwoman Berz, seconded by Councilman Rico,  
**A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO AWARD A CONTRACT TO RBA CONSTRUCTION, INC. FOR THE CONSTRUCTION OF FIRE HALL NO. 4 FOR ITS LOWEST AND BEST BID, INCLUDING ALTERNATIVES 1 AND 2, IN THE AMOUNT OF ONE MILLION ONE HUNDRED TWELVE THOUSAND FIVE HUNDRED SEVENTY-NINE DOLLARS (\$1,112,579.00), PLUS A CONTINGENCY AMOUNT OF NINETY-EIGHT THOUSAND DOLLARS (\$98,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION TWO HUNDRED TEN THOUSAND FIVE HUNDRED SEVENTY-NINE DOLLARS (\$1,210,579.00)**  
was adopted.

**BONDS ISSUANCE**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**A RESOLUTION EXPRESSING THE INTENT OF THE CITY OF CHATTANOOGA TO ISSUE BONDS IN THE AGGREGATE AMOUNT NOT TO EXCEED FORTY MILLION DOLLARS (\$40,000,000.00) OF THE CITY OF CHATTANOOGA, TENNESSEE FOR THE PURPOSE OF PAYING ALL OR A PORTION OF THE COSTS OF THE OBLIGATIONS OF THE CITY RELATED TO CERTAIN PUBLIC USE INFRASTRUCTURE ITEMS INCLUDING SITE PREPARATION, WETLAND CREATION AND STREAM RESTORATION DETENTION BASIN PROJECT, RAILROAD LINES AND BRIDGES, A TRAINING CENTER, A WELCOME CENTER, ROADS, SEWERS, FIRE STATION AND RELATED EQUIPMENT AND TELECOMMUNICATIONS IN CONNECTION WITH THE VOLKSWAGEN MANUFACTURING FACILITY TO BE LOCATED WITHIN THE CITY OF CHATTANOOGA**  
was adopted.

**EASEMENT**

On motion of Councilman Rico, seconded by Councilman Pierce,  
**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PERMANENT EASEMENT OF APROXIMATELY SEVENTY-TWO ONE-HUNDREDTHS (0.72) OF AN ACRE LOCATED AT 1401 MUELLER AVENUE FROM MUELLER COMPANY THROUGH THE TRUST FOR PUBLIC LAND TO BE USED AS PART OF THE SOUTH CHICKAMAUGA GREENWAY, AND EXPRESSING THE GRATITUDE OF THE MAYOR AND CITY COUNCIL FOR SAID EASEMENT**  
was adopted.

**SPECIAL POLICEMEN (UNARMED)**

On motion of Councilman Rico, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING THE APPOINTMENT OF STEPHEN MAYO AND TONJA WILKES AS SPECIAL POLICEMEN (UNARMED) FOR ANIMAL CARE TRUST D/B/A/ MCKAMEY ANIMAL CARE AND ADOPTION CENTER, INC., TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**MEMORANDUM OF UNDERSTANDING**

On motion of Councilman Rico, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING WITH THE CHATTANOOGA HAMILTON COUNTY HOSPITAL AUTHORITY FOR USE OF THE CITY'S REGIONAL PUBLIC SAFETY RADIO COMMUNICATIONS SYSTEM**  
was adopted.

**EMINENT DOMAIN**

On motion of Councilman Rico, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST MAPCO EXPRESS, INC. FOR A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT ON PROPERTY LOCATED AT 1933 HAMILL ROAD, PARCEL NO. 110I-H-001, RELATIVE TO CONTRACT NO. E-03-028-201, HAMILL ROAD IMPROVEMENTS (HIXSON PIKE TO HIGHWAY 153) PHASE I**  
was adopted.

**AMEND RESOLUTION 25163**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**A RESOLUTION AMENDING RESOLUTION NO. 25163, ADOPTED JUNE 26, 2007, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE CITY LANDFILL, PROJECT NO. SNL 33-0273, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANGEMENT, BY DELETING "NOT TO EXCEED SIX MILLION SEVENTEEN THOUSAND SIX HUNDRED FORTY-FIVE DOLLARS (\$6,017,645.00)" AND SUBSTITUTING IN LIEU THEREOF "NOT TO EXCEED SIX MILLION ONE HUNDRED SEVENTY-ONE THOUSAND FOUR HUNDRED SEVENTY-FOUR DOLLARS (\$6,171,474.00)**  
was adopted.

**AMEND RESOLUTION 25164**

On motion of Councilman Rico, seconded by Councilman Page,  
**A RESOLUTION AMENDING RESOLUTION NO. 25164, ADOPTED JUNE 26, 2007, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE SUMMIT SNITARY LANDFILL, PROJECT NO. SNL 33-0035, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "NOT TO EXCEED TWO MILLION NINE HUNDRED SEVENTY-SEVEN THOUSAND SEVENTY-TWO DOLLARS (\$2,977,072.00)" AND SUBSTITUTING IN LIEU THEREOF "NOT TO EXCEED TWO MILLION NINE HUNDRED ELEVEN THOUSAND EIGHT HUNDRED SIXTY DOLLARS (\$2,911,860.00)**  
was adopted.

**AMEND RESOLUTION NO. 25165**

On motion of Councilman Rico, seconded by Councilman Page,  
**A RESOLUTION AMENDING RESOLUTION NO. 25165, ADOPTED JUNE 26, 2007, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE NORTH HAWTHORNE/WOOD RECYCLING SOLID WASTE PROCESSING UNIT, PROJECT NO. SNL 33-1186, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "NOT TO EXCEED THIRTY THOUSAND SEVEN HUNDRED EIGHTY-ONE DOLLARS (\$30,781.00)" AND SUBSTITUTING IN LIEU THEREOF "NOT TO EXCEED THIRTY-ONE THOUSAND SIX HUNDRED TWELVE DOLLARS (\$31,612.00)**  
was adopted.

**AMEND RESOLUTION 25166**

On motion of Councilman Rico, seconded by Councilman Shockley,  
**A RESOLUTION AMENDING RESOLUTION NO. 25166, ADOPTED JUNE 26, 2007, RELATIVE TO THE 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, BY DELETING "NOT TO EXCEED SIX MILLION THREE HUNDRED EIGHTY-THREE THOUSAND ONE HUNDRED THIRTY-FOUR DOLLARS (\$6,383,134.00)" AND SUBSTITUTING IN LIEU THEREOF "NOT TO EXCEED SIX MILLION FIVE HUNDRED FIFTY-FIVE THOUSAND FOUR HUNDRED SEVENTY-NINE DOLLARS (\$6,555,479.00)"**  
was adopted.



## EXTENSION OF SPECIAL EXCEPTIONS PERMIT

On motion of Councilman Benson, seconded by Councilwoman Berz,  
**A RESOLUTION TO EXTEND THE SPECIAL EXCEPTIONS PERMIT FOR A  
PLANNED UNIT DEVELOPMENT KNOWN AS GENTRY SQUARE PLANNED  
UNIT DEVELOPMENT, REFERRED TO IN CITY COUNCIL RESOLUTION  
NUMBER 24782 (CASE NO. 2006-034), ON TRACTS OF LAND LOCATED  
AT 735 AND 731 GENTRY ROAD**  
was adopted.

## EMINENT DOMAIN

**Rachel Rutledge** of 1012 Westwood Avenue was present representing her mother, Deane Allen. She stated that she talked with Dan Thornton and has been trying to negotiate for about four months in an effort to come to an agreement on price. She stated there is a problem with the survey and wooded area indicated on it; that the surveyor wanted her mother to sign the document and they have retained an attorney and a well-known surveyor. She stated they are trying to negotiate and are not sure why the eminent domain is happening so quickly.

Councilman Benson stated this does not mean eminent domain is going to be exercised; that this resolution authorizes authority to do so if bad faith occurs on either side and we have to move on this.

Mrs. Rutledge stated the work has already been done.

Councilman Benson stated this is not intended to scare anybody. Mrs. Rutledge asked what is the point it doing it.

Councilman Benson stated that it officially gives authorization so the city could proceed. Mrs. Rutledge stated that it seems like a scare tactic to her.

City Attorney Nelson stated as he understands it negotiations have been going on for three months or more and there has been progress, however, the city has obligations on that property for next spring. He stated if we do not get started soon, there is not going to be a complete project in time to fulfill our obligations. He stated this Resolution authorizes the city to go ahead with eminent domain if necessary, but does not say we can not continue to talk. He stated her mother's attorney called today and his office will be glad to speak with him, but we can not let negotiations get in the way because this is just too important a project.

**EMINENT DOMAIN (Continued)**

Mrs. Rutledge stated that her mother has been in the hospital throughout this whole process; that the work has already been done and she does not know why there is this sudden rush to get papers signed if the work has been done.

Chairman Bennett stated Mr. Thornton talked about this matter in the Council's work session today and mentioned several pieces of property in several different ways, noting that this was not necessarily the major piece. She asked Mr. Thornton to explain what is being asked and what it includes or does not include.

Dan Thornton stated initial discussions fell through in April and there are three pieces to this process: a force main easement that was a sewer line, a slope easement and the third piece was the deed. He stated the force main was not necessary and was taken out due to concern of land owners and also a corrective deed had a second survey by Barge Waggoner and this survey is accurate. He stated they have been working with Ms. Allen's developer.

Mrs. Rutledge continued to express concern about the survey. City Attorney Nelson suggested having her surveyor sit down with our people and have them show where they disagree to see if they can come to an agreement.

On motion of Councilman Benson, seconded by Councilman Rico,  
**A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO  
INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST DEANE F. ALLEN  
FOR PERMANENT SLOPE AND TEMPORARY CONSTRUCTION  
EASEMENTS ON PROPERTY LOCATED AT 0 APISON PIKE, PARCEL NO.  
140-160.07, RELATIVE TO THE SUMMIT BALLFIELD COMPLEX PROJECT**  
was adopted.

**OVERTIME**

Overtime for the week ending August 14, 2008 totaled \$106,595.77.

**PERSONNEL**

The following personnel matters were reported for the various departments:

## PERSONNEL (Continued)

### PUBLIC WORKS DEPARTMENT:

- \* **BOBBY C. THOMPSON** – Termination, Crew Worker 1, City Wide Services, effective August 7, 2008.
- \* **JASIMINUS A. TAYLOR** – Suspension (2 days without pay), Crew Worker 1, City Wide Services, effective August 14-15, 2008.
- \* **CHARLES E. PATTON, JR.** – Suspension (2 days without pay), Crew Worker 1, City Wide Services, effective August 14-15, 2008.
- \* **DON SAUNDERS** – Suspension (8 days without pay), Crew Supervisor 3, Waste, effective July 23 – August 1, 2008.

### CHATTANOOGA FIRE DEPARTMENT:

- \* **CECIL BARBER** – Retirement, Captain, effective August 15, 2008.

### CHATTANOOGA POLICE DEPARTMENT:

- \* **MICHAEL HARRIS** – Voluntary Demotion, Police Property Technician, Range 7, \$24,306.00 annually, effective August 15, 2008.
- \* **SANDRA M. BONNER** – Resignation, School Patrol Officer, effective August 13, 2008.
- \* **JOSHUA D. TURNER** – Return from Military Duty, Police Officer, effective August 14, 2008.

### MAYOR'S OFFICE:

- \* **KENNETH KITCHEN** – Voluntary Demotion, Programmer 2, Information Systems, Range 20, \$63,800.00 annually, effective August 13, 2008.
- \* **ROBERT L. JONES** – Resignation, Telecommunications Coordinator, Information Systems, effective August 13, 2008.

**PERSONNEL (Continued)**

- \* **JILLIAN WILLIAMS** – Hire, Special Project Assistant, Range 10, \$28,137.00 annually, effective August 5, 2008.

**PARKS AND RECREATION COMMITTEE:**

- \* **AMY BEVIS HAMBY** – Resignation, Administrative Support Spec., effective August 8, 2008.
- \* **WILLIAM BURCH** – Resignation, Zoo Community Partnership Coord., effective August 22, 2008.
- \* **GWENDOLYN AVERY** – Resignation, Recreation Specialist, effective July 17, 2008.

**FINANCE DEPARTMENT:**

- \* **KAY STANFORD** – Promotion, Accountant Technician 2, Range 10, \$30,000.00 annually, effective August 6, 2008.
- \* **LINDA D. ERWIN** – Suspension (5 days without pay), Accountant Technician 1, effective August 5-11, 2008.

**PURCHASES**

The following purchases were approved for use by the Public Works Department:

On motion of Councilman Rico, seconded by Councilwoman Robinson, the following purchase was approved:

**HIDDEN VALLEY NURSERY (Best complete bid)**  
**R0111700/B0005393**

*Trees (Pleasant Cove Nursery was the lowest bid received; however, this bid failed to meet specifications since their bid was incomplete and considered non-responsive and ineligible for the award.)*

\$10,538.00

**PURCHASES (Continued)**

On motion of Councilwoman Robinson, seconded by Councilman Rico, the following purchase was approved:

**PIPING SUPPLY COMPANY (Lowest and best bid)**  
**R0111945/B0005382**

Bio-Gas Piping

\$25,806.91

**PURCHASE**

On motion of Councilman Rico, seconded by Councilwoman Berz, the following purchase was approved for use for the Information Services Division:

**HEWLETT PACKARD (Single source)**  
**R0112369**

Twelve Months Hardware Maintenance Contract per TCA 6-56-304.6

\$33,094.20

**PURCHASE**

On motion of Councilman Shockley, seconded by Councilwoman Robinson, the following purchase was approved for use by the Parks and Recreation Department:

**ROCK CREEK and RIVER SPORTS (Lowest bidders, except items 13 and 14)**  
**R0110514/B0005345**

*Kayaks (River Sports: Line items 1,2,3,4,9,11,12,13; Rock Creek: Line items 5,6,7,8,10,14.*

\$25,731.44 (Rock Creek)

\$19,918.92 (River Sports)

## CODES CONFERENCE

Chairman Bennett congratulated the Neighborhood Services Department for a great Codes Conference last week.

## HEARING: LAWRENCE GOODINE

**City Attorney Nelson reminded Council members of the hearing for Lawrence Goodine scheduled for Monday, August 25 beginning at 9 a.m.** with the full Council in attendance.

Councilman Rico stated that he has been asked not to serve on the panel on Monday.

Councilwoman Berz reminded Council members pursuant to previous discussion in Committee regarding the procedure for personnel hearings a chairman is to be designated at the time the hearing is scheduled, noting that the day of the hearing would be too late.

Councilman Pierce stated that his serving on the panel would be a conflict of interest. He stated as a member of the POST Commission, he asked at their meeting last week about his serving on the panel and they told him that they would rather he not serve since the police department has already filed for decertification for Mr. Goodine and he would be sitting on that POST Committee making the decision in Nashville.

Councilman Benson stated that he needed to talk with the City Attorney as he could have a conflict, as well. He stated that his son is defending another policeman who was caught up in another case and the two policemen served together.

City Attorney Nelson responded that it is his thought nothing came out of that and he did not think either party called the other.

Councilman Benson again asked if it is thought he would be in conflict.

City Attorney Nelson stated that he is not that familiar and he and Councilman Benson would have to talk.

Councilman Benson stated that he did not think he could serve, either.

Chairman Bennett asked that the City Attorney help them know who is eligible to serve.

## HEARING: LAWRENCE GOODINE (Continued)

Councilman Benson stated that the only way he would serve is if it was before the Council 100% and it is now getting down to three or five Council members.

Councilman Page stated that he would support getting a commission that would be in charge of hearing these appeals and that commission would be made up of representatives of each Council member. He stated the committee would have expertise of some type of person in personnel, legal experience or human resources; that the committee would hear the appeals and make a report to this Council that would either accept or schedule. He stated a lot of time is involved in this and it is starting to stagger with Council members who do not have the time to do this or are disqualified for one reason or another. He stated this Council should consider that as an opportunity to strengthen the request for hearings by employees.

Councilman Pierce expressed appreciation for Councilman Page's comments and stated that he did not recall when the Council had problems with hearings other than this one; that all Council persons have been asked to participate. He stated that it is his thought the Council persons are trying to relinquish that responsibility; that it is something we owe the employees and they need to have some input somewhere as to whether they prefer this Council give it up as we were elected to do or appoint a committee. He stated if that is the wish of the city employees he has no problem, but it is our responsibility and it should not have to go to the ballot.

Councilman Page stated many cities, including cities in this state, have this mechanism of having a commission that sits and rules on appeals.

City Attorney Nelson stated that is true, however they are not operating under our *Charter*.

Councilman Pierce stated that is what he wanted to say; that we have our set of rules and what he has witnessed here is every time there is a question we want to look to other cities and how they are operating; because we are not operating the way they are does not mean we are not operating in the right manner. He stated it is his wish this is something the Council can continue to do; that he would be willing to serve on most panels at this point and it is just sometimes he has a conflict. He stated if this Council does not want to take responsibility they should let it be known.

Councilman Rico stated that he has no problem; that it is his thought all attorneys here on out will have a problem when it comes to police cases. He stated that it does not matter because he would be "off the hook"!

## HEARING: LAWRENCE GOODINE (Continued)

**Councilwoman Berz was designated to serve as Chair of the hearing along with Councilmen Benson, Shockley, Robinson, Benson and Berz.**

Councilman Benson stated *Charter* changes would be discussed in next week's Legal and Legislative Committee.

Councilman Pierce asked if this matter was resolved in Councilwoman Berz' Committee.

Councilwoman Berz stated that an education session had been held previously for the Council to decide.

Councilman Benson stated that a decision was not made.

Chairman Bennett stated that she has a copy of the Blue Ribbon Committee's report to pass along to the Council.

Councilwoman Robinson asked if it is the study that was done several years ago.

Chairman Bennett stated that it is the one where several people were pulled together; that there might be points of interest in the document for the Council.

Councilman Pierce stated in thinking back the Blue Ribbon Committee was appointed by the Mayor and basically the chairman of that Committee was dictated to by what the wishes of administration were.

Councilwoman Robinson inquired as to which Blue Ribbon Committee is being referenced. Councilman Pierce stated it was the one chaired by Wallace Powers when he was in office as Councilman.

Councilwoman Robinson asked if that is the one that was in reference to personnel hearings. She asked if it is the one where each Council member made an appointment; that the Committee was chaired by a local attorney, a retired Judge, attorneys, and human resources people.

Councilwoman Berz stated one issue is an educational piece under her committee and the other is a legal aspect of the *Charter* amendment. She stated whatever Councilwoman Bennett has should be circulated to everyone so all can see it. She stated under Councilman Benson's committee would be all *Charter* amendments and we would "vote up" or "vote down" whether it goes to the referendum or otherwise.



### HEARING: BOBBY C. THOMPSON

City Attorney Nelson stated a request for hearing from Bobby C. Thompson regarding his termination from Public Works has been received.

**A hearing for Mr. Thompson was scheduled for Monday, September 8 beginning at 9 a.m. with Councilmen Berz, Rico and Shockley, hearing the request with Councilwoman Gaines as alternate. Councilwoman Berz was designated as the Chairman for the hearing.**

### HEARING: SHAUN STANDIFER

Councilman Page reported that he and Councilmen Pierce and Gaines heard the hearing for Shaun Standifer last week and voted to uphold his termination from the Fire Department.

### COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, August 26 immediately following discussion of agenda items.** He stated there would discussion regarding the proposed *Charter* amendments and the Wrecker Ordinance. He stated this Council is ready to move on the wrecker ordinance; that he got word today that Paul Page asked we not move on the matter and he (Benson) wants to know what is going on.

City Attorney Nelson stated this is the first time he has heard that.

Councilman Benson stated if the attorney is ready, he (Benson) thinks he knows the consensus of the Council, or at least from what he heard from the educational session.

Councilwoman Berz stated the **Budget, Finance and Personnel Committee would meet next Tuesday immediately following Parks and Recreation** for a discussion on the capital budget and the Fire and Police Pension.

Councilman Shockley stated the **Parks and Recreation Committee would meet next Tuesday immediately following Legal and Legislative** for an introduction of the participants in the Hershey Track and Field event.

**CITY WIDE TOUR OF FACILITIES**

Chairman Bennett reminded Council members of the tour scheduled for next Thursday for a visit to several city locations. She noted Mrs. O'Neal would distribute an agenda for the day when it is finalized.

**ADJOURNMENT**

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, August 26, 2008 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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