

**City Council Building
Chattanooga, Tennessee
March 2, 2010
6:00 p.m.**

Chairman Benson called the meeting of the Chattanooga Council to order with Councilmen Berz, Ladd, Murphy, Rico, Robinson and Scott present; Councilmen Gilbert and McGary were out-of-the city. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Rico gave invocation.

MINUTE APPROVAL

On motion of Councilwoman Robinson, seconded by Councilman Rico, the minutes of the previous meeting were approved as published.

**SPECIAL PRESENTATION TO REPRESENTATIVES OF
THE MILLER FOUNDATION**

Mayor Littlefield stated he and Councilwoman Berz have a little business they want to contract with the Council. He stated Councilman Rico mentioned Haiti in his invocation tonight and the disaster there which is certainly appropriate, noting we have our own situation in this community where public entities do everything they can do and then we have to depend upon good citizens to step up and fill the gap for us in many situations. He stated there was a situation recently in District 6 in an area that flooded; that there are people who were affected by a flood a second time. He stated it was beyond our means because we are limited in what we can do for individuals and a couple of people in this community who do things from time-to-time, not for recognition, stepped up and volunteered and helped to stand in the gap and get these people back into a livable situation. He asked Councilwoman Berz to say a few words at this time and asked "Bill" and "Will" Miller to step forward for recognition for something they did; that he would like to give them something to remember this occasion and to acknowledge all the things they do. He stated they are out working tonight for another good cause.

**SPECIAL PRESENTATION TO REPRESENTATIVES OF
THE MILLER FOUNDATION (Continued)**

Councilwoman Berz stated she wanted to add another dimension to this and asked Richard Hutsell to come forward. She stated the city is oftentimes criticized for not being sensitive for not doing their job as well as possible; that she knows many of us get the complaining letters and rarely do we get the "thank you for a job well done". She stated that she wanted to do the "thank you for the job well done" to Richard "Dickie" Hutsell. She stated the Browns are an elderly couple who live on Chickamauga who got flooded out twice and the first time their life savings were wiped out and then it happened again and the city did everything they could to try to be helpful. She stated the situation did not qualify for a disaster or special help in funds and "Dickie" was made aware of this and because of some connections he had our wonderful city employee saw that these people got help from private sources. She stated there are many unsung heroes that work for our city and do a wonderful job; that we also forget to say thank you in our deliberations and wanted to take this opportunity to thank him. **(Everyone in attendance gave applause at this time)**

At this point, Mayor Littlefield presented "Bill" and "Will" Miller with a Certificate of Appreciation stating this is precious little for all they do; that this recognizes one of the charitable acts he knows they have done recently; that he has worked with this family years ago and knows how great the need was in this situation. He expressed thanks to them and their family foundation for stepping up and helping us get through this very difficult circumstance for this family and the whole community. **(Everyone in attendance applauded.)**

"Bill" Miller stated he was working at the Tivoli and was hijacked as he did not know he was coming here tonight! He stated they were at the Tivoli working with US 101 for the St. Jude charity. He stated the family foundation does whatever they can for the city and city employees when funding is not there. He stated they try to be there to fill the gap, especially on the law enforcement side because it is really important that the first time a child needs an officer that it is a positive experience and not a negative one; that he learned that and grew up in the white ghetto in Detroit and it makes a difference. He stated this city is fantastic and they are happy to be here, not only the Miller Family Foundation but Miller Industries and everybody in this city is great; that they do the best they can to try to help. He asked the Council to give them a call about anything to do with kids, the community and law enforcement as they are here. **(Again applause was given by all in attendance.)**

SPECIAL PRESENTATION TO REPRESENTATIVES OF
THE MILLER FOUNDATION (Continued)

Chairman Benson stated "Bill" is a great corporate citizen and glad he was able to be present tonight to accept this as he richly deserves it. He stated he was afraid he was going to get him about the clean water issue as there are acres at Miller Industries!

Mr. Miller responded there are 24 acres.

Chairman Benson apologized for how the clean water fees will hit them; that at the same time it will pay off in the long run and we have to do it.

Mr. Miller stated that they always pay whatever is required and do not step away; that they are glad to be here.

The Certificate presented to the Millers has been spread upon the minutes:

In Appreciation

for outstanding contributions to the

City of Chattanooga

this certificate is presented to

The Miller Family Foundation

With special appreciation and recognition to

William G. (Bill) Miller and William G. (Will) Miller, II

Whereas, The City of Chattanooga wishes to honor the Miller Foundation and the Miller Family for their outstanding community service, generosity, and continued patronage of many of

Chattanooga's most notable charitable endeavors and partnerships, and

**SPECIAL PRESENTATION TO REPRESENTATIVES OF
THE MILLER FOUNDATION (Continued)**

Whereas, Their service to the City of Chattanooga and Hamilton County
deserves public acclaim and recognition,

Now Therefore,

By the authority vested in me as Mayor of the great City of Chattanooga, this
Honorary Certificate of Appreciation is conferred.

Dated this 2nd day of March, 2010

Ron Littlefield, Mayor

AMEND CITY CODE: SIGN PERMIT FEES

On motion of Councilman Rico, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 3, SECTION 307, RELATIVE TO SIGN PERMIT FEES**
Was deferred one week.

**AMEND CITY CODE: BUILDING PERMIT AND OTHER
FEES**

On motion of Councilman Murphy, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 10, SECTIONS 10-3(f), 10-4 and 10-32, RELATIVE TO
BUILDING PERMIT AND OTHER FEES**
Passed second and final reading and was signed in open meeting.

**AMEND CITY CODE: ADULT ENTERTAINMENT
LICENSE FEES**

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 11, SECTION 11-190, RELATIVE TO HOTEL PERMIT FEES AND
SECTIONS 11-429(a) AND 11-431(b), RELATIVE TO ADULT
ENTERTAINMENT LICENSE FEES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: ELECTRICAL PERMIT FEES

On motion of Councilman Rico, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 14, SECTION 14-15, RELATIVE TO ELECTRICAL PERMIT FEES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: FEES FOR FIRE DEPARTMENT SERVICES

On motion of Councilman Murphy, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 16, BY ADDING A NEW SECTION 16-29 RELATIVE TO FEES
FOR FIRE DEPARTMENT SERVICES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: GAS PERMIT FEES

On motion of Councilman Rico, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 19, SECTION 19-36(a), RELATIVE TO GAS PERMIT FEES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: MECHANICAL PERMIT FEES

On motion of Councilman Rico, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 22.5, SECTIONS 22.5-3(a) AND (f) RELATIVE TO
MECHANICAL PERMIT FEES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: SPECIAL EVENTS, TEMPORARY RESERVED COMMERCIAL PARKING AND SPECIAL PARKING PERMITS

On motion of Councilman Rico, seconded by Councilwoman Scott,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 24, SECTIONS 24-104, 24-330 AND 24-384, RELATIVE TO FEES
FOR SPECIAL EVENTS PERMITS, TEMPORARY RESERVED COMMERCIAL
PARKING PERMITS, AND SPECIAL PARKING PERMITS**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: PARKING FINES

Councilwoman Robinson stated that a citizen came to speak to us about this in Committee today and pointed out that the fines referred to in this ordinance are for parking in really restricted places, such as parking in front of fire hydrants or in a commercial loading zone during business hours; that it does not relate to a fine for parking meters. She stated that she wanted to make that clear and expressed thanks to the gentleman for coming to speak to this.

Chairman Benson clarified that this ordinance addresses blatant violations.

On motion of Councilman Rico, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 24, SECTION 24-304, RELATIVE TO PARKING FINES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 27, SECTIONS 27-3(a) AND 27-3(d), RELATIVE TO PLUMBING
PERMIT FEES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: PRESERVATION/RENTAL FEES

On motion of Councilman Rico, seconded by Councilwoman Ladd,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 2, ARTICLE VI, SECTIONS 585 AND 586, ESTABLISHING
PRESERVATION FEES AND RENTAL FEES FOR USAGE OF THE SOLIDERS
AND SAILORS MEMORIAL AUDITORIUM, TIVOLI THEATRE AND
COMMUNITY THEATRE FACILITIES**
Passed second and final reading and was signed in open meeting.

AMEND CITY CODE: LOCAL PREFERENCE

Councilwoman Ladd stated that she has had an opportunity to speak to both the proponents and opponents of this ordinance and both are in agreement we should table this at this point and let them have some dialogue and see about an approach that might be better for everybody involved. She **made the motion to table with Councilman Murphy seconding the motion.**

AMEND CITY CODE: LOCAL PREFERENCE
(Continued)

Chairman Benson stated a table means it would come up at the next meeting and it must.

Councilwoman Ladd adjusted the motion and made the motion to withdraw the ordinance; Councilwoman Robinson seconded the motion.

As a point of order, Councilman Murphy stated with regard to *Robert's Rules* it is his understanding a motion to table is not debatable as it overrule all other motions on the floor and places the matter on the table and if it is not picked up at the next regularly scheduled meeting, the matter dies for lack of attention.

Chairman Benson stated that could be right. Councilwoman Berz stated "correct".

Chairman Benson stated it dies if it is not brought up at the next meeting.

City Attorney McMahan read from *Robert's Rules* and clarified the matter that "*the purpose of the motion to lay on the table is to enable the assembly by majority vote without debate to lay a pending question aside temporarily in order to take up something else of immediate urgency*". He stated it goes on to say "*it does not come up at the next meeting*" and that was the question, is it always in order to move to table a motion to the next meeting and it says "*no*".

City Attorney McMahan re-stated to table the motion to the next meeting *Robert's Rules* reads "*it is just a temporary thing to lay on the table pending taking up something of immediate urgency*".

Chairman Benson asked for clarification that it has to be brought up at the next meeting if it is tabled. City Attorney McMahan responded "no".

Chairman Benson stated the motion is to table until the next meeting and it is not debatable. The response was that the ordinance was tabled "period".

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND THE CHATTANOOGA CITY CODE, PART II,
CHAPTER 2, SECTION 2-553, RELATIVE TO LOCAL PREFERENCE**
Was tabled; Councilman Rico voted "no".

WAIVE LAND DISTURBING PERMIT

On motion of Councilman Rico, seconded by Councilwoman Scott
AN ORDINANCE WAIVING THE LAND DISTURBING PERMIT AND ALL APPLICABLE FEES FOR THE TENNESSEE STREAM MITIGATION PROGRAM – FRIAR BRANCH RESTORATION PROJECT LOCATED AT 2453 HICKORY VALLEY ROAD

Passed first reading.

AMEND CITY CODE

City Attorney McMahan stated that he informed the Council in Committee today that Mrs. Madison added a sentence if fees are not paid by June 1 interest would be accrued from March 1. He stated that has been added for the Council’s consideration and a copy was placed by each Council member’s seat on the dais. He stated that would be the amended version if the Council chooses to adopt that one.

Councilman Murphy and Rico made the motion and second substitute the amendment.

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 31, SECTION 31-353(c), FORGIVING INTEREST ACCRUED ON 2009 WATER QUALITY FEES IF PAID BEFORE JUNE 1, 2010

Passed first reading.

CLOSE AND ABANDON

MR-2009-133: AZAM SOHI

The applicant was not present.

On motion of Councilman Murphy, seconded by Councilwoman Ladd,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE RIGHT-OF-WAY IN THE 500 BLOCK OF STRINGER STREET, MORE PARTICULARLY DESCRIBED HEREIN

Was denied.

TEMPORARY USE

On motion of Councilwoman Ladd, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING CARTER TODD TO USE TEMPORARILY THE
RIGHT-OF-WAY AT 324 NORTH MARKET STREET TO INSTALL A SIGN, AS
SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

AGREEMENT

Councilmen Scott and Rico made the motion to defer this matter one week.

Chairman Benson stated this was discussed in Committee today and the maker of the motion needs a little more time to read the contract.

Councilman Murphy asked if the city would be operating with a vendor without a contract for events prior to reconsideration of this. Mr. Zehnder nodded his head indicating "yes".

Councilman Murphy asked City Attorney McMahan if that is a good idea. City Attorney McMahan stated he would prefer not to.

Chairman Benson asked Mr. Zehnder to explain the program.

Admin. Zehnder stated the past agreement or contract was with Family Concessions with Warner Park and they have been going on a month-to-month basis with them until a new contract is established. He stated when they went out for RFPs for this and took proposals and bids, the Department decided to divide it; that in this case he has a concessionaire on board on a month-to-month basis on a past agreement. He stated the Summit of Softball is the one he does not have an individual for and that is where the tournament will be held; that he has an arrangement but it does not cover the Summit of Softball and in this particular case it will put him in a bind. He stated this was all publicly bid through an RFP through the purchasing department; that there was a 16 page RFP with all the particulars of what we wanted done at all our recreation centers. He stated purchasing did a good job of putting it out and feels good with the bids and with what has come in. He stated it is only for one year and has a renewable clause and after one year of reviewing their work they can elect not to "re-up" their contract. He stated this is for a one year term which makes him feel better in the long time.

AGREEMENT (Continued)

Chairman Benson asked if the Council can approve the contract for one week to operate the Summit for Softball.

City Attorney McMahan stated the main thing that needs to be put in place is the insurance clause of the contractor; that he assumes they are not going to make enough money in one week that we would cross the threshold of \$10,000; that as the administrator he could enter into a one week contract but would need the insurance for sure.

Admin. Zehnder stated he could do that.

Councilwoman Robinson stated perhaps the motion could be amended to say two weeks to give ourselves a little cushion to approve it for two weeks subject to a full discussion by Council on final vote as early as next week.

Chairman Benson asked if that would get Admin. Zehnder off the spot if moved to two weeks. Admin. Zehnder responded "yes".

Councilwoman Scott stated she would be happy to amend the motion to defer two weeks; Councilman Rico as the seconder agreed.

Councilwoman Berz stated that she wanted to be clear and asked if the Council is hampering him in any way if it is put off so that several folks can read it further.

Admin. Zehnder responded if the Council gives him a two week period temporary arrangement he can make those arrangements with concessionaires to get in business with the understanding they will provide an insurance certificate to make sure we are covered. He stated if he does not have a temporary arrangement, yes, he would be put in a bind.

Councilwoman Berz asked how the Council can help fix that short of voting it up tonight.

Admin. Zehnder stated if he has a two week temporary arrangement he is under the assumption they will provide insurance during the period for two weeks and they can be in operation, he can make that arrangement with this company.

Councilwoman Berz stated that is what he was asking for, not to defer it two weeks; that he needs permission to go ahead and do an MOU or whatever for the two week interim.

AGREEMENT (Continued)

Chairman Benson stated the motion was to defer for two weeks. Councilwoman Berz stated he needs a little more.

Councilman Murphy stated his concern is we can all say there is no guarantee the concessionaire will say, "sure, no contract, I will come set up and be responsible for claiming insurance and all that"; that he does not want the event to be left without a concessionaire and that is the problem. He stated his concern is we spent a lot of money for this fine installation and it may have an event and immediately get a bad reputation; that the concessionaire is not in the room and he does not know if we "bless" him to try this they will say "yes".

Councilwoman Robinson stated it is her bet they will.

Admin. Zehnder stated it is his thought they will and if they do not they will not have concessions.

On motion of Councilwoman Scott, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH FAMILY CONCESSION, LLC TO PROVIDE CONCESSIONS AT WARNER PARK FIELDS, WARNER PARK AQUATICS CETNER, FROST STADIUM COMPLEX, AND ALL RECREATION CENTER SPECIAL EVENTS AND PROGRAMS

Was deferred two weeks; on roll call vote:

SCOTT	Yes
ROBINSON	Yes
LADD	Yes
BERZ	No
RICO	Yes
MURPHY	No
BENSON	Yes

AGREEMENT

Councilmen Rico and Robinson made the initial motion and second to adopt this Resolution; the vote was taken and the motion approved.

After the vote was taken, Councilwoman Scott indicated her wish to speak in an effort to reconsider the vote.

Chairman Benson stated a Council person from the prevailing side would need to make the motion to reconsider.

Councilwomen Robinson and Ladd made the motion and second to reconsider; the motion carried.

Councilwoman Scott stated the same issue is here as on the last situation and **made the motion to allow the two week intervention** here to allow us to look at this and be able to vote on it in two weeks. She stated it probably was not a great motion but thinks the Council understands what she is trying to do; that she has difficulty voting on something she has not read and we have a communication problem in writing and getting those contracts to all members of the Council. She stated if anyone has gotten this contract she would like to know what she has to do to be able to get them; that she understands they came from Parks and Recreation, but there is some kind of a problem in that and she would have been more than happy to have voted on it today had she been able to read it. She stated she is sorry for the delay in this but a contract is something that we are supposed to read and look over and she has not had the opportunity to do it and that is why.

Councilwoman Scott restated the motion to give a two week approval tentative for a final vote in two weeks on the contract; Councilwoman Ladd seconded the motion.

On motion of Councilwoman Scott, seconded by Councilman Ladd,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN
AGREEMENT WITH FUN TIME FOODS TO PROVIDE CONCESSIONS AT
THE SUMMIT OF SOFTBALL FACILITY**

Was deferred two weeks.

OVERTIME

Overtime for the week ending February 25, 2010 totaled \$54,970.94.

CLEAN WATER ISSUE

Chairman Benson stated prior to Councilman Murphy leaving a request has been made to meet at 2 p.m. on next week Tuesday, March 9 on the Clean Water issue. He stated that it seems what is before this body is if we do nothing on it the present ordinance is in place; that the Council can come back to the Blue Ribbon Committee's report and act on that "up or down", come back to the Mayor's report and act on it "up or down" or come up with our own. He stated Councilman Murphy is Chair of this.

Councilman Murphy stated there is a need to start meeting immediately and scheduled a meeting of the **Legal and Legislative Committee for 2 p.m. on Tuesday, March 9** to discuss the issue.

Chairman Benson stated the City Attorney would need a week at least to pull it all together.

City Attorney McMahan stated the two ordinances suggested, the Blue Ribbon Committee and a draft of the Mayor's proposal in the form of an ordinance will be ready for next week. He stated if there are any other thoughts it would probably be the week after that.

Councilman Murphy excused himself from the meeting at this point.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ❖ **ALAN D. KNOTT** – Promotion, Chief Plant Operator, Waste Resources, Range 15, \$42,801.90 annually, effective February 12, 2010.
- ❖ **TERRY W. DAVIS** – Lateral Transfer, Plant Maintenance Mechanic, Waste Resources, Range 11, \$29,544.00 annually, effective February 12, 2010.

CHATTANOOGA POLICE DEPARTMENT:

- ❖ **REGINA GREER** – Voluntary Demotion, Police Records Technician, Range 5, \$34,000.00 annually, effective February 26, 2010.

PERSONNEL (Continued)

INFORMATION SERVICES:

- ❖ **GEOFFREY NORMAN** – New Hire, Network Manager, Range 27, \$80,000.00 annually, effective February 22, 2010.
- ❖ **ANNIE LING** – Resignation, IT Business Project Analyst, effective February 25, 2010.

CHATTANOOGA FIRE DEPARTMENT:

- ❖ **KEITH LILES, JASON ASHLEY** – Promotion, Firefighter Senior, Range F2A, \$36,004.00 annually, effective February 26, 2010.
- ❖ **GLENDA WILSON** – Suspension (2 days without pay), Firefighter Senior, Range F2A, \$37,000.00 annually, effective February 21, 2010.
- ❖ **KELLY SCHROYER** – Family Medical Leave, Firefighter Senior, effective February 28 – August 5, 2010.
- ❖ **MICHAEL DOZIER** – Promotion, Fire Lieutenant, Range F3A, \$43,358.00 annually, effective February 26, 2010.
- ❖ **DANULIUS USHER** – Reinstatement of Rank (Completed certifications), Fire Lieutenant, Range F3A, \$43,358.00 annually, effective February 26, 2010.
- ❖ **KENNETH HARDEN** – Family Medical Leave, Fire Lieutenant, effective February 21 – May 13, 2010.

HOTEL PERMITS

On motion of Councilwoman Berz, seconded by Councilman Rico, the following hotel permits were approved:

GARDEN'S BED & BREAKFAST – 159 Gardner Street, 28 S. Germantown

GLENDALE COURTS – 930 Signal Mountain Road

REFUNDS

On motion of Councilwoman Robinson, seconded by Councilman Rico, the Administrator of Finance was authorized to issue the following refunds for 2009 water quality fees and/or property taxes:

RACHEL M. PRUETT	\$ 6,802.01
STEWART LAWMILL	2,305.30
HAMILTON PLASTICS, INC.	14,976.00
MEIGS COUNTY BANK	3,828.09
JOSEPH PREBUL	3,571.20
OLAN MILLS INC. OF TN	17,280.00
ASTEC, INC.	55,946.50
APOLLO GROUP	1,349.18
HEATEC, INC.	1,465.88

DONATION

On motion of Councilwoman Ladd, seconded by Councilwoman Robinson, the donation of various surplus items by the Neighborhood Services Department were approved:

FORTWOOD NEIGHBORHOOD ASSOCIATION, WILLOW TRACE HOMEOWNERS ASSOCIATION, ST. ELMO COMMUNITY ASSOCIATION AND EAST LAKE SENIOR CITIZENS GROUP

Donation of Surplus Items (Wooden Gazebo, Concrete Statue, Concrete Tables Concrete Benches and Metal Chairs)

\$0.00

PURCHASE

On motion of Councilwoman Ladd, seconded by Councilwoman Berz, the following purchase was approved for use by the Mayor's Office:

TRIAD ELECTRICAL (Lower and better bid)

R23155

Contract for Electrical Work on the C.B. Robinson Bridge

\$23,530.00

PURCHASE

Councilmen Robinson and Rico made the motion and second to approve this purchase.

Councilwoman Scott stated the city of Chattanooga collects and sells mulch and we learned today that there are landscaping businesses that come and pick up the mulch and use it. She stated we are proposing to go outside to pick mulch from a commercial entity and it is sold by our public works department by the ton and in this purchase will be bought by the yard. She recommended that seasoned mulch be used from our own mulch pile because it will be cheaper than we are going to get it, whether from a commercial establishment or the from public works department.

Dan Johnson stated there are different types of mulch and would let Larry Zehnder and Bob Saylor explain. He stated Councilwoman Scott is right; that public works also buys mulch; that it depends on the type of mulch being dealt with.

Chairman Benson asked if our mulch in the city is what is needed or will it kill something.

Admin. Zehnder stated Bob Saylor mentioned something about the mulch being used for the tree problem that is presently being purchased from outside vendors; that whether the existing mulch kills things he is not sure about that. He stated this is an issue that Councilwoman Scott brought up earlier that we are looking at; that when he talks to Public Works it is difficult because they are selling mulch rather than give his department mulch that would normally go to a sale.

PURCHASE (Continued)

Admin. Zehnder stated that he mentioned to Lee Norris prior to this if there is enough mulch in a pit that has been aged for over a year or so it can build up heat and the kind of bacteria wanted in a good, finely pulverized mulch, they can eventually produce that; that at this present time a lot of that mulch is being sold. He stated he and Lee both agree there may be an opportunity of getting into the business of providing mulch for landscape services that is going to be a fine grade mulch that can be used in City Hall areas, Coolidge Park and areas where there is a need for a fine mulch that can be purchased. He stated at some point in the future with public works taking a real effort to actually run it through the sieve a couple times and then aging it for a year or so it is very possible we could use what they are producing rather than having them sell it. He stated this bid is \$7.25 per yard and public works is selling it for \$15-or-so a ton and is not sure what the tonnage is for a yard; that those are the kinds of things we need to look at and at this point he encouraged the Council to approve this with the understanding public works and parks and recreation will work out an arrangement to get the mulch needed to make this city look great.

Doug Stein stated that he had no idea this was going to come up and wanted the Council to know that the contract in the Hawthorne yard where the mulch is being made is being manufactured in large part by a company he operates, Earthscapes. He stated they have a contract to buy the mulch and tried several times to talk to Gene Hyde. He assured the Council the mulch does not kill anything and the machine that processes the mulch and a lot of the effort to turn the mulch piles are being spent by his company. He stated he has had a very difficult time with this company and has lost a lot of money; that it does a lot of things for water quality and are using it in that regard. He stated they have tried to sell it as bulk mulch and using compost and have tried a lot of times to have a conversation with the city about this. He stated they have a contract that requires them to buy a certain amount every year and have been failing to meet that especially since the downturn of the economy. He stated they are anxious to sell this mulch to the city and can make the conversion between cubic yards and tons; that the product produced is as good as anything else that the city can buy. He stated he is not sure whether or not they bid on this and probably did; that the fact they are not low might mean something, again stating he did not know this was going to come up. He stated Councilwoman Scott is correct that this is recycled product from the city of Chattanooga collected from the homeowners and streets; that it is something that is worthy of consideration. He stated he wanted the Council to know there is a local company processing that and some of the processing on the pit is being paid for by them.

PURCHASE (Continued)

Bob Saylor, Director of Recreation, clarified that Earthscapes did bid on this; that the bottom line is they are glad to work with any of the suppliers and wish them luck as they are working hard to get their prices down affordably and gives the city a discount. He stated this is a specialty, decorative mulch; that it is the bark from the Hardwood tree and is not anything thrown into the hopper and ground up. He stated on one side there is seed, leaves, soft wood, hard wood anything that goes; that on the bid side of this they are using bark from the Hardwood tree which is in the specifications and that is the difference. He stated they are not buying major, major quantities and knows the top amount has increased; that the bottom line is they have to be concerned about saving money and they are; that they do want our city parks and buildings, the ones that are in the citizens eye every day, to look as good as they can look in the resource base they have to work with. He stated that is what this bid is about; that they did mention that green wood chipped up and thrown into certain landscape areas does have a negative effect on plant life and can kill if it has not been seasoned which was the point he tried to make today and it is his though we need to be cognizant of that fact. He stated they want to work with their potential supplier through public works and try to get to a point where we can save the money we need to save; that this one for one year is a specialty product we are really looking for to do the best job we can do around our buildings and specific park areas.

Dan Johnson stated there is one simple thing – that it is economics, too. He stated public works is selling all they can produce for roughly \$15.00 and this cost us over \$7.00 and to him that is a matter of numbers; that we are making money doing it this way.

Councilwoman Scott stated her issue is cost and savings and it is her thought this ought to be denied and that is the only thing she needs to say!

Councilwoman Ladd stated her concern is not with the quality of the mulch; that her concern is that we are planning to have flower beddings that are beautiful and does not think this is the time to be spending the tax payers' dollars on beautiful flower beds. She stated last year they were gorgeous and we were adorned to a pretty expensive amount; that she does not think our buildings need this adornment and expressed agreement with Councilwoman Scott that this is not the time for the city to be spending money on aesthetics. She stated it does make our parks and buildings look great but cannot support our doing this kind of spending when tax payers' homes are being foreclosed on and they do not even had a yard, which is what she is opposed to -- the spending of money for aesthetics.

PURCHASE (Continued)

Chairman Benson stated Councilwoman Ladd brought up a new issue and asked Mr. Zehnder to speak to where the flower beds are going to be.

Admin. Zehnder stated throughout the city there are beds connected to parks, up and down Broad Street, Main Street, City Hall, facilities all over the city that have this fine tuning landscaped attention being given for the citizens as well as the visitors that are coming here. He stated it is his thought it would be a travesty to not maintain these areas from the highest level we possibly can; that we need to save the money that is necessary and if it means changing the mulch type in order to do that, sure we can do that. He stated they will figure out how to do that; that if the Council does not want to approve this measure tonight they will figure out a way to make sure these places are maintained. He stated if there is a bigger issue, vote on an issue of landscaping the city or not and if the Council votes on not landscaping the city and paying attention to the fine details of the city is great because it would save his department an awful lot of money.

Chairman Benson stated the Department would have to spend a lot of time mowing and seeding it if there are no flowers. Admin. Zehnder admitted that is true.

Councilman Rico expressed agreement with Councilwoman Ladd's comments that these are hard times and to still not forget this is a tourist town; that we are trying to bring people in to spend their money and try to make the city as attractive as possible. He stated they drive around and see all the beauty there is about Chattanooga; that we bring people here and let's show them our best side.

Councilwoman Robinson stated that she made the motion to approve the expenditure and the reason to do that is because it is hard times and flowers are not that expensive and maintaining them is not expensive; that we could invest that amount in a lot of permanent landscaping in our parks with some perennial plantings, not just the annuals that do come and go. She stated one of the prettiest things about our Walnut Street Bridge is during the summer in walking across where people come who do not have a yard and see the flowers blooming in the pots; that people take pride in their parks and playgrounds and in our public spaces. She stated we ought to do just as Councilwomen Scott and Ladd suggested and be frugal and careful with taxpayers' dollars, but at least with this summer she is all for planting every flower we can to make our city beautiful for all of us who live and work here!

PURCHASE (Continued)

Councilwoman Berz addressed Adm. Zehnder and complimented him and his staff for the great job they do and for using high grade products, which is what she is hearing. She stated that she thought she heard it said they can find a better way or get from the city what they could use, asking if she were correct.

Adm. Zehnder stated according to Lee Norris they need to begin stock piling materials than can be used in the future and allow them to age and create a more organized material similar to bark mulch.

Councilwoman Berz stated that the second piece she heard was that they were buying it at \$7.00 instead of getting it from the city and actually saving money. Adm. Zehnder responded "yes". Councilwoman Berz stated we would be saving the taxpayers money and we need to approve this.

At this point Councilwoman Robinson called for the question.

On motion of Councilman Robinson, seconded by Councilwoman Rico, the following purchase for use by the Parks and Recreation Department for a contract to supply mulch from Shelton Landscape **failed with a 4-2 vote; on roll call vote:**

ROBINSON	Yes
LADD	No
BERZ	Yes
RICO	Yes
SCOTT	No
BENSON	Yes

HEARING: MICHAEL DOUGLAS

City Attorney McMahan stated last week he reported the request for hearing from Michael Douglas to appeal his termination from Parks and Recreation. He stated Mr. Douglas is facing criminal charges and does not want a hearing date to be set until he has had an opportunity to discuss the matter with his attorney. He stated the hearing would be indefinitely postponed.

COMMITTEES

Councilwoman Robinson stated that there has been a little bit of confusion about what the Council voted on a couple weeks ago; that specifically, Barry Bennett talked to the Council and so did Greg Haynes with reference to the special exceptions permit that has created a stumbling block time and time again for this Council. He stated at the Council's request, RPA did quite a bit of work and laid the foundation to inform us and bring us "up to speed" and how to remedy the situation. He stated when the matter was before the Council it is felt the Council did not get a full airing of this and is not sure how we can do this; that it is her belief what needs to be done is to get him to come back and talk to the Council again and bring the issue back; that since it was defeated if someone on the prevailing side makes the motion to reconsider it could be brought back. She stated she has discerned from several Council members there was a bit of confusion and will ask him to come back next week.

Councilwoman Berz stated Councilwoman Robinson is right; that she (Berz) was shocked. She stated this is something RPA worked hard and long on at our request and it got bogged down; that there was some confusion. She stated she would back it coming back and to please do that.

Councilwoman Robinson stated that she would speak with the Clerk for the next available slot on the schedule.

Chairman Benson stated it takes two people to put it back on the agenda, the Chair, Vice Chair or two Council members; that Councilwoman Robinson and Berz can put the matter back on the agenda and asked that they talk with the City Attorney.

In the absence of Councilman Murphy, Councilman Rico reminded the Council of the meeting of the **Legal and Legislative Committee on Tuesday, March 9 beginning at 2 p.m.**

Councilwoman Ladd reminded Council members of the **Safety Committee meeting scheduled for Tuesday, March 9 immediately following the Agenda session** to discuss the 2009 Police Departmental report.

Councilwoman Berz reminded Council members of the **Budget, Finance and Personnel Committee scheduled for Tuesday, March 9 immediately following Parks and Recreation** for the quarterly report of the Fire and Police Pension Fund.

AGENDA: MARCH 9, 2010

Chairman Benson stated the agenda for Tuesday, March 9, was discussed earlier during the Agenda session.

ROGER TUDER

Roger Tudor of 1020 Westbridge Lane stated that his request is a matter of clarification in reference to City Code, Section 2-553; that the Council chose to table the proposed ordinance and asked if that comes back up before this body next week; that it may be voted on and if not is it "dead".

City Attorney McMahan stated as the Chairman has indicated the Chair, Vice Chair or two members of the Council can have items placed on the agenda.

Councilwoman Berz stated once the matter is tabled the Council has to affirmatively bring it up again by the Chair, Vice Chair or two members of the Council.

Mr. Tudor stated he and Gary have talked about this; that he is on one side and Gary is on the other; that he hates to be guarded all the time and wants to make sure both of them are clear on that.

Councilwoman Berz stated that she can speak for herself; that she is willing to let it "sit on the table" to give them as long as they need to do whatever discussion; that they do not have to live in fear from her.

Mr. Tudor clarified that the Council is willing to let it "sit on the table".

Councilwoman Berz responded "until you work it out".

Mr. Tudor stated as he understood from what City Attorney McMahan read from *Robert's Rules* it is "temporary" until it is decided to come before this body again. City Attorney McMahan responded "yes".

Mr. Tudor stated it is a "living document". City Attorney McMahan stated the Council can always bring anything from "left field" into the Council's agenda if they choose; that the agenda is published every week and they can do what they want.

ROBER TUDER (Continued)

Mr. Tudor stated it has gone through first reading. Chairman Benson stated one more reading is all it takes.

ADJOURNMENT

Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, March 9, 2010 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)**