

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
DECEMBER 20, 2011**

Chairman Ladd called the meeting of the Chattanooga City Council to order, with Councilmen Benson, Gilbert, McGary, Murphy, Rico, Robinson and Scott present. Councilwoman Berz was absent due to previous commitment. City Attorney Michael McMahan; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
INVOCATION**

The Pledge of Allegiance was led by Councilwoman Scott, followed by invocation.

MINUTE APPROVAL

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

Chairman Ladd asked that all cell phones be silenced. She also noted that it might seem that the Council was moving quickly on items but that all of them have been read and studied, and the Council had done their homework.

CLOSE AND ABANDON

(MR-2011-118 Memorial Health Care System)

On motion of Councilman Murphy, seconded by Councilman Rico,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF
ROBBINS STREET BEGINNING AT THE EAST LINE OF KILMER
STREET THEN SOUTHEAST SOME SIX HUNDRED FIFTY (650)
FEET TO THE WEST LINE OF THE 800 BLOCK OF GLENWOOD
DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO
CERTAIN CONDITIONS**

passed second and final reading and was signed in open meeting with Councilwoman Scott abstaining.

DISTRICT REAPPORTIONING

On motion of Councilwoman Robinson, seconded by Councilman Rico,
**AN ORDINANCE REAPPORTIONING THE NINE DISTRICTS FOR
THE CITY COUNCIL**

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

Councilman Gilbert stated that the Council had gone back and forth on how to do this—from 50% to 60% and then a proposal back to 50%; that it seems to work better if the percentage is higher in districts 5, 8, and 9 because it gives more opportunity for representation in these districts rather than the other route that was proposed.

REZONING

2011-115 (Bassam Issa)

The request to rezone property located at 1825 Gunbarrel Road came on to be heard.

Councilman Murphy moved that the rezoning be approved. This was seconded by Councilman McGary.

Chairman Ladd noted that a lot of people were here tonight in interest of this case. She described the procedure, stating that the Clerk would first read the Ordinance; that RPA Director of Development, Greg Haynes, would give a presentation with the facts of the case; that the applicant would be given up to nine (9) minutes to present his case; and then three people from the opposing side could talk for three minutes each.

Greg Haynes of RPA stated that this rezoning was for an IHOP Restaurant and presented the map, noting that this was a one acre site that was zoned R-4 in 2003. He then provided a wider view of the zoning showing the surrounding landmarks of Erlanger, Target, and Hamilton Place Mall. He stated that both sides of Gunbarrel were being used commercially; that restaurants are on the east side and offices and a bank on the west side; that the applicant had provided a detailed site plan, using the curb cuts for a 24-hr restaurant. He noted that nine conditions had been placed on the request. He showed a photo of the new Brainerd Rd. IHOP, which is similar to what is being proposed here. He showed a view of the vacant lot and the adjoining office building on the north side and the Bank on the south side. Panera Bread is across the street.

REZONING (CONT'D)

Mr. Haynes stated that in 2001 a Land Use Plan was put into place that recommended offices and institutional uses on this side in order to protect and enhance the existing neighborhood; that RPA had supported this Policy since 1986. He stated that many seem to think that restaurants are an appropriate fit; however rezoning this property would set a precedent on the west side; that in an effort to promote strong commercial growth and protect the residential neighborhood, they were recommending denial.

Councilman Benson noted that the Planning Commission also recommended denial 100%; that the Traffic Engineer recommended denial; that once this is done, you can't keep other spots from going this way.

Mr. Haynes agreed that the Traffic Engineer felt that a precedent would be set.

Councilman Benson noted that the Planning Commission and also the Staff recommended denial.

Councilman Gilbert asked if there was not something that had been denied at this location in the past? Mr. Haynes stated that it was the Brick Oven Grill, and it was thought that this was about 18 years ago.

The applicant, **Bassam Issa** spoke. He stated that he was a local developer and was asking for this to be rezoned to C-2 for a restaurant; that they had imposed restrictions on themselves including (1) This be a Family Style Restaurant; (2) 2200 Sq. Ft.; (3) Parking Lot and Dumpster are existing, as are the lights and paving; and (4) Install landscaping buffer along the rear property line so that the neighborhood will not be affected. He stated that he would be glad to add any other restrictions that the Council felt were needed on this provided that it did not compromise the functionality of IHOP.

Mr. Issa explained why he felt he should get this rezoning—that this is a commercial sector and across from the property is Chick-Fil-A, Golden Corral, Shoguns and Panera, all well over \$3 million dollars; in behind them are Targets, a grocery store, two more restaurants, Kohls, and the Lighting Gallery owned by Councilman Benson and his son—that this is a lot of commercial property. He stated that his property was different from the rest; that on his side he is surrounded by the only gas station on Gunbarrel Rd., AT&T, and the Goo Goo Car Wash. The use on the south side is a Bank. He stated that in looking at all of this, no one on Gunbarrel Rd. from Crane Rd. to E. Brainerd Rd. have these same specifications; that the domino effect that Councilman Benson speaks of is in error.

REZONING (CONT'D)

Mr. Issa noted that the Traffic Study allowed this and the Traffic Engineer accepted this Traffic Study—that the number of cars would be the same as for an office; that the Traffic Engineer’s fear was of a precedent being set, and this was his reason for recommending denial. He stated that the neighborhood directly behind him supported this.

He stated that there had been two public meetings to address the concerns of the opposition—that all of the concern seemed to be about the Land Use Plan, which had been emphasized by Councilman Benson. He noted that in eight (8) cases since 2000, the Land Use Plan had been broken in more sensitive areas; that according to Councilman Benson, and it is in print, he admitted he had broken it on the fringes, comparing it to his fingers and toes only and not his heart. Mr. Issa maintained that the heart is where the people are; that Councilman Benson broke the Land Use Plan on Bell Vista and also Jarnigan; that either he did not know what was in the Land Use Plan or broke it regardless, thinking that he could justify anything that he felt was the most important thing to do—that the people would catch him; that he claimed to protect the Land Use Plan, but he had broken it; that he wanted to shut someone else out; that he was not the Land Use Protector but the Land Use Breaker.

Councilman Benson said that he had to respond because Mr. Issa said something about him; that every time we had “tinkered” with the Land Use Plan it had nothing to do with commercial; that they had helped Mr. Issa with an office, and he had built a nice building; that other places that they had “tinkered” with the Land Use Plan it had been for preservation. He stated that this Council had never gone against the recommendations of the Planning Commission and the neighborhood and Mr. Issa was going into the heart of his district and making something commercial. He stated that Commissioner Henry was present tonight to speak against this; that he and Commissioner Henry had told Mr. Issa that this property was inappropriate for a business; that we had bent over backwards with the R-4 Zone and he could build something that was four stories high; that Mr. Issa bought this property at the office zoned price and was trying to sell it at the commercial zoned price.

Councilman Benson stated that he had tried to protect the residences and all went along with it. He asked those in objection in the audience to raise their hands. He noted that a representative from Erlanger was present; also Friends of East Brainerd; two developers who had to pay the commercial price for commercial land; two County Commissioners and one ex-Commissioner; the Neighborhood Associations of Ashwood, Bell Vista, and Concord Highlands—

REZONING (CONT'D)

that all of these were in opposition. Also, the Variance Board Chairman was present and in opposition. He stated that Mr. Issa had taken after him because he had taken after Mr. Issa; that he had been warned that this was not commercial land; that never had he had a more credible group of people raising objections.

Councilman McGary asked how many people attended the two public meetings? Mr. Issa stated 70 at the first and about 30 at the second. Councilman McGary asked those in favor of this in the audience to please raise their hands. He also asked them to raise their hands if they attended both meetings. Mr. Issa stated that at the first meeting it was about a 45-50 split—close to equal; that at the second meeting 20 were for this and about 6 against.

The opposition spoke. The first to speak was Mr. **Don Shoemaker** of 2428 Baskette Way. He stated that he was the President of the Village of Ashwood Homeowner Association on Shallowford near Gunbarrel. He stated that he truly enjoyed going to the IHOP restaurants and truly hoped that they would be able to find an acceptable place in this area. He was present today to ask that the Council not allow this in this area; that this is one of the very few non-commercial areas on Gunbarrel, and once it is gone, it can never be reclaimed. He noted that recently the Land Use Plan helped to prevent a developer from building a very high density apartment unit on the adjacent property and this Plan helped to prevent more than 600 additional daily vehicles access to Shallowford Rd. He stated that Gunbarrel could be a nightmare every day, and a restaurant with the popularity of IHOP would further add to the snail's pace movement on Gunbarrel at the very times of the day that the traffic is already at its highest volume and slowest pace. He stated that Mr. Issa feels that thousands of taxpayers' dollars should be ignored because he knowingly speculated and bought this property that had previously been turned down for rezoning; that now he wants the Council to rezone it for him, when they would not do it for the previous owner. He went on to say that he had no objections to updating the Land Use Plan to reflect the needs of today's community, but it should only be done on a planned, deliberate and professional basis, like the 2003 Plan was. He stated that if this property goes commercial, there will be very little a new plan would have to work with in this community to preserve the integrity and planned use of this area in our city. He asked that the Council not allow this and thanked them for allowing him to speak.

REZONING (CONT'D)

Mr. Bernard O'Brien, a retired Federal Judge, of 2050 Baskette Way spoke next. He was concerned about the proposed zoning change standing the test of law. He mentioned the Study of the changes and our community's future by the explosive growth of industry, insinuating that a zone change will force the specialist planners to work around the change which can only have an undermining effect. He questioned whether the zoning change accommodating a single seller can pass the test of legality; that the single technical basis for the Council's granting this petition is not present here. There is no inherent defect in the proposed property which might allow the indulgence of this Council. In matters of this nature, he quoted the Attorney General of Tennessee's opinion published as No.00-184: "*All land use decisions made by the Legislative Body and the municipalities or Counties planning commission shall be consistent with the Growth Plan*" Zoning Regulations 420, 421, and 422." They do not permit eateries as a basis for change. He further noted the implementation instructions found in Section 6.1 of the Land Use Policy, page 42, "*The Land Use Plan is intended to guide policy and specific zoning decisions over time*". He stated that he would invite the City's Legal Staff to look into this.

The next speaker was **Mike Ledford of Skyline Drive**. He stated that he was the President of the Bell Vista Neighborhood Association. He mentioned an article in the newspaper concerning the proposed site that stated this project had the approval from those who live behind the property. He stated that he lived behind the property and did not approve of this. He stated that there were six restaurants across the street and that was a good place for them; that they opened at 6:00 a.m. and closed at 10:00 p.m.; that IHOP would be open 24 hours. He stated that the lighting is 35 ft. high and intrusive; that in addition there would be noise from the dumpsters, which would be intrusive, and there would be a great deal of trash; that there were 220 houses in the neighborhood and the question should be asked where those for this lived; that some that were for it were from Atlanta and it should be those "who have skin in the game". He stated that renters are transients; that his property was worth \$300,000, and his taxes were paid each year; that people in his neighborhood had significant investments in their homes. He went on to say that this property was purchased for office use only and Mr. Issa knew this; that he was trying to change the rules; that he had to play by the rules and adhere to the rules. He asked that this be denied once and for all.

Councilman Benson stated that he appreciated what everyone had said; that a representative from Erlanger was here today who had "skin in the game", and he would like for Mr. Baker to talk if it were okay.

REZONING (CONT'D)

Chairman Ladd asked the rest of the Council if this was acceptable. A vote was taken and she broke the tie by allowing Mr. Baker to briefly speak.

Mike Baker stated that he was in the Real Estate Department of Erlanger; that they had made the decision to move to Gunbarrel Rd. in East Brainerd; that they had been very cautious with their buildings; that they would like to see this Land Use Plan continue and the Zoning Ordinance imposed; that it would be a benefit to their organization and to the community as well.

Chairman Ladd thanked him for being brief.

Councilman McGary asked Mr. Ledford if he was speaking on behalf of his neighborhood or just himself? Mr. Ledford responded that he was not speaking for all 250 people, prompting Councilman McGary to say, "then you are speaking for yourself".

Councilwoman Scott asked Mr. Baker what specifically about IHOP was objectionable to the Hospital? Mr. Baker responded that their medical space was for offices as required by zoning; that this would have some negative impact on their investment. She asked if Erlanger planned to purchase this property and was told "no". She asked how this would impact the monetary value of Erlanger? Mr. Baker noted that this would be a difficult question to answer.

On motion of Councilman Murphy, seconded by Councilman McGary,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY LOCATED AT 1825 GUNBARREL ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE

failed on Roll Call vote as follows:

COUNCILWOMAN ROBINSON	"NO"
COUNCILMAN BENSON	"NO"
COUNCILMAN GILBERT	"NO"
COUNCILMAN RICO	"NO"

REZONING (CONT'D)

COUNCILMAN MCGARY	“YES”
COUNCILMAN MURPHY	“YES”
COUNCILWOMAN SCOTT	“YES”
CHAIRMAN LADD	“NO”

The Rezoning was denied.

CLOSE AND ABANDON

(MR-2011-041 North Chattanooga Enterprises, LLC)

On motion of Councilwoman Scott, seconded by Councilman Murphy,
AN ORDINANCE CLOSING AND ABANDONING A RIGHT-OF-WAY
PARALLEL TO THE 800 BLOCK OF DALLAS ROAD AND A
PORTION OF AN UNOPENED ALLEY, MORE PARTICULARLY
DESCRIBED HEREIN
was denied.

Adm. Leach made sure that this was a denial.

COUNCILMAN RICO LEFT THE MEETING AT THIS TIME.

MOU

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PUBLIC WORKS TO ENTER INTO A
MEMORANDUM OF UNDERSTANDING WITH THE HAMILTON
COUNTY GEOGRAPHIC INFORMATION SYSTEMS DEPARTMENT,
RELATIVE TO ON -LINE MAPPING SERVICES, FOR AN INITIAL SET-
UP COST OF TWENTY ONE THOUSAND THREE HUNDRED
DOLLARS (\$21,300.00), AND AN ANNUAL MAINTENANCE FEE OF
TEN THOUSAND NINE HUNDRED DOLLARS (\$10,900.00)
was adopted.

AGREEMENT

On motion of Councilman Murphy, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO FINALIZE AN AGREEMENT WITH NORFOLK SOUTHERN CORPORATION, RELATIVE TO CONTRACT NO. R-09-001, SOUTH CHICKAMAUGA CREEK GREENWAY, FOR CONSTRUCTION, ENGINEERING, ACCOUNTING, AND FLAGGING SERVICES RELATIVE TO THE WALKING TRAIL UNDER THE SOUTH CHICKAMAUGA BRIDGE PROJECT, PER RESOLUTION NOS. 25943 AND 26111, FOR A REVISED AMOUNT OF EIGHTEEN THOUSAND SEVEN HUNDRED FIFTY-THREE AND 92/100 DOLLARS (\$18,753.92), AND RETURN THE REMAINING THIRTY-SEVEN THOUSAND NINE HUNDRED NINETY-SIX AND 08/100 DOLLARS (\$37,996.08) BACK INTO THE PROJECT FUND ACCOUNT

was adopted.

CONTRACT

On motion of Councilman Murphy, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO AWARD CONTRACT NO. W-11-002-201, ROOF REPLACEMENTS FOR MOCCASIN BEND WASTE WATER TREATMENT PLANT, TO PARRIS ROOFING, IN THE AMOUNT OF ONE HUNDRED FORTY-THREE THOUSAND FIVE HUNDRED NINETY DOLLARS (\$143,590.00), WITH A CONTINGENCY AMOUNT OF FIFTEEN THOUSAND DOLLARS (\$15,000.00) FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED FIFTY-EIGHT THOUSAND FIVE HUNDRED NINETY DOLLARS (\$158,590.00)

was adopted.

CONTRACT CHANGE ORDER

On motion of Councilman Murphy, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 (FINAL) WITH TRUE NORTH EMERGENCY MANAGEMENT SERVICES, RELATIVE TO CONTRACT NO. C-11-001-401, MONITOR PERFORMANCE OF DEBRIS REMOVAL CONTRACTOR REDUCING THE CONTRACT AMOUNT BY TWO HUNDRED THOUSAND TWO HUNDRED FORTY-FIVE DOLLARS (\$200,245.00), WITH A FINAL CONTRACT AMOUNT OF NINE HUNDRED FORTY-NINE THOUSAND SEVEN HUNDRED FIFTY-FIVE DOLLARS (\$949,755.00)

was adopted.

CONTRACT C.O.

On motion of Councilman Murphy, seconded by Councilman McGary,
**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL)
FOR EAST TENNESSEE GRADING, INC. RELATIVE TO CONTRACT
NO. E-09-021, INTERSECTION IMPROVEMENTS-SR153
NORTHBOUND OFF-RAMP AT BONNY OAKS DRIVE FOR AN
INCREASED AMOUNT OF FOUR THOUSAND THREE HUNDRED
EIGHTY-FIVE AND 60/100 DOLLARS (4,385.60), FOR A REVISED
CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED
FOURTEEN THOUSAND SEVEN HUNDRED NINETY-TWO AND
60/100 (\$214,792.60), AND TO RELEASE THE REMAINING
CONTINGENCY OF SIXTEEN THOUSAND SEVEN HUNDRED SEVEN
AND 40/100 DOLLARS (\$16,707.40)**

was adopted.

Adm. Leach noted that there was a mistake in the Contract number. It read E-09-0210 and should have been E-09-021. This change was made and accepted on motion of Councilwoman Robinson, seconded by Councilman Gilbert.

CONTRACT CHANGE ORDER

On motion of Councilman Benson, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL),
FOR HIGHWAYS, INC., RELATIVE TO CONTRACT NO. E-04-036-
203, ENTERPRISE SOUTH ROADWAY EXTENSION---PHASE 2, FOR
A DECREASED AMOUNT OF ONE HUNDRED NINETY-FIVE
THOUSAND NINE HUNDRED EIGHTY-NINE AND 88/100 DOLLARS
(\$195,989.88), FOR A REVISED CONTRACT AMOUNT NOT TO
EXCEED TWO MILLION TWO HUNDRED THREE THOUSAND FIVE
HUNDRED EIGHTY-FIVE AND 12/100 DOLLARS (\$2,203,585.12),
AND TO RELEASE THE REMAINING CONTINGENCY OF TWO
HUNDRED FORTY THOUSAND DOLLARS (\$240,000.00)**

was adopted

CONTRACT CHANGE ORDER

On motion of Councilman Gilbert, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR HALCROW, INC., RELATIVE TO CONTRACT NO. E-10-013-101, CONSTRUCTION FEASIBILITY STUDIES AND CONCEPTUAL DESIGNS FOR IMPROVEMENTS TO THE WILCOX TUNNEL, FOR AN INCREASED AMOUNT OF ONE MILLION TWO HUNDRED THIRTY-NINE THOUSAND SIX HUNDRED SEVENTY-FIVE AND NO/100 DOLLARS (\$1,239,675.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO MILLION FORTY-EIGHT THOUSAND SIX HUNDRED FORTY-SIX AND NO/100 DOLLARS (\$2,048,646.00)
was adopted.

CONTRACT CHANGE ORDER

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL) FOR YERBEY CONCRETE CONSTRUCTION, INC., RELATIVE TO CONTRACT NO. E-10-007-201, 2010 CITY SIDEWALK REQUIREMENTS CONTRACT, FOR AN INCREASED AMOUNT OF TWENTY-EIGHT THOUSAND EIGHT HUNDRED THIRTEEN AND 61/100 DOLLARS (\$28,813.61), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED THREE HUNDRED FORTY-NINE THOUSAND TWO HUNDRED SEVENTY-FIVE AND 61/100 DOLLARS (\$349,275.61), AND TO RELEASE THE REMAINING CONTINGENCY OF THREE THOUSAND TWO HUNDRED TWENTY-FOUR AND 39/100 DOLLARS (\$3,224.39)
was adopted.

CONTRACT CHANGE ORDER

On motion of Councilman Benson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL), FOR HIGHWAYS, INC., RELATIVE TO CONTRACT NO. E-04-036-204, ENTERPRISE SOUTH ROADWAY EXTENSION---PHASE 1C, FOR AN INCREASED AMOUNT OF ONE HUNDRED NINETEEN THOUSAND THREE HUNDRED FIFTY-FIVE AND 06/100 (\$119,355.06), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED THREE MILLION ONE HUNDRED TWENTY-TWO THOUSAND THREE HUNDRED NINETY-ONE AND 81/100 DOLLARS (\$3,122,391.81), AND TO RELEASE THE REMAINING CONTINGENCY OF ONE HUNDRED EIGHTY THOUSAND SIX HUNDRED FORTY-FOUR AND 94/100 DOLLARS (\$180,644.94)
was adopted.

AGREEMENT

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH HAZEN AND SAWYER, P.C., FOR PROFESSIONAL SERVICES, RELATIVE TO CONTRACT NO. W-11-012-101, DESIGN AND CONSTRUCTION PHASE SERVICES OF BAR SCREEN AND FINE SCREEN REPLACEMENTS FOR MOCCASIN BEND WASTEWATER TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED SIX HUNDRED FORTY-TWO THOUSAND DOLLARS (\$642,000.00)

was adopted.

PROPOSAL

On motion of Councilwoman Robinson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT A PROPOSAL FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) REGARDING STATE ROUTE 317 (APISON PIKE) FROM OLD LEE HIGHWAY TO STATE ROUTE 321 (OOLTEWAH-RINGGOLD ROAD)

was adopted.

BACKFLOW DEVICE

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CHATTANOOGA FIRE PROTECTION TO INSTALL AT DOGWOOD MANOR A NEW AMES SIX (6") INCH 3000 SS BACKFLOW DEVICE FOR UPGRADE REPAIRS TO FIRE SYSTEM PURSUANT TO THE TENNESSEE DEPARTMENT OF HEALTH AND ENVIRONMENT STANDARDS, IN THE AMOUNT OF TEN THOUSAND EIGHTY-ONE DOLLARS (\$10,081.00)

was adopted.

INS. PREMIUM PAYMENT

On motion of Councilman Benson, seconded by Councilman Gilbert,
**A RESOLUTION AUTHORIZING PAYMENT OF FIFTY (50%)
PERCENT OF THE INSURANCE PREMIUM FOR CITY/COUNTY
JOINTLY-OWNED PROPERTIES IN THE AMOUNT OF ELEVEN
THOUSAND FOUR HUNDRED FORTY-THREE AND 42/100
DOLLARS (\$11,443.42)**
was adopted.

R-O-W NAME CHANGE

(2011-PW-005 City of Chattanooga)

Councilman Murphy showed interest in deferring this. He asked Bill Payne to provide a history of the name Robbins Street in this area, questioning if there could be a more appropriate name.

Mr. Payne explained that Robbins is several blocks long; that they wanted to rename Kilmer Street to Robbins Street; that Memorial Hospital had no desire for it to be anything one way or the other; this helped Public Works with the duplicate name of Kilmer, and it was not a problem with Memorial.

Councilman Murphy noted that there were a lot of offset streets, and this was typical. He asked if this issue could keep a couple of weeks—that the name did not have to be Robbins.

Mr. Payne stated that not doing anything for two weeks was his concern; that he would recommend that we go with Robbins because it is longer and historically has been named that.

Councilman Murphy moved that this be deferred for two weeks. The motion died for lack of a second.

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**A RESOLUTION TO CHANGE THE RIGHT-OF-WAY NAME FROM
THE 900 BLOCK OF KILMER STREET TO THE 2600 BLOCK OF
ROBBINS STREET, TAX MAP NOS. 146E-D-001 AND 146E-F-006**
was adopted.

AGREEMENT AMENDMENT

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT AMENDMENT WITH HAMILTON COUNTY RELATIVE TO ADDITIONAL GRANT SUPPORT FROM THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR THE DOWNTOWN RIVERWALK, FOR AN ADDITIONAL FUNDING AMOUNT OF FOUR MILLION SEVEN HUNDRED TWENTY-TWO THOUSAND EIGHT HUNDRED SEVENTY-FIVE DOLLARS (\$4,722,875.00), WITH A CITY MATCH BEING MET WITH PRIVATE CONTRIBUTIONS
was adopted.

GRANT

On motion of Councilwoman Scott, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR AND, IF APPROVED, ACCEPT A 2012 PUBLIC LANDS HIGHWAYS DISCRETIONARY PROGRAM SUBMITTAL GRANT FOR THE MOCCASIN BEND GATEWAY PROJECT FOR THE MOCCASIN BEND NATIONAL ARCHAEOLOGICAL DISTRICT VISITOR AND INTERPRETATIVE CENTER, FOR AN AMOUNT OF TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$2,500,000.00)
was adopted.

CONTRACT C.O.

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL) FOR VOLKERT AND ASSOCIATES, INC. RELATIVE TO CONTRACT NO. E-04-036-401, ENTERPRISE SOUTH ROADWAY PROJECTS - CONSTRUCTION ENGINEERING INSPECTION (CEI) SERVICES, FOR A DECREASED AMOUNT OF FORTY-SIX AND 24/100 DOLLARS (\$46.24), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED SEVEN HUNDRED TWELVE THOUSAND EIGHT HUNDRED THIRTY-ONE AND 58/100 DOLLARS (\$712,831.58)
was adopted.

CONTRACT C.O.

On motion of Councilman Murphy, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 FOR BARGE, WAGGONER, SUMNER, AND CANNON, INC., RELATIVE TO CONTRACT NO. R-09-001-101, SOUTH CHICKAMAUGA CREEK GREENWAY PROJECT, FOR AN INCREASED AMOUNT OF FIFTY-THREE THOUSAND ONE HUNDRED DOLLARS (\$53,100.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED THREE HUNDRED TWENTY-FOUR THOUSAND ONE HUNDRED DOLLARS (\$324,100.00)
was adopted.

CONTRACT C.O.

On motion of Councilman Gilbert, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 (FINAL) FOR REMBCO GEOTECHNICAL CONTRACTORS, INC., RELATIVE TO CONTRACT NO. E-10-880-201, LIGHTFOOT MILL ROAD GROUND IMPROVEMENTS, FOR A DECREASED AMOUNT OF TWO THOUSAND SIX HUNDRED THIRTY-ONE AND 40/100 DOLLARS (\$2,631.40), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWENTY-SIX THOUSAND SEVEN HUNDRED NINETY-EIGHT AND 60/100 DOLLARS (\$26,798.60), AND TO RELEASE THE REMAINING CONTINGENCY OF TWO THOUSAND NINE HUNDRED FORTY-THREE DOLLARS (\$2,943.00)
was adopted.

VW LEASE

Councilwoman Scott made the motion to defer this until January 3rd. This was seconded by Councilman Gilbert.

Councilman Benson indicated that he was trying to figure out what this meant. Chairman Ladd stated that a deferral takes precedence.

Councilman Murphy asked Councilwoman Scott the purpose of the delay? She responded that as far as back-up documentation, she had nothing; that we were given a brief amendment to the lease; that she only got the actual lease a few minutes ago, and she would like to have the opportunity to read it; that everything may be in order, but she needed to read this to make sure it is in order.

VW LEASE (CONT'D)

Councilman Benson stated that he really did not know if Councilwoman Scott had the expertise and ability to interpret this material and asked Attorney McMahan if he felt that she did. Attorney McMahan responded that he could not speak to that; that the deeds were prepared by the attorney who had handled the issue, and that he relied on him as a Real Estate Attorney and also Mr. Payne; that he had to rely on other experts in the field.

Councilman Gilbert stated that Councilwoman Scott made a good point, and she should have the opportunity to read it.

Councilwoman Scott stated that she felt quite qualified to read a document after being on this Council for two and one-half years; that she would not be verifying a survey. She asked Councilman Benson if he had read this. Councilman Benson responded “no”, and he did not intend to, prompting Councilwoman Scott to say that she was more diligent.

Councilman Benson stated that Volkswagen was in his district, and there was a deadline, and it would cost more in the delay time for her to read this than the benefit of her having the ability to interpret such a complex thing; that he thought the IDB Board had already met on this.

Attorney McMahan explained that it would go before the IDB Board after approval of the nine deeds; that the IDB Board will incorporate this into the lease with Volkswagen Chattanooga Operation.

Councilman Benson asked Attorney McMahan if there was not a rush on this—if they did not need this acted on before the end of the year? Attorney McMahan indicated that that was what he was told, also.

Attorney Mike St.Charles spoke. He stated that he was with the law firm of Chambless, Bahner, and Stophel, who represented Volkswagen; that he did call a Volkswagen representative, and this is time-sensitive, and they are working on several projects; that they were in the process of negotiating, and it would be beneficial to them to be able to finalize this before the end of the year.

Councilman McGary stated that he did think it was discourteous for the Council not to receive this information and were being told that they have to have this done now; that he agreed with Councilwoman Scott. He made mention of Councilman Benson’s “fingers and toes and heart”. He stated that he thought this was a good process to go through before the motion.

VW LEASE (CONT'D)

Councilman Murphy stated that we were in a dilemma and made the motion that the Council recess at this time with the understanding that the material can be read by Councilwoman Scott in less than an hour. This motion failed for a lack of a second.

Chairman Ladd reminded the Council that this was not a tennis match.

Councilwoman Scott stated that the Council met once a week every Tuesday, and she did not think it was too much to ask to have documents in time to read so that the Council could make an informed decision; that this involved transfer of land, and the information could have been here last week. She went on to say that she thought this was an insult and inappropriate for **even** Volkswagen; that the material was not provided and then to be expected to read all of this within an hour when there were multiple documents—that she would expect better of Volkswagen and any other entity.

Attorney St. Charles stated that her point was well taken, but he did not know if Volkswagen had control—that they did not prepare the deeds, that they came from the County Attorney; that Volkswagen was putting the deal together, but others, and not Volkswagen, prepared the documents; that he fully understood what she was saying, but Volkswagen had a deadline to meet—that they had worked around deadlines before and probably could now, but he did not think it was appropriate to blame this on Volkswagen.

Councilwoman Scott responded that if her comments were inappropriate, then she apologized, but it was the responsibility and fault of someone to have caused this delay.

Attorney St. Charles explained that the appropriate document was the Memo of Understanding; that Amazon came along and Volkswagen worked with the City to take 90 acres; that the City and County were to provide properties in place of what they gave up; that basically 90 acres were provided and some the City and County did not own; that this was kind of a housekeeping measure, but he did want Councilwoman Scott to be comfortable even though it would cause some inconvenience for them.

Councilman Benson stated that he would make a compromise and made the motion that the Council meet next Tuesday if this would help the situation.

VW LEASE (CONT'D)

Chairman Ladd reminded Councilman Benson that the Council would not be meeting next week. Councilman Benson stated that he was making the motion that we **do** meet next week. **Councilman Benson's motion died for lack of a second.**

Councilman Murphy stated that he was not asking that Attorney St. Charles disclose any of Volkswagen's secrets but had noted little snippets; that the only parcel he saw under consideration was parcel #3. He asked Mr. St. Charles if it would help him at all if we just defer on parcel #3 and proceed with the rest tonight? Attorney St. Charles responded that #6 and #1 are really the ones they are talking to people about and are significant. Councilman Murphy questioned if we could pass 6 and 1 tonight, which would get the ones that are time-sensitive. Attorney St. Charles again noted that Parcels #1 and #6 are under discussion in the contract; that the others would work fine.

Chairman Ladd asked Councilwoman Scott if this would satisfy her? She responded that she was not sure what this is all about, but it did not help her at all; that she would still like this deferred until January 3rd. A roll call vote was taken for deferral:

COUNCILMAN BENSON	"NO"
COUNCILMAN GILBERT	"YES"
CHAIRMAN LADD	"NO"
COUNCILMAN MCGARY	"YES"
COUNCILMAN MURPHY	"NO"
COUNCILWOMAN ROBINSON	"NO"
COUNCILWOMAN SCOTT	"YES"

The motion for deferral failed.

Councilman Murphy made the motion to only take into consideration two parcels tonight. A Roll Call Vote was taken:

VW LEASE (CONT'D)

COUNCILMAN BENSON	“YES”
COUNCILMAN GILBERT	“NO”
CHAIRMAN LADD	“YES”
COUNCILMAN MCGARY	“NO”
COUNCILMAN MURPHY	“YES”
COUNCILWOMAN ROBINSON	“YES”
COUNCILWOMAN SCOTT	“NO”

This motion failed because of lack of a majority vote.

Councilman Benson made the motion that this Resolution be approved. This was seconded by Councilwoman Robinson.

Councilman Murphy made a motion to amend Councilman Benson’s motion and to exclude some of the parcels on tonight’s vote. This was agreeable to Councilman Benson but Councilwoman Robinson said “no”. Councilman Murphy reminded that this was now his motion and that Councilman Benson could second it.

Councilwoman Scott asked if any of the Councilmembers had read this document? Everyone responded “no”.

Councilwoman Robinson stated that she was totally responsible and aware of the diligence the Council shares; that our attorney had told us what a Title Search is and guarantees where we buy and sell property; that there has been diligent research by professionals associated with these documents, and she would say it was a clean deal and that we have fulfilled our MOU with Volkswagen. She stated that basically, in her mind, as a Real Estate Agent, that she relied on professional expertise all the time; that her impression of what we are doing is “squaring off” properties that have been promised.

VW LEASE (CONT'D)

Councilwoman Scott stated that this may all be wonderful and nothing wrong; however the last time we amended a Volkswagen document it had language to extend a PILOT five extra years, and this was changed before this body (Council); that if the Council does not read the document, “fine”, but for Attorney St. Charles to have read the document—he represents Volkswagen; that it is the Council’s job to represent our citizens, which means that we should read this and not subrogate the Council’s responsibility to an attorney of the other party, even though it might be wonderful.

At this point, members in the audience applauded Councilwoman Scott, and Chairman Ladd stated that she understood they liked what Councilwoman Scott had said, but there would be no outbursts.

Councilman Murphy talked about the parcels that were part of the amendment—Parcels 6, 7, and 9, dealing with the roadway. Mr. St. Charles indicated that it was really Parcels 1, 6, 7, and 9. Councilman Murphy stated that it was also the Council’s responsibility to look after economic development for the community, and he felt that this was part of his job—that things like this could cause jobs not to come here. **Councilman Murphy made the motion again to amend to include Parcels 1, 6, 7, and 9 of this Resolution and let the remaining sections come before the Council on January 3rd. This motion failed for lack of a majority.**

At this point, Chairman Murphy renewed his motion that we recess this meeting until such time that Councilwoman Scott can read the material. Councilman Benson seconded this motion to recess this evening and return after Councilwoman Scott had read these documents.

Councilwoman Robinson suggested that we conclude our agenda tonight and then recess until Thursday afternoon at 4:00 P.M. and that the Clerk poll the Council to see who can be present.

Attorney McMahan confirmed that this meeting could be recessed until 4:00 P.M. on Thursday. Chairman Ladd reminded that two members would not be here on Thursday.

Councilwoman Robinson then suggested recessing until Friday at 10:00 A.M. and call the meeting into session for this one item and go ahead and conclude our agenda for tonight. Councilman Benson suggested that the meeting start at 9:00 A.M. rather than 10:00 A.M. because of the Christmas Party that is to be hosted by both the Mayor and the Council.

VW LEASE (CONT'D)

On motion of Councilwoman Robinson, seconded by Councilman Benson,
**A RESOLUTION AUTHORIZING TRANSFER OF THE CITY'S
INTEREST IN CERTAIN PARCELS OF LAND AS MORE
PARTICULARLY SET FORTH HEREIN, TO THE INDUSTRIAL
DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA FOR
INCORPORATION INTO THE LEASE WITH VOLKSWAGEN
CHATTANOOGA OPERATION, LLC TO PROVIDE FOR ROADWAY
AND RAILROAD RIGHTS-OF-WAY; TO CORRECT THE
VOLKSWAGEN PROPERTY DESCRIPTION; AND AUTHORIZING THE
INTERIM DIRECTOR OF GENERAL SERVICES TO EXECUTE ANY
AND ALL DOCUMENTS RELATING THERETO**
was deferred until Friday, December 23 at 9:00 A.M.

Councilman Gilbert asked Attorney St. Charles if this would allow enough time.
Attorney St. Charles stated that this was fine.

SOFTWARE UPGRADE

On motion of Councilman McGary, seconded by Councilwoman Scott,
**A RESOLUTION AUTHORIZING A SOFTWARE UPGRADE BY
ACCELA FOR NEW SERVERS AND INTEGRATED VOICE RESPONSE
(VR) SYSTEM TO BE USED BY THE DEPARTMENT OF PUBLIC
WORKS-LAND DEVELOPMENT OFFICE AND THE CITY
TREASURER'S OFFICE, FOR AN AMOUNT OF NINETY-SEVEN
THOUSAND TWO HUNDRED EIGHTY-EIGHT AND 83/100
DOLLARS (\$97,288.83)**
was approved.

OVERTIME

Overtime for the week ending December 15, 2011 totaled \$44,519.69.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **BRENDA HAFLEY**—FMLA for Police Sergeant, effective 12/8/11—3/12/12.
- **JAMES KEEF**—Retirement of Police Sergeant, effective 12/29/11.

CHATTANOOGA FIRE DEPARTMENT:

- **TIM HUSTAD**—Retirement of Fire Captain, effective 12/15/11.
- **PATRICK O'BRIEN**—Promotion to Firefighter Senior, Range F2A, \$36,004 annually, effective 12/16/11.
- **JASON RAINS**—Assignment/Salary Change for Staff Lieutenant, Range F3C, \$46,358 annually, effective 12/16/11.

CHATTANOOGA PUBLIC WORKS DEPARTMENT:

- **JAMES P. WEISS**—Termination of Crew Worker I, effective 12/14/11.
- **GARY L. ROSHELL**—Termination of Crew Worker 1, effective 12/12/11.
- **MACKER C. STRICKLAND**—Termination of Crew Worker 1, effective 12/15/11.
- **DAVID MARTIN**—Retirement of Chief Electrical Inspector, effective 12/15/11.

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EMERGENCY PURCHASE

Adm. Leach presented an emergency purchase in open meeting for a Sanitary Sewer Extension for Red Bank Middle School repair. This purchase order was issued to Brown Brothers, Inc., in the amount of \$43,550, Requisition 51123. This was duly signed in open meeting.

REFUNDS

On motion of Councilman McGary, seconded by Councilman Murphy, the Administrator of Finance was authorized to issue the following refunds for water quality fees and/or property taxes due to overpayments and error and release:

VIP PROPERTIES	\$2,152.44
CHATT. RIVERBOAT CO.	\$9,236.00
VARIOUS ASSESSED OWNERS (Names included in minute material)	\$14,748.15
A H SENIORS, LLC	\$3,124.57

PURCHASES

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

PUBLIC WORKS DEPARTMENT:

MAYSE CONSTRUCTION CO. (Best Bid meeting specs.)
REQUISITION 49710/301442

Blanket Contract for Sewer Repair Services

\$500,000 annually, approximately

TOWER CONSTRUCTION CO. (Lowest and Best Bid)
REQUISITION 49732/301443

Blanket Contract for Sewer Pipeline Debris Removal Services

\$50,000 annually, estimated

PURCHASES (CONT'D)

GENERAL SERVICES DEPARTMENT:

INDUSTRIAL WELDING SUPPLY (Lowest and Best Bid)
Requisition 51018/301516

Blanket Contract for Welding Supplies & Gases

\$15,000 annually, approximately

CHEROKEE TRUCK EQUIPMENT, LLC (Best Bid meeting specs.)
Requisition 51012/301515

Blanket Contract for Heil OEM Truck Parts

\$200,000 annually, approximately

FINANCE AND ADMINISTRATION:

ACCELA GOVERNMENT SOFTWARE (Sole Source Purchase)
Requisition 52566

Business Permit Analysis

\$12,020

COMMITTEES

Councilwoman Scott announced that there would be a meeting of the **Beer Code Sub-Committee on January 6, 2012 from 10:00 a.m. to 12:00 a.m.**

Councilman Murphy scheduled a **Legal, Legislative and Safety Committee for Tuesday, January 3rd to immediately follow the Public Works Committee** to discuss the threshold for personnel discipline.

In the absence of Councilman Rico, Chairman Ladd noted that there would be a **Public Works Committee meeting on Tuesday, January 3rd to immediately follow the Agenda Session.**

AGENDA: JANUARY 3, 2012

Chairman Ladd stated that the agenda for January 3rd was discussed previously during today's Agenda Session.

REVEREND ANTHONY CHATMAN

Reverend Chatman stated that he had a couple of items to bring up; that there were certainly concerns within the city as to redistricting—that there had been big discussions in communities; that they would not go back the way it was, and they would have representation in the City of Chattanooga. His second item of concern was the Wilcox Tunnel. He mentioned surveys of the tunnel 17 years ago; that another facility got improved and built; that it did not take the City that long to do the Missionary Ridge Tunnel. He mentioned the funds that had gone into doing surveys and still no action on the Tunnel; that this is the African-American conduit from east to west, and they needed it and were demanding it; that he was tired of surveys and studies. He stated that his hat went off to Councilwoman Scott, and he thanked her for her position. He stated that the African-American community was saying that enough is enough, and they needed the Council's help; that the Council could stand up for Volkswagen but could not stand up for IHOP.

Councilman McGary thanked Reverend Chatman for addressing the Council. He stated that he had been having a conversation with the City Attorney regarding the Wilcox Tunnel; that the Feasibility Study is the last step before construction; that it is **not** a Study; that we are moving forward, and this is not simply another Study.

Revered Chatman responded that even though it is part of the process; that once you learn this process, there will be another Study about who we will get the actual job—that the City will have to decide to get a person to do the work—that this will entail another Study, and he questioned what we need to do right now about the traffic, noting that we have Study after Study.

Councilman Murphy stated that he would like for the public to know that Councilman Gilbert, Councilman McGary and himself had not been here long—that there was money for construction in Mayor Corker's time; that there was a geotechnical study to make sure the tunnel would not collapse; that we have to build the best two tunnels; that there will be a second tunnel built and the current one will stay open; there will be a new tube open for traffic. Councilman Murphy stated that he was proud because this Council had carried the ball further than ever before. He explained that there is no other city-owned tunnel but this one; that the other tunnel is State-owned, and the only one we have is the Wilcox Tunnel. He noted that tunnels are extremely expensive to build and reiterated that this Council has carried the ball further than ever before. He went on to say that our intent is to fix this problem with a second tunnel. He stated that he understood Revered Chatman's

REVEREND CHATMAN (CONT'D)

frustration—that he lived on one side of Missionary Ridge and used this tunnel daily, and he was not happy with it either.

Councilman Gilbert agreed that this Council has brought the tunnel forward and would make sure this happens; that he was looking for a new four-way tunnel.

Councilman Benson stated that the two tunnels could not be compared; that the other tunnel is State-owned; that we own Wilcox Tunnel completely.

CYNTHIA STANLEY CASH

Ms. Cash stated that she was here as a concerned citizen. She mentioned the history of the Studies and the cost to do the tunnel. She mentioned liking what Councilwoman Scott had said and mentioned that there had been Study after Study—that there had been several. She stated that some clean-up needed to be done in the tunnel; that the water in it is icy and it is trashy; that a clean-up needed to be done weekly. She corrected Councilman Benson, stating that Enterprise South is not in his district but in District 5. (Councilman Benson stated that it would be put in District 6).

Ms. Cash continued, stating that she had some things to say to Councilman Rico concerning his attitude in the committee meeting; that she had read articles concerning this, and these articles had been re-worded from what Councilman Rico actually said; that she did not appreciate Councilman Rico's comments regarding White people making overtures to help Black people and him saying that "this race thing is getting out of hand, and I resent it". She stated that she would like Councilman Rico to make a list of what White people had done; that she wished the City had not taken over Wilcox Tunnel and had left it with the State.

She went on to say that the Attorney tells everyone in the audience what rules they are to abide by when they address the Council, and she thought that Councilmembers needed to have these rules read to them; that Councilman Rico had walked out of this meeting—that it might be for medical reasons—but when he walked out of meetings it was rude. She also chastised the Council for not giving Councilman Gilbert a chance to vote last week on the redistricting, just because he was late in attendance.

CYNTHIA STANLEY CASH
(CONT'D)

Councilman Benson explained to Ms. Cash that Councilman Rico had to leave the meeting because he was going through a Hospital Procedure and had to leave early to drink the Barium, if she knew what he meant.

He stated that he knew something about the tunnel since it was named after his wife's father; that we did not buy it or take it from the State.

Ms. Cash wished everyone a Blessed Holiday Season.

MAHMOOD ABDULLAH

Mr. Abdullah stated that he lived at 202 W. 8th St. and that he had a grievance; that he had a business opening up until a HUD investment shut down his business; that he was going to create a few jobs; that he was in District 7, and he hoped the Council would look into this. He stated that he was not asking for much. He was asking, however, for the recall of Councilman Rico. He stated that at about every meeting Councilman Rico jumps up and leaves. He stated that he was asking for the recall on behalf of the City and wanted Councilman Rico to do what is right. He wished the Council peace and the best of holidays.

This meeting was recessed until Friday, December 23rd at 9:00 A.M.

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
December 23, 2011
9:00 A.M.**

Chairman Ladd called the recessed meeting of the Chattanooga City Council to order with Councilmen Benson, Murphy, Scott, Rico and McGary present. Councilwoman Robinson joined the meeting later. Councilwoman Berz was out of the city. City Attorney Phil Noblett; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

Others present included Dan Johnson, Mayor Littlefield, Steve Leach, Bill Payne, Karen Rennich and Richard Beeland.

Chairman Ladd wished everyone a good Friday morning. She apologized to those in the audience who made an effort to come in regards to a rezoning on Gunbarrel Rd.; that she had heard late yesterday that the applicant would not come in to make an additional statement, as he had requested to do so. She promised those in attendance concerning this issue that she thought the Council would be entertaining and an enjoyable trip for them! She stated that she was a little upset that we had only five members present—Councilman Murphy then appeared and a little later Councilwoman Robinson.

LAND TRANSFER (VW)

The Resolution was read. **The motion was made by Councilman McGary, seconded by Councilman Benson, to approve.**

Councilwoman Scott stated that a lot of effort had been made on the part of the City and also on the part of Volkswagen for this to come to an end; that the City had given what Volkswagen asked for and what we had agreed to give them; that with the additions, we are satisfying this requirement. **She stated that she would like to make an amendment to the motion—that it be contingent upon Volkswagen signing an Estoppel to not allow any additional claims; that the City had fulfilled what we had agreed to.**

Councilwoman Scott asked the City Attorney give an account of the actual acreage we are looking at. Attorney Noblett stated that he had been in conversation with Mr. Payne and that he could give us the exact numbers; that initially he thought it was 1076.3 acres; that these nine parcels were 233.8 acres.

LAND TRANSFER (VW)(CONT'D)

Mr. Payne noted that the acreage was 1320.1; that these are the numbers provided by Hamilton County, who is handling this.

Attorney Noblett stated that this is everything they are entitled to under the MOU.

Mr. Payne added that this was the intent of the initial MOU without taking this into account; that it was on the basis of consideration at that time; that 1300 acres was the initial number, and it was his belief and understanding that this satisfies this request.

Councilman Benson stated that he did not want to leave a reflection of bad faith with our MOU; that he had talked to someone that was deeply involved in recruiting additional companies to Chattanooga, and he was telling him that we are right on the brink of two more companies. He stated that he wanted us to live up to our word and did not want Volkswagen to feel like the City thinks “we’ve got them now”.

Councilman McGary stated that he wanted to understand Councilwoman Scott’s motion to amend; that this was time-sensitive. He wanted to know if she was asking for something in writing and would this be agreeable with Volkswagen.

Attorney St. Charles asked if this was a question for him? Councilman McGary stated that he wanted to know “yes or no” would this be satisfactory? Mr. St. Charles stated that this satisfies the obligation under the MOU; that the contact person for Volkswagen is in Costa Rico and could not be reached for 100% confirmation; that he thought 1320 acres satisfied the obligation. He stated that he did not think a letter would be a problem.

Councilwoman Scott asked for a vote on her amendment; that when a City says 1300 acres it is not 1320—that if that is bad faith, she was not sure what bad faith was; that we were living up to our agreement in good faith; that if this bothered any other companies that might come here, she would not be able to explain why; that she wanted to be sure we were putting this to rest; that Volkswagen can get 1200 additional acres in a subsequent deal—that she thought this was a lot of good faith.

Attorney St. Charles stated that he would not be able to provide an Estoppel until after the first of the year, when Mr. Hinton will be back in town.

Councilwoman Scott stated that her motion was contingent upon.

VW LAND TRANSFER (CONT'D)

Councilman Murphy noted that this was the stated intent of the City, and he did not think we needed to say anything more to accept this property; that if they should come back later and ask for more, we would have the opportunity to say “no” if we wanted to.

Councilman McGary asked about “contingent”, questioning if the Estoppel had to be prior to approval—that he was confused about this.

Councilwoman Scott explained that her motion was like we did with a zoning request—that we approve contingent upon a person doing “this and this”—that this is the same concept.

Councilman Murphy noted that Councilwoman Scott’s motion did not have a second.

Mayor Littlefield spoke, stating that he was concerned about this and knew how such proceedings can become a complicated process with Volkswagen; that something this innocent could land up going to Berlin and to their highest office; that this is over and above what we had agreed to; however this could be perceived as threatening and smells as an unfriendly act and make Volkswagen feel that we don’t trust them. He stated that he would avoid this—that Volkswagen was looking at Chattanooga and had many other options. He noted that one city we competed with was Huntsville, Al; that they had been mentioned as a possibility as to where Audi might go. He stated that it was July 16, 2008, when it was announced that Volkswagen was coming here, and this appeared in the Huntsville newspaper, and he did not want to see something like this (Audi going to Huntsville) appearing in our newspaper. He went on to say that he met with Volkswagen executives last week in Germany and had an opportunity to talk to those at the highest level in a comfortable environment; that one of the highest executives mentioned that they came to Chattanooga because we exhibited the most interest of any other community in working directly with them, such as clearing the site in a speedy manner. He stated that Volkswagen had given a lot to Wolfsburg, and we would hope that German companies coming to the United States would look at one community in expanding their base. He stated that we had fulfilled our responsibility and it was relatively simple to confirm what we had done; that asking them for assurance beyond that would be seen as unfriendly.

VW LAND TRANSFER (CON'T):

At this point, Councilman McGary seconded the motion made by Councilwoman Scott for an amendment to the motion.

Councilwoman Scott stated that we had an agreement—three amendments of 1300 acres going to 1320+ acres—that we had exceeded the offer made; that if it seems outrageous to ask the other party to say this, it made no sense to her; that if we were doing something like this on our own property, we would ask for this assurance, and she did not think we should do anything less just because it is the City.

Councilman McGary stated that he appreciated Mayor Littlefield's comments and also his expertise in dealing with the Germans. He stated that he thought he heard Attorney St. Charles say that something in writing would not be a problem; that it would not be a problem to get an Estoppel. He asked Mr. St. Charles if he would understand this to be offensive?

Attorney St. Charles responded that from a legal standpoint, this would be understood; that Mayor Littlefield had raised an interesting point and that he had a better understanding of the politics of this than he did; that this is a factual issue, and he appreciated Councilman Murphy's comment that it is what it is; that if they felt they were entitled to more, they could come back; that an Estoppel says we agree to these facts—that he did not think Mr. Hinton would be offended; however he could not address what this would look like to the business people. He stated that the working relationship between Volkswagen, the Council, and the City is very positive; that we were here today because of the Volkswagen agreement to take land that was given to Amazon and Erlanger. He noted that his part in this was legal and not the political side.

Before a vote was taken on the amendment, Chairman Ladd asked that Councilwoman Scott repeat her motion—Councilwoman Scott stated the motion was to amend the Resolution to put a contingency that says that Volkswagen will sign an Estoppel that says they are satisfied with the 1320 acres instead of the 1300 acres—that this satisfies the agreement. She added to her motion that they would not ask for anything like the second amendment of the agreement with Volkswagen releasing property to Amazon and if the property goes back to the IDB, it will revert back to Volkswagen.

Attorney St. Charles stated that we needed to be careful with this—that they could not say they would not come back and ask for additional property and could not say they would agree to not come back and ask for the same modifications.

VW LAND TRANSFER (CONT'D)

Attorney Noblett stated that the MOU would give the opportunity of additional acreage.

A Roll Call Vote was taken on the motion to amend made by Councilwoman Scott and seconded by Councilman McGary:

CHAIRMAN BENSON	“NO”
CHAIRMAN LADD	“NO”
COUNCILMAN MCGARY	“NO”
COUNCILMAN MURPHY	“NO”
COUNCILWOMAN ROBINSON	“NO”
COUNCILWOMAN SCOTT	“YES”
COUNCILMAN RICO	“NO”

The motion to amend failed.

On motion of Councilman Rico, seconded by Councilman Murphy,

A RESOLUTION AUTHORIZING TRANSFER OF THE CITY'S INTEREST IN CERTAIN PARCELS OF LAND AS MORE PARTICULARLY SET FORTH HEREIN, TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA FOR INCORPORATION INTO THE LEASE WITH VOLKSWAGEN CHATTANOOGA OPERATION, LLC TO PROVIDE FOR ROADWAY AND RAILROAD RIGHTS-OF-WAY; TO CORRECT THE VOLKSWAGEN PROPERTY DESCRIPTION; AND AUTHORIZING THE INTERIM DIRECTOR OF GENERAL SERVICES TO EXECUTE ANY AND ALL DOCUMENTS RELATING THERETO

was adopted on roll call as follows:

COUNCILMAN BENSON	“YES”
CHAIRMAN LADD	“YES”
COUNCILMAN MCGARY	“YES”

VW LAND TRANSFER (CONT')

COUNCILMAN MURPHY	“YES”
COUNCILWOMAN ROBINSON	“YES”
COUNCILWOMAN SCOTT	“NO”
COUNCILMAN RICO	“YES”

Attorney St. Charles stated that Volkswagen appreciated this extra effort to approve this and to allow them to move forward.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, January 3rd, 2012, at 6:00 P.M. and wished everyone a happy and safe holiday season.

CHAIRMAN

CLERK OF COUNCIL

(A LIST OF NAMES OF PERSONS IN ATTENDANCE AT THE DECEMBER 20TH
MEETING IS FILED WITH MINUTE MATERIAL OF THIS DATE)