

**City Council Building
Chattanooga, Tennessee
May 17, 2011
6:00 p.m.**

Chairman Ladd called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Rico, Robinson and Scott present. 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, Chairman Ladd gave the invocation for the evening.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: KIWON TONEY

Councilman Gilbert stated Kiwon started taking notice of the boxing program and wanted to participate and as he participated he became involved, won in different divisions and kept going; that Kiwon is now the National Champion in his division for ten year olds! He stated at the time he won the National title, his mother indicated before he went into the ring he prayed for the others and himself; that once the round was over and he was pronounced the winner he took the belt off himself and put it around his opponent and stated "both of us are winners"! He stated this is the type of character we need in our community, noting that character does not come from just within; that Kiwon has a special person – his mother, Ms. Moore – that has guided him and other children in the boxing arena. He stated Ms. Moore has been an inspiration to him and has indicated she would never ever lose a kid to the streets and will make sure he has developed properly and respects his elders.

SPECIAL PRESENTATION: KIWON TONEY
(Continued)

At this point, Councilman Gilbert presented Ms. Moore with a Certificate of Appreciation for outstanding contributions to the City of Chattanooga. He noted Ms. Moore did not ask for this however it is his thought she deserves something noting she has stood behind Kiwon all the way. He stated Ms. Moore is present with Mr. Pope, her fiancé, who has also inspired Kiwon.

Councilman Gilbert then read the proclamation regarding Kiwon which has been spread upon the minutes:

P R O C L A M A T I O N

Whereas, As of March 2009 at the age of eight, Kiwon Marquist Toney has been boxing for two years and one month and progressed to winning the State Tournament in December, 2010; and

Whereas, in January 2011 he won the Regional Tournament and in March of 2011 won the National Silver Gloves Tournament making him Number One in the nation at ten years old; and

Whereas, he recently had a match in Ripley Tennessee in the Junior Olympics State Tournament; and

Whereas, his rank presently is twenty-nine wins and three losses; and

Whereas, his life goal is to be the best in anything that is positive while keeping God first, remain humble and to never take anything or anyone for granted; and

Whereas, he is a good student academically and remembers foremost "Jesus said to do" and will always keep that in his heart.

Now, Therefore,

I, Ron Littlefield, Mayor of the City of Chattanooga, Tennessee do hereby proclaim
Tuesday, May 17, 2011 as

“Kiwon Marquist Toney Day”

SPECIAL PRESENTATION: KIWON TONEY
(Continued)

In Chattanooga, Tennessee, and I encourage all citizens to recognize this day.

IN WITNESS WHEREOF, I have hereunto set my hand and caused
the Seal of the City of Chattanooga to be affixed

Ron Littlefield, Mayor

Councilman Gilbert stated Kiwon is very humble which shows we have good kids and parents who help in this community and we need to support them as much as possible. He expressed appreciation to him, his mother and her fiancé for allowing him (Gilbert) to be a part of Kiwon's life.

SPECIAL PRESENTATION: PUBLIC WORKS
MANAGER/EMPLOYEE OF THE YEAR

Admin. Leach stated this is "National Public Works Week" and the men and women that make up the public works family are celebrated as they maintain the infrastructure and services we all depend upon. He stated of the recent storm a lot of people depended upon the roads that were blocked and tonight we will recognize two people, noting they are peer awards from folks within the public works department who vote on both the "Employee of the Year" and "Manager of the Year" and is an affirmation that those within the department respect these individuals for what they do day in and out for our community. He reminded everyone there will be a display at Miller Plaza, an informational display that is done each year, and the luncheon is Friday at the Tennessee Pavilion and invited everyone to come.

Admin. Leach stated the "Employee of the Year" is Rick Davis who is on vacation fishing. He stated Mr. Davis is a Traffic Engineer Technician and has been with the department for 31 years; that he is a work zone traffic control specialist and does street lighting. He stated Mr. Davis' award will be presented next week upon his return.

Admin. Leach then stated Jerry Mauldin is the "Manager of the Year" and has been with the department since 2004.

SPECIAL PRESENTATION: PUBLIC WORKS
MANAGER/EMPLOYEE OF THE YEAR (Continued)

Admin. Leach stated Jerry heads up the forestry emergency department and is really our "go to" guy in the forestry department and has been very busy with forestry and emergency services over the last several months. He stated he has spent countless hours doing management tasks and hands on tasks during the last several months. He stated Jerry is a Certified Arborist and in his spare time volunteers with the Sheriff's department and is a 35 year member of Mt. Carmel Baptist Church. At this point he introduced Jerry's wife, Jane. He stated the department recognizes him for his efforts and is the "go to" guy when something is needed on the emergency side and tree issues; that he and Gene Hyde make a great combination and have been stalwarts in the last several months. He stated he was in the operations department watching them work one day and he and Jim Templeton stood back and watched them as they were getting 311 emergency calls coming in and they were dividing up the work force, sending folks out, checking up and making things happen. He expressed thanks to Jerry for his hard work and again congratulated him!

Chairman Ladd expressed appreciation for everything public works does and stated we take a week to recognize them but every day we should say "thank you" when we see things happen. She stated she continues to get praise from the residents she represents as to how quickly the department responded to the storm cleanup which helped so many families. She expressed thanks and saluted them for the things they do!

Admin. Leach recognized the contingent of employees from the public works department at this time and asked that they stand.

AMEND CITY CODE

Councilwoman Berz stated this matter was discussed earlier this afternoon noting we are to get clarification about what passed last week.

City Attorney McMahan stated the minutes seem to reflect that the motion passed last week was conditioned upon certain enforcement activities by the administration; that based upon the fact it is a two-folded motion instead of a single motion, he recommended the Council consider this matter on first reading as opposed to considering it on second reading.

AMEND CITY CODE (Continued)

City Attorney McMahan stated if it does pass we do not want to go to court with some question about whether or not it properly passed on two readings.

Councilman Benson stated since he voted on the prevailing side he considered this as de novo and made the **motion to reconsider this ordinance on first reading**. He stated there was a community problem in the district; that both sides were well aware, but one side was not aware we were going to take up this ordinance which really is not directly related to the situation, however still needs to be reconsidered; **Councilman Rico seconded the motion; the motion carried**.

Councilwoman Scott asked for clarification; that we have been talking about two situations noting one is the ordinance, itself, and the other is a neighborhood dispute. She stated for her clarification and the audience, as well, she asked if the Council is just discussing the ordinance as written, but not the neighborhood situation at this time.

Chairman Ladd stated it is her understanding the Council is present to hear comments about the ordinance.

Councilwoman Scott asked if it is a discussion of "the ordinance alone" and possibly take up another time the other discussion.

Chairman Load stated we do not have any action we can take on the other discussion that we can vote on.

Councilman Murphy stated a question he has in regard to the special exceptions permit is that he knows Councilwoman Scott has a number of horse owners in her district and Councilman Gilbert does in some historic areas in his district. He asked if those that already have horses on property would be grandfathered with respect to this ordinance.

City Attorney McMahan responded "yes sir"; that any valid non-conforming use would be allowed to continue in use unless it is abandoned for a period of 100 days pursuant to our zoning ordinances.

AMEND CITY CODE (Continued)

Councilman Murphy stated no one in Kingsport will be made to move their barns because somebody buys a vacant lot and builds a house next door. City Attorney McMahan responded "that is correct".

Councilman Benson stated he did not think the two issues could be separated right now; that this ordinance was formulated to give some relief to this situation out there, a possibility, anyway. He stated he could not vote on this and it is in his district; that we would not have ever had this ordinance to consider tonight if we had not had this property situation come up. He registered objection about having to vote on this ordinance without listening to the problem.

Chairman Ladd stated it is her understanding the Council will listen as they are given nine minutes to speak in support or opposition.

Councilman Benson stated we are giving them the nine minutes and Councilwoman Scott stated she wanted to separate the issues.

Chairman Ladd stated whatever their position and how ever they would like to present is what the Council will hear. She stated the Council has nothing else to vote on and asked the City Attorney if she were correct in that we have to address only what the Council has to vote on that is in ordinance action before them; that if in that discussion this situation comes up then we will be hearing that.

Councilman Benson responded "that will work".

Candis Cooper Potts, owner of the property at 1633 Jenkins Road where the horses currently reside, stated she lives at 1631 Jenkins Road. She read from a prepared statement which chronicled the history of the property regarding the events to this point, as well as the initial purchase of the home from Mr. and Mrs. Bill Mansell on February 2, 2001 who built the barn and pasture and always had a horse on the land (and pasture). She stated the Mansells told her they were grandfathered in for horses when they purchased the property. She stated Mr. and Mrs. Bennett moved into the property on August 1, 2009 with their two retired therapy horses and Mr. Jones purchased his Channing Creek Condo on September 9, 2009 with the horses, barn and pasture already in his backyard.

AMEND CITY CODE (Continued)

Mrs. Potts stated they have had no reason or need to prove their grandfather clause applicability or track it that would allow an individual to be able to prove 12 years of history starting from today; that she and her husband originally thought the issue was that they had to have a renter with a horse for no less than 90 contiguous days and have since discovered that is not the case. She stated they were not given proper notification of the previous Planning Commission meeting and were not in attendance; that the burden of proof that the barn/pasture has gone 90 consecutive days without a horse should be on the person with the horse problem and not on them. She stated 10 days is an unrealistically short timeframe to find reasonable horse care in this city and allow them to be able to recoup the financial burden they will incur. She stated this is their first time before the Council and for the numerous issues listed in the communication would like to officially request a "stay" or "appeal" in this matter, but it seems the Council has already done that by taking the matter back to first reading; that they definitely need the Council's help and it is not their desire for anyone to be unhappy. *(Mrs. Potts' detailed communication is filed with minute material of this date.)*

Councilman Murphy stated he did not have questions for Mrs. Potts, but there was a question he had of the City Attorney as he knows there are horses in Councilmen Scott and Gilbert's districts and possibly portions of other districts. He stated everything Mrs. Potts laid out in her argument or case is that it would be improper to evict her because she is no longer grandfathered. He stated this is not the forum to lay that out; that the question is whether the Council will establish a procedure whereby horses are properly permitted in the city going forward. He stated if somebody were to buy a four-or-five-to-eight acre parcel that never had horses, this is setting up a process by which they can qualify to put horses there; that it does not address whether or not her horses get to stay; that it is not what this ordinance is about.

Mrs. Potts asked why they were given the letter; that since it is an ordinance they were given the letter.

Councilman Murphy stated this ordinance is not doing that; that prior law actually did not allow horses in the city period which is why she got that letter. He stated the place for Mrs. Potts' case to be made is in the zoning case to say "no, I contest this, I am not removing the horses, cite me to court and I will have my day in court" and that will start in city court. He stated that is the place for her to take this up; that everything she said makes sense to him and is sure people will say there were two years there were no horses, but that is not for the Council to decide.

AMEND CITY CODE (Continued)

Councilman Murphy stated what this is all about is whether a new parcel of property, somebody buys the eight acres near a home that has never had horses and they want to have horses, this established a process by which they might be able to do that. He stated this ordinance has nothing to do with her situation despite what Councilman Benson thinks.

Mrs. Potts stated she is really confused and asked what their options are to not have just 10 days for this, whether that is up to the Council.

Councilman Murphy stated if he were her he would tell them they are not moving the horses and will see them in city court; let them cite her to court. Mrs. Potts inquired as to who Councilman Murphy is referring to as "them". Councilman Murphy stated zoning officials will cite her to court and she can make her point in front of the judge as the Council is not the judge of this.

Councilwoman Scott stated she does not know as much about horses as Mrs. Potts does, but knows they are not easy to relocate; that they require someplace else to accept them where they would be in an appropriate circumstance and 10 days actually is a short period of time to do that. She stated while the City Council may not have the ability to make that ultimate decision she recommended to Mr. Dan Johnson that perhaps the Mayor on the executive branch could look at perhaps giving a little extension of time to be able to work through the issue as a simple request.

Councilman Rico stated the reason Mrs. Potts received the letter is this Council told Mr. Hutsell to get the letter out; that it was not Mr. Hutsell's fault, it was the Council's fault and we had no right to do that as he understands it. He stated that is what it is; it was the Council, not anyone else; that we made a mistake and are trying to correct it tonight.

Mrs. Potts stated it still leaves her with the option not to move them and she will have to go to court.

Chairman Ladd stated we will get an answer for Mrs. Potts.

Councilwoman Berz stated that she thought the Council acted inappropriately and we did. She asked if this is read as the first reading tonight and the second reading next week, how long does it take for an ordinance to become effective.

AMEND CITY CODE (Continued)

City Attorney McMahan stated this ordinance is written to have the standard two week clause; that if it is passes second reading next week it will be two weeks after that.

Councilwoman Berz stated we can ask that it be effective immediately. City Attorney McMahan responded "yes, it can be amended".

Councilwoman Berz stated apparently none of the horses in the area or very few of them are here legally, if there has been a break in the time as we talked about because we mistakenly thought that the five acres and horses were synonymous and now we find out that five acres and pigs are synonymous. She asked how many acres the Mrs. Potts' have. Mr. Potts responded 2.34 on the plat.

Councilwoman Berz asked if they have looked at the ordinance and whether they could meet the requisites. Mrs. Potts responded "no" they cannot meet the requisites because their land is long and narrow, not short and fat. She stated all the Carmichael tracts down Jenkins are long and thin.

Councilwoman Berz stated even if the Council gave them the "breathing room" and the new ordinance is passed they cannot meet the requisites and that is the problem. Mrs. Potts responded "right".

Councilman Benson asked that we not rush the decision until we have heard both sides; that he is friendly toward the suggestion of Councilwoman Scott to extend the time for adjustment in moving the horses. He stated he does not want to say it has been on notification that this is a questionable zoning problem since January 28, five months ago; that this has been in the minds of people when the problem first came forth. He stated out of compassion for the horses if they have to be moved he would be willing to go along with another week or two or whatever the Council thinks.

Councilman Rico stated there are two issues; this ordinance has nothing to do with Mrs. Potts' problem. He stated we are only dealing with the ordinance we have before us tonight which has nothing to do with the horses, period. He stated forget about the horses as we are not going to do nothing, cannot do nothing - forget about it! He asked that the Council go ahead and vote on this ordinance.

AMEND CITY CODE (Continued)

Chairman Ladd stated it was promised that those with an opposing opinion would have an opportunity to speak however it is her understanding that the Council be clear and anyone involved have a clear understanding that what we have is an ordinance that allows us to set a standard going forward that helps better define what we will allow with horses on property, that way our folks in public works will know what they are investigating, know what they can back up and what the requirements are. She stated this helps us define that standard for moving forward; that in the meantime we have a situation where a community has asked for a change to be made with the use of the existing property. She stated that becomes a zoning piece that needs to be investigated by the zoning commission and that may eventually come to us for a vote, but for right now tonight we are trying to set our standard moving forward and at this point no action will be taken as we are not in a position to say they have a certain amount of days to remove the horses which is the issue that we should not have introduced last week. She stated because we should not have, we backed up to do a first reading tonight but we do need a standard in our ordinances that our public works department can support and then the concerns between the neighborhood is a zoning concern which needs to be heard through zoning and an investigation through zoning. She asked the City Attorney if she has given a correct assessment.

City Attorney McMahan responded "yes"; that it is his understanding as we sit here at this moment Mr. Hutsell will use his discretion with respect to the existing horses on this particular lot. He stated the only issue the Council is voting on tonight as Mr. Murphy stated is going forward to set appropriate standards for horses to be located on lots where they are not currently grandfathered.

Chairman Ladd expressed hope that everyone is clear on what the focus needs to be and gives Mrs. Potts an answer on what her next step is; that it is not fair to send her out without an understanding and the Council needed clarification, also.

Allen Jones of 8278 Chula Creek Road in the Channing Creek Townhomes stated this is his third appearance before the Council and the first time he has heard that the Council made a mistake relative to this situation. He stated he has been communicating with Mr. Hutsell since January when it was pointed out and his response at the time was that the horses were illegal if they had not been grandfathered and there was an absence for 100 days if that could be proven, which he (Jones) can as he has a group of people here who can verify there was an absence of horses.

AMEND CITY CODE (Continued)

Mr. Jones stated he has a letter from a gentleman who could not be present who could verify the same thing. He stated his question is if the zoning board was notified in January why are the horses still there. He asked what is the zoning board going to do; that this has been going on for five months and now we are talking about more time. He stated we are in the summertime now and the horse manure still piles up and the odor and flies are still there. He stated he would like some answers as to where we are going and if it is in the zoning board's "ballpark" can they address that and tell us what the situation is.

Chairman Ladd stated that is what we are trying to do – to define answers for everyone.

Councilman Murphy stated as he told the prior speaker, the issue the Council is voting on is whether a new 20 acre parcel in East Chattanooga can have horses and what are the requirements, even for a three acres parcel. He stated Mr. Jones stated he can prove they were absent for more than 100 days and Mrs. Potts stated they were not and can prove otherwise; that he (Murphy) does not think it is fair to expect her to prove 12 years of history because she had tenants and was not owner occupied. He stated this is not the body to decide that; that we are not judges deciding that issue as it is a zoning case. He stated there has been a 10 day notice and thinks a 21 day notice could be given to "bring it to a head" they will have to say "no, we are right, we are grandfathered and we are not moving the horses"; that they will be cited to court and can explain in front of the judge. He stated Mr. Jones is saying they were not and Mrs. Potts says they were; that the Council is not the judge of a grandfather situation. He stated the ordinance in front of the Council is to govern future use and, in theory, if her property qualified she could make an application if she has lost her grandfather status; that she apparently would have to move fences, the barn and other things. He stated the Council is trying to establish standards going forward; that there are certainly horses in Kingspoint far closer than these distances to homes and other things; that people move there and understand that as it is the nature of the area; that it is very historic, bucolic and surprising. He stated the Council will not make the people in Kingspoint move their horses unless they lose their grandfather status; that it is not the Council that will do it anyway. He stated we are talking about an ordinance going forward, not the zoning case; that if more time is given it will get them to the point where they can say they are not moving the horses and are cited to court. He stated the case will come up and can finally be heard by someone who can decide it, which is what Mrs. Potts and Mr. Jones wants.

AMEND CITY CODE (Continued)

Mr. Jones stated he does not think Mrs. Potts is saying they are grandfathered; that she is admitting they are not grandfathered. Mrs. Potts immediately responded that is not what she is saying.

Councilman Murphy stated this is not the appropriate place to entertain these arguments.

Councilman Gilbert stated Councilmen Murphy and Rico are right; that we are voting on something that has nothing to do with this subject the Council has been listening to. He stated the matter has to be taken to court if it is going to court; that the Council is not the one to decide one way or the other; that we will decide on the ordinance as to whether we will "shoot it down or up". He stated the Council needs to go ahead and vote one way or the other; that in his district there are several people who have different types of animals in the area and the neighbors know this and all agree to it because it has been that way for years. He stated this ordinance protects anyone who buys property somewhere else that might have. He called for the question and asked that the vote take place.

Mr. Jones stated he is confused; that there is a city ordinance and asked that it be enforced. He stated they lost their grandfather clause and the horses were absent and it is being passed on to somebody else.

City Attorney McMahan stated there are two ways zoning ordinances can be enforced: one is that the zoning official determines if there is a violation and usually take it to city court and the judge decides whether or not the ordinance has been violated. He stated there is one other method which is by the neighbors who live next door to the so-called zoning violation; that they have a right to bring a suit in their own name to enforce the zoning ordinance if they think the city is not properly enforcing it. He stated the first recourse is to allow Mr. Hutsell to use his discretion based upon all the facts he can gather about whether or not the horse on this particular lot are lawful or not and based upon everything he knew before and learned since (he) will take appropriate action. He stated that is generally like a police officer stopping a person for a traffic stop and he may give a warning or ticket; that Mr. Hutsell is basically in that position. He stated he has to decide whether or not this situation is one he is willing to cite to city court and thinks he can win; that if they disagree with whatever he decides he (Jones) will have his own recourse.

AMEND CITY CODE (Continued)

Mr. Jones asked if they can ask him to render a decision in a specified amount of time.

City Attorney McMahan stated that also is a matter of his discretion; that it is his belief based on what has been heard tonight that will happen fairly quickly. Mr. Jones expressed his thanks.

Chairman Ladd stated that the Council understands the confusion and the frustration on both sides which is why she wanted it talked through so everybody knew what the issues were about and the best approach to this for everyone. She expressed thanks to everyone for their patience; that it is her hope they can come to resolution.

On motion of Councilwoman Berz, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SECTIONS 38-2, 38-42, AND 38-568, TO PROVIDE FOR A SPECIAL EXCEPTIONS PERMIT FOR EQUINE FOR PERSONAL USE BY THE BOARD OF APPEALS IN THE R-1 RESIDENTIAL ZONE

Passed first reading.

(Councilwoman Robinson excused herself from the meeting.)

REZONING

2011-051: John Wise

On motion of Councilwoman Scott, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 1133 OLD PINEVILLE ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE

Passed second and final reading and was signed in open meeting.

REZONING

2011-053: Miller-McCoy, Inc. /Vision Hospitality Group

REZONING (Continued)

On motion of Councilman Rico, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 2011 AND 2015 SKYLINE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

Passed second and final reading and was signed in open meeting.

NATIONAL KIDS TO PARKS DAY

On motion of Councilman McGary, seconded by Councilman Gilbert,
A RESOLUTION PROCLAIMING MAY 21, 2011, AS NATIONAL KIDS TO PARKS DAY

Was adopted.

LEASE AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO A LEASE AGREEMENT WITH EASTGATE TOWN CENTER, LLC FOR THE USE OF SUITE D6, 5600 BRAINERD ROAD, BY THE OFFICE OF MULTICULTURAL AFFAIRS (AS REFERENCED IN CASE NO. MR-2011-076), WITH A TERM OF ONE (1) YEAR BEGINNING JULY 1, 2011, A RENTAL RATE OF SEVEN HUNDRED THIRTY DOLLARS (\$730.00) PER MONTH, AND THE OPTION TO RENEW

Was adopted; Councilwoman Scott voted "no".

AGREEMENT

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH J. W. WILKERSON CONSTRUCTION COMPANY, INC. TO RENOVATE THE ARCH BRIDGES AT THE CITY'S AQUARIUM PLAZA IN AN AMOUNT NOT TO EXCEED ONE HUNDRED SIXTY-EIGHT THOUSAND ONE HUNDRED NINETY-FOUR DOLLARS (\$168,194.00)

Was adopted.

AGREEMENT

Councilmen Berz and Benson made the initial motion and second to adopt this Resolution.

Councilman Murphy asked if this is to be sited at the Farmer's Market property. Admin. Kelley responded "just this side of the property, next to the viaduct".

Councilman Murphy commented that would be "on the east side of the viaduct, toward the Ridge". Admin, Kelley responded "I think so, yes".

Councilman Murphy asked if any consumer analysis has been done to determine whether this is the relocation the consumers of this facility would be trafficking regularly and/or feel comfortable visiting.

Admin. Kelley stated they have not done a consumer analysis; that the customers for this business are our own internal customers and currently we have two separate locations and our problem is in capacity to see the customer.

Councilman Murphy stated that he knows there is the need for a bigger facility and is not debating that point; that he went to drop off furniture at the Furniture Bank as a result of the storm and drove around back and found they were not open. He stated he was going to leave it under the overhang because it was not supposed to rain and looked around and saw dozens of people sleeping on loading docks all around. He stated he got to thinking about the location of this and asked himself if his wife would feel comfortable going to this clinic in the winter time in that environment. He stated that is a question that needs to be talked about.

Councilman Benson stated we need to change the perception by improving what we can get down there and how it looks aesthetically and everything. He stated he has high hopes for that whole area and thinks we will make a step with several things. He stated he knows right now several of us have met with the leading 501C3 United Way organization and they have talked about building their main office down there; that this would contribute to that. He stated he can see visions this will be a fine place but it will not ever be the fine place if we go into it with trepidation like this.

Councilman Rico stated if we get the police precinct down there we will have police presence and that will solve the problem, right. Councilman Murphy responded "no".

AGREEMENT (Continued)

Councilman McGary stated his concern is the timing of the project; that he has no problem with our seeking to expand services as far as the location. He stated as far as the funding for this it is his understanding it comes from 2012 capital, correct.

Admin. Kelley responded "no" that it is not what she reported to the committee last week; that she reported last week that it is not decided; that she also reported (approximately) in 2005 she asked this body if we were to take on the challenge of retaining very good benefits for our employees with minimal increases and basically managing that product differently if we can retain the medical fund at that level. She stated that was an assurance that she got; that this will either come directly from the reserve in that account or it will be put forward as a capital project and with that backing it.

Councilman McGary stated his concern comes from the paperwork as the packet the Council received asked where the funds were originating and the line item stated capital budget 2012, so there is some discrepancy there. He stated in regard to where the dollars are actually coming from as a final answer it is still undecided.

Mr. Johnson stated it will be in the capital budget because it is a capital project where it belongs. He stated the funding of the capital budget is what is in question; whether or not it is either part of a bond issue or coming from funds from the operation of what is called the "mega fund" or the health program. He stated there are ample funds to do that now and it is his thought the CFO is in the process of making a decision whether or not to use those funds or use bond money. He stated funds are currently available if that is the route she decides to go.

Councilman McGary stated if this is a capital project it should come up in the capital budget and rather than taking this as a line item he would prefer to vote on the capital budget as a whole. He stated he would personally vote against this as he would rather look at the capital budget in total rather than line item by line item.

Councilwoman Berz stated what Ms. Kelley stated originally was correct; that when we embarked on our new medical care program for employees of the city we were to save a certain amount of money and stated in her last report we saved a great deal of money. Admin. Kelley responded "yes, we have".

AGREEMENT (Continued)

Councilwoman Berz stated what Mr. Johnson is saying is there is sufficient money saved to fund this, however, it may be a financial decision that it is better to use that saved money in another way. She stated it is cheaper money to float a bond rather than use that money and the money that we have saved that would normally go for it to be used elsewhere; that it is purely a financial decision and it would be in the capital budget because it is a capital expense. She stated Mr. Johnson is correct; that there are two issues: what is in the budget and how do we fund the budget. She stated she has no problem voting for this as it is her thought this is a very good idea.

Councilwoman Scott stated there are several things here today that still leave her a little confused; that we just had a budget presentation that she thought indicated health care costs and everything were going up. She stated it is her understanding that the fund is actually a self-funded program based on premiums and perhaps what the city contributes as part of that program. She stated into that fund what she hears is we are thinking about taking capital money out of that fund.

Admin. Kelly stated she used the language "backing it from that reserve" and does not know the other appropriate language; that Mr. Johnson can clarify.

Councilwoman Scott stated it sounds like there are too many questions to make a decision today and wondered if we need to discuss this a little bit further and make sure we have all the information before we go forward and then we can feel more comfortable with that decision. She stated she wondered if we should move to defer this issue until we can establish a little more information; that not knowing where the money is coming from exactly and that sort of thing and the fact it would be part of the capital budget. At this point she **made the motion to defer until we actually have a chance to look at the capital budget; Councilman Gilbert seconded the motion.**

Admin. Kelley stated what is done with this account is not a stand alone; that the business of this product goes on in other manners as there is a medical product to put on the market very soon and basically if we are not going to do it externally she needs to make decisions to have it done externally via contract. She stated she would leave for the Council a summary of information regarding federal mandates; that a lot of other services will be provided in the proposed building that is not provided in the current building. She stated timing is not something she can just "roll" indefinitely because she does have to prepare to put the other products out on the market.

AGREEMENT (Continued)

Chairman Ladd inquired as to what would be considered a fair amount of time for deferral as there seems to be a lot of questions on this.

Admin. Kelley stated she did not know; that it is how long it takes the Council to understand the details of this.

Chairman Ladd stated we are not getting a definitive answer.

Councilman McGary stated since we do not have a definite time period he wondered if it would be more appropriate to table this matter and if it is important to bring it back up upon answers being received we do so; that it seems we will have the answer before us in the capital budget presentation. He asked Councilwoman Scott if it might more appropriate to table versus deferring it.

Councilman Murphy stated tabling the matter means it needs to come up for discussion next week.

Councilwoman Scott asked if the matter could be deferred until next week and have a meeting prior to our normal Council committees to get information about this. She stated the fact that there are government requirements is news to her and she would like to know more about that. She stated she does not want to defer needlessly but does want to make sure she understands the necessity for this; that some of the other questions she heard are very good ones and would like to hear more about that. She stated if we need to defer next week again because we are "not there" we can do that.

Chairman Ladd asked if Councilwoman Scott is withdrawing her initial motion and is now saying she wants to defer one week.

Councilwoman Scott amended her motion to reflect tabling the matter for one week; Councilman McGary seconded the motion.

Councilwoman Berz stated she knows time is of the essence on this and stated if people have special questions they should contact Donna so she has the information by next week because this is part of an overall medical care plan. She stated that she is very familiar with it and it has to do a lot with budgeting. She stated the capital budget will follow the operating budget; that the capital budget will be considered as soon as the operational budget is finished, which may be a week or two.

AGREEMENT (Continued)

Councilwoman Berz stated Ms. Kelley's time line is more exigent and it is her hope by next week Donna will have whatever material the Council needs and that her fellow Council members will make sure she has the questions so she can have the answers. She stated given that she agrees to defer one week.

A meeting to discuss the matter was scheduled for 2:00 p.m. on next Tuesday, May 24. Mr. Johnson asked that questions be given ahead of time and for the Council not to depend upon them to anticipate what the questions are.

On motion of Councilman Scott, seconded by Councilman McGary,

A RESOLUTION AUTHORIZING THE PERSONNEL ADMINISTRATOR TO ENTER INTO AN AGREEMENT WITH TWH ARCHITECTS, INC. TO PERFORM ARCHITECTURAL SERVICES FOR THE DESIGN AND CONSTRUCTION ADMINISTRATION OF A NEW EMPLOYEE HEALTH CENTER FOR A TOTAL FEE IN AN AMOUNT NOT TO EXCEED ONE HUNDRED NINETY-SEVEN THOUSAND ONE HUNDRED DOLLARS (\$197,100.00), AND TO AUTHORIZE ADDITIONAL FUNDS FOR SERVICES AS NEEDED AT THE SAME RATE, BUT NOT TO EXCEED AN ADDITIONAL FORTY-FOUR THOUSAND DOLLARS (\$44,000.00)

Was tabled one week; on roll call vote:

MURPHY	YES
SCOTT	YES
BENSON	NO
GILBERT	YES
BERZ	YES
MCGARY	YES
RICO	NO
LADD	YES

OVERTIME

Overtime for the week ending May 12, 2011 totaled \$66,400.41.

PERSONNEL

The following personnel matters were reported for the various departments:

PARKS AND RECREATION:

- **LEBRON DUMAS** – Retirement, Crew Worker, effective April 30, 2011.
- **RHONDA SEEBER** – Resignation, Public Relations Coordinator 1, effective May 4, 2011.
- **ELIZABETH H. CHEEK** – Resignation, Recreation Program Specialist, effective May 13, 2011.

CHATTANOOGA POLICE DEPARTMENT:

- **AMY JONES** – Resignation, Police Officer 1, effective May 10, 2011.
- **MARY JONES** – Family Medical Leave, Police Records Technician, effective May 12-August 4, 2011.
- **SHEILA JETTON** – Leave of Absence without pay, Police Officer 1, effective May 16 – June 15, 2011.

INFORMATION SYSTEMS:

- **DONNA JEFFERY** – Hire, IT Business Project Analyst, Range 25, \$63,000.00 annually, effective May 13, 2011.
- **BRIAN SILVENIS** – Hire, Systems & Database Specialist 1, Range 22, \$55,000.00 annually, effective May 16, 2011.
- **STEVEN D. REED** – Resignation, Programmer 1, effective May 19, 2011.

EMERGENCY PURCHASE

Councilman McGary inquired as to the wattage for this purchase as there is a significant difference in the wattage. He stated he is curious about the visibility efforts and since a lot are green lights he asked if it has been run by our Sustainability Department.

EMERGENCY PURCHASE (Continued)

David Crockett explained that they are replacing existing lights with light emitting LED technology which requires much less of a light to produce a greater candle light. He stated that and an induction technology will actually produce much more light and do it at 50-60 percent energy and maintenance savings. He stated they have looked at this carefully over an extended period of time.

The emergency Purchase of a Lighting System on R43624 for the Parks and Recreation Department to Global Green Lighting in the amount of \$251,695.00 was duly reported and signed in open meeting.

EMERGENCY PURCHASES

The emergency purchase of Replacements of Traffic Signal Heads and Parts for the Public Works Department on R42938 to Southern Lighting & Traffic Systems in the amount of \$28,206.00 was duly reported and signed in open meeting.

The emergency purchases of Wood Grinding Services on R43035 for the Public Works Department to East Tennessee Grading in the estimated amount of \$300,000.00 was duly reported and signed in open meeting.

Councilwoman Scott applauded the public works department for getting on top of this and having the initiative to see that this is above and beyond anything that anyone could anticipate in going outside to get caught up on this and expressed thanks!

REFUNDS

On motion of Councilman McGary, seconded by Councilwoman Scott, the Administrator of Finance was authorized to issue the following refunds of water quality fees and property taxes:

LOOKOUT MEDICAL SERVICES INC.	\$1,884.50
COCA COLA COMPANY d/b/a MINUTE MAID CO.	\$107,207.77

PURCHASES

On motion of Councilman Rico, seconded by Councilwoman Berz, the following purchases were approved for use by the various departments:

PUBLIC WORKS DEPARTMENT:

Honda of Chattanooga (Best bid)

R41519/301005

Purchase of One (1) Off Road Vehicle

\$10,599.00

US STANDARD SIGN COMPANY (Lowest and best bid)

R42097

Blanket Contract for Aluminum Sign Blanks

\$20,000.00 – Annual Estimation

TRI-STATE SECURITY OF AMERICA (Lowest and best bid)

R41770

Blanket contract for Security Guard Services

\$80,000.00 – Annual Estimation

SHERMAN DIXIE CONCRETE (Best bid)

R38958

Blanket contract for Concrete Manhole Components

\$45,000.00 – Annual Estimation

RODNEY HUNT CO. (Best bid)

R36731/300775

Purchase of Two (2) Replacement Cast Iron Sluice Gates & Actuators

\$79,932.00

PURCHASES (Continued)

GENERAL SERVICES:

LEE-SMITH INC. (Lowest and best)
R39766/300910

Purchase of Emergency Equipment for Police Cars

\$89,740.00

CHATTANOOGA HUMAN SERVICES:

CHILDPLUS.NET (Sole source)
R41402

Annual Municipal Software Agreement per TCA 6-56-304.2

\$11,328.01

ATLANTIC DISTRIBUTORS, INC. (Only bid received)
R40456

Blanket Contract for Dry Storage and Delivery

\$110,000.00 – Annual Estimation

SECURITY MEASURES

Councilman McGary stated in light of the budget recently released it is his hope the Council would seriously consider increasing some of our safety measures. He stated currently as the building is entered there is a sign that states "no firearms allowed"; that what has happened in other parts of the country is if an individual so desires to bring a firearm or other device into the building they will do so, sign or no sign. He stated it is time for the Council to consider putting in some form of metal detectors in the building and the budget should include that. He stated City Hall should have protection, as well. He expressed appreciation for the service of the officers but stated it would more wise to be preventative than reactive in safety measures in the building.

SECURITY MEASURE (Continued)

Chairman Ladd stated next week at 5 p.m. will be a meeting with Dan Johnson who will go over some things that will be done with reference to security and how we will communicate here in the building. He stated there is a good plan that will be shared next week covering everything Councilman McGary just mentioned. She stated it will be a private meeting and there will be nothing to vote on.

ARTS AND CULTURE EVENT

Councilman Gilbert reported that last Saturday's event sponsored by Arts and Culture was an excellent event that was well attended in spite of the rain.

COMMITTEES

Councilwoman Scott announced a meeting of the **Personnel, Performance and Audit Review Committee for Tuesday, May 24** immediately following Legal and Legislative.

Councilman Rico announced a meeting of the **Public Works Committee for Tuesday, May 24** immediately following the Agenda Session.

Councilman Murphy stated the **Legal and Legislative Committee would meet on Tuesday, May 24** to discuss matters within the Committee's jurisdiction.

Councilwoman Berz stated the operational budget was handed out to Council members and the Chief Financial Officer made an excellent presentation. She stated the **Budget and Finance Committee would meet in two weeks to begin deliberation on Tuesday, May 31 from 10 a.m. – noon.**

RULES OF PROCEDURE FOR ADDRESSING THE COUNCIL

At this time City Attorney McMahan read from the Council's Rules of Procedure with reference to persons wishing to address the Council on non-agenda matters.

HARRY DEBOARD

Harry Deboard of 2416 Columbine Trail expressed appreciation for the work the city police, firemen, and public works have all done during this emergency; that he knows our guys work hard and wants the Council to look at that when it comes time for them to make a little bit of extra money to do repairs on their homes. He stated any extra money this Council or city spends for clean-up or anything, our public works people should have the first opportunity to reap a little bit of that.

Councilman Gilbert stated that contracts have been discussed with reference to picking things up; that Mr. Deboard is saying when employees have an opportunity to get overtime he would prefer to see the city employees get the overtime before a contractor does. Mr. Deboard responded "yes, sir".

STEPHEN WEST

Stephen West spoke in reference to the same subject as the previous speaker. He stated he and others in public works are hearing that it will be contracted out; that they work hard in public works and are doing a good job along with the police department. He stated there have been times he has been out there by himself and the police would stop and put on their lights so he could pick up someone's brush when he was on a blind hill; that if the policeman was not there he would have to leave it because it was a dangerous location for him and anyone coming over a blind hill. He stated if the Council has to come to the decision of contracting something out to give it to them (public works employees) first because there is nothing coming out of the budget. He stated everything is being paid for by FEMA and they should have the first choice and let them make the overtime as they have had damages to their homes and the overtime they do get helps, considering they have not had a raise in a while and it is extra money that can be used for their families. He stated the only thing he is asking is for the ones who do not want to work should go home at 4 p.m., but for the ones who want to stay after 4 p.m. they should be able to make that overtime. He stated that is little bit more money they would have to take care of their families, too.

Councilwoman Scott expressed appreciation for the idea of overtime and noted it is her understanding that one of the major reasons why we are needing to outsource and contract a lot of the work is we do not have enough shredders, backhoes, equipment and people to man that extra equipment to deal with the overabundance of debris we have.

STEPHEN WEST (Continued)

Councilwoman Scott stated if she is not correct on that for public works to let her know; that this is not just a limited manpower issue, it is a materials and equipment issue and we do not have all that to be able to get the job done in the appropriate amount of time. She stated we have brush in people's yards and along streets and if she is wrong to let her know; that when she voted on the contract she was thinking it was materials, equipment and manpower which is over and above what we are already doing.

Mr. West stated he understands what Councilwoman Scott is saying; that he talked to management about it and told them this calling system is not working; that he does not care how they want to say it is working, it is not. He suggested we go back to our old way and put everything in one area and do the clean sweep like we used to do as there is a lot of brush out there. He stated if we clean up an area and keep moving on they can get it done without contracting it out. He stated the grinders are needed because the one at the burning pit is working overtime; that it is doing its job and what it is supposed to do. He stated he has been with the city longer than some of his supervisors and has seen the old way it used to be done as they would clean up a whole area without the calling system and it worked. He stated once he gets loaded he cannot go back to the address and finish it up because he has 45 other calls on the list to try to get to.

Lee Norris expressed agreement with Mr. West's comments in a lot of ways noting that he likes keeping whatever dollars the city has to spend inside the city, more importantly for the employees. He stated they have demonstrated that especially over the last couple months with all the emergency events they have responded to. He stated since this event started on April 26 they have accumulated 8,619 hours of overtime at a value of \$190,000 just in city wide services. He stated Steve was a little incorrect as it was not all reimbursed by FEMA; that 87 ½ is, but 12 ½ is taxpayer dollars. He stated as men work extended hours of a longer period time they become less effective and more prone to accidents; that he knows that from previous training and from his experience with the city. He stated not everyone wants to work 11 ½ hours a day, six days a week as they want time for their families.

STEPHEN WEST (Continued)

Mr. Norris stated all on the Council should have received a copy of an e-mail he sent regarding a record of every 311 call pertaining to brush and dangerous trees; that the map attached to it is a result of 5200 311 calls. He stated that was plotted and when FEMA first "hit the ground" he took the map and the one Hamilton County made of the tornado path; that they were able to take the map based on the calls and do a representative sampling of the damage, just what FEMA asked them to do of low, medium and high areas of damage. He stated FEMA's initial estimate is extremely low at 180,000 cubic yards of material on the ground; that he can tell without a doubt they underestimated; that if we continue working our city work force as we are doing now based on what we have already collected it would be in excess of 18 weeks before we get this stuff off the side of the roads. He stated that is just off side the road, not the city parks, blocked ditches and other drainage conveyances which they also have to clear. He stated if he commits the entire city wide services work force to this, he is losing an entire construction season on road repairs, losing all ditch cleaning we normally do and all the other construction tasks will be pushed aside and devoted strictly to brush and storm damage repairs. He stated he cannot in good conscience do that as it is not what the city expects from public works. He stated the citizens do not care who picks the wood up, they want it gone!

Mr. Norris stated that he admired Steve for stepping forward and volunteering for overtime and noted he would get more! He stated as soon as the contract is let his construction crews can go back to doing construction, his water quality crew can do water quality and the brush crews continue picking up brush, in addition to the contractor. He stated Councilwoman Scott is right that there is not enough equipment or manpower. He stated the contractor rate is reimbursable at city overtime; that we are still paying 12 ½ percent out of city funds and would shorten the window and get the stuff picked up more efficiently.

Councilman Gilbert asked if Mr. Norris is saying he would still provide opportunities for the crew workers to work after hours.

Mr. Norris responded "absolutely". He asked that they remember he has an overtime budget which he has already busted this year and expressed hope that Mrs. Madison has her "rainy day fund" as they will need it confirming that he will give them plenty of overtime opportunities.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, May 24, 2011 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)**