

**City Council Building
Chattanooga, Tennessee
July 17, 2012
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

Chairman Ladd led those in attendance in the Pledge of Allegiance.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: "WORLD CHANGERS"

Mayor Littlefield stated he looks forward to this occasion every year when the World Changers from other locations come and grace our community and help change the world one house at a time! He introduced persons present: Kevin Britain, Worship Speaker from Woodbridge, Virginia; Matthew Robinson, Team Leader and Summer Staff from Yorktown, Virginia; Carly Atkins, Missions and Communications Specialist and Summer Staff from Somerset, Kentucky; Pam Rector, project Coordinator from Hixson, Tennessee and Hunter Boutwell, Assistant Associate Coordinator from Soddy Daisy, Tennessee. At this point he read the Proclamation which has been spread upon the minutes:

SPECIAL PRESENTATION: "WORLD CHANGERS"
(Continued)

Proclamation

Whereas: Since 1990, World Changers, a ministry of the North American Mission Board and Life Way Student Ministries, has sought to provide youth and adults with opportunities to meet the needs of others both nationally and internationally by providing practical learning experiences and opportunities to serve through mission work; and

Whereas: World Changers provides "hands-on" mission involvement through participation in home construction and renovation with government, community agencies, and churches; and

Whereas: Locally, World Changers partners with the Department of Neighborhood Services and Community Development, Brainerd Baptist Church and other area churches to improve Chattanooga's neighborhoods and most importantly, the quality of life of those who receive their services; and

Whereas: This year, the City of Chattanooga celebrates our 10th year of working with World Changers and we are proud of the services this great organization has provided to our citizens and this year's theme, "*The Pursuit*," conveys World Changers' conviction and goodwill which they have continually shown to our city as well as communities throughout the world.

Now Therefore,

I, Ron Littlefield, Mayor of the City of Chattanooga,

do hereby proclaim July 9-20, 2012 as

World Changers Repair Weeks

In Witness Whereof, I have hereunto set my hand and caused the

Seal of the City of Chattanooga to be affixed this the

17th day of July, 2012

Ron Littlefield, Mayor

SPECIAL PRESENTATION: "WORLD CHANGERS"
(Continued)

Mayor Littlefield stated when he first ran for Mayor and became aware of the World Changers somebody took him where they were working on a little old lady's house who could not keep her house repaired and did not have the resources. He stated there were young people there repairing her house which was literally falling in and when they got through it was livable for many more years to come. He stated the World Changers definitely "changed her world" and when he drove way "something got in his eye" and (he) could hardly see to drive because it was so pleasing and moving to see the effort the young people were doing and the dramatic effect it was having on a life in a poor area of our city.

Vanessa Jackson expressed thanks for the opportunity to be present today and stand with this very worthwhile organization. She also expressed thanks to Department's Administrator Beverly Johnson for her leadership and efforts to put this project on, as well as the staff, as it is truly a department-wide initiative. She stated they are pleased as this year marks the tenth year the World Changers have been working with our city and can see the handiwork all throughout the neighborhoods of our city; that this year the total comes to over 400 projects served over the ten year period which is awesome! She stated it is just wonderful that these young people with adult leadership are the "driving force" behind this project and expressed hope that the "light they are shining in our city" is a light that will catch on and have young people in our city step up as well to do what they can to make our neighborhoods truly neighborhoods of choice. She thanked the World Changers noting it has been a pleasure to work with them for the ten years and has worked with them every year since the inception of the partnership and it keeps getting better and better! (A rousing round of applause was given by all in attendance at this time.)

Chairman Ladd expressed thanks for the World Changers for coming to Chattanooga and to the residents within the group for their commitment to the community. She expressed hope they will enjoy our city while they are here.

AMEND CITY CODE

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 10, SECTION 10-5, AS AMENDED, TO EXCLUDE CERTAIN
PROPERTY FROM WALNUT HILL TOWN HOMES LOTS 3 AND 4 FROM THE
FIRE DISTRICT BOUNDARY**
passed second and final reading and was signed in open meeting.

REZONING

2012-075: Flagship Group/Gordy Germany

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY
LOCATED AT 5390 HIXSON PIKE, 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.

AMEND CHARTER

Councilman Benson and Murphy made the motion and second to approve this Ordinance on first reading.

Councilwoman Robinson asked Councilman Murphy, as Chairman of the Legal and Legislative Committee who presided over the discussion earlier during Committee, to “recap” the essence of the discussion for those who were not in attendance and those watching on television.

Councilman Murphy stated the discussion involved how the current *City Charter* and state law had historically produced a great deal of confusion about what the standard would be for recall of a city official; that he knows the body as a whole was unanimous in wishing to bring clarity to that issue. He stated there was some disagreement about which would be the appropriate number or percentage of recall for Council people as the number set by state law was extremely high and as a result it is his understanding through polling during the meeting there was a majority in support of 15 percent of registered voters by district which would be numerically identical to the standard for the Mayor as set by state law.

AMEND CHARTER (Continued)

Councilman Murphy stated the hope is to make it in accord with state law and avoid future conflicts so that those that wish to recall will know exactly what it is they need to do.

Councilwoman Robinson stated this has troubled her all along; that she knows the state of Tennessee has a law on the books that provide for ouster of a public official who may be guilty of malfeasance or convicted of a crime while in office and that recall is another process, but (she) still has trouble with a law that is on the books that permits recall in the absence of criminal conduct. She stated the reason this troubles her is that it is her belief elections are the foundation of our democracy and to empower, in effect, a group to randomly collect signatures and then impose upon our Election Commission the obligation to go through thousands of these to affirm these are living people who even live in Chattanooga and do not live in Ringgold or someplace else, and then if found that the requisite number which we are talking about tonight is affirmed that the citizens of Chattanooga are then going to pay if the recall effort is successful. She stated all of this simply could occur theoretically because there are those who do not want taxes raised or who are mad at someone because the city bought a piece of art; that it is her thought it is troubling and cannot vote for it for that reason. She stated it is not that she does not think there is room for recall and there are occasions when it should be done, but it is only in the presence of lawlessness on the part of the elected official and unless that "gate has been opened to the public to come in" and recall she cannot support it as it is a bad state law in her opinion.

Councilwoman Scott stated she does not support the resolution that has been put before the Council; that citizens have many reasons for putting elected officials in office and they can have many reasons for wanting to take them out. She stated part of this resolution refers to an article that we have the right to do which is to choose the level or criteria of this because we are a Home Rule city; that the state recognizes that right and we have the ability to exercise it. She stated her most significant objection to this resolution is the fact it bases the minimum required signatures on a percentage of the total number of eligible voters as opposed to the people that actually vote in the election for municipalities.

(Councilman Rico joined the meeting at this point.)

AMEND CHARTER (Continued)

Councilwoman Scott stated our municipal voter participation rate is exceedingly low and in the last election, if all the elections that occurred were averaged for city elections, the overall rate was around 18 percent and in some of the district races for City Council there were not 15 percent that did vote and essentially what you could have is more people required to sign a petition to take someone out than it actually took to elect the people and that includes all the absentee votes, all the votes for not only the person elected but all the votes cast for the other people that ran, as well. She stated she could support this if our municipal elections were moved up to the time in which the Presidential elections occurred because the turnout is very good; that our elections are held in March and then if there is a runoff that is held in April and the date of the last one was the day before income taxes were due. She stated there is poor turnout and if there were a higher turnout the 15 percent mark might be appropriate, but when it is an election time when people do not typically turn out due to it being cold or windy it seems a little bit stringent to ask more people to sign a petition than actually participated in the election. She stated she is not voting for this; that it is her thought we could have done better; that the majority of cities or states that allow Home Rule to make choices has a lower set of standards for that and the majority she has seen based that on votes "cast" not "registered".

Councilwoman Berz asked for clarification because the public has been asking some of these questions with reference to state law relative to recall referring to anyone in public office or who do they refer to.

City Attorney McMahan stated the Section we are speaking about is about recall of municipal officials. Councilwoman Berz asked if that means "all". City Attorney McMahan responded that means all elected municipal officials.

Councilwoman Berz asked if that means the Mayor and City Council in this case. City Attorney McMahan responded "yes and the City Judges".

Councilwoman Berz stated when we are talking about that we are talking about the state law. City Attorney McMahan responded "yes".

Councilwoman Berz stated the *Charter* "talks" about that at the local level and that refers to City Council people, as well as the Mayor. City Attorney McMahan responded "yes".

Councilwoman Berz stated what we are trying to do is bring the two together.

AMEND CHARTER (Continued)

City Attorney McMahan stated under existing state law it would take 15 percent of the total registered voters of the city of Chattanooga to sign a petition in order to recall an individual Council member, whereas the proposal before the Council would require 15 percent of the registered voters in that member's district.

Councilwoman Berz stated relative to the Mayor since the Mayor is elected by the whole city it would be 15 percent of the registered voters in the city, whereas district people are only represented by the district. She stated when we get into recall it is a "very slippery slope" particularly when talking about Council people in general, who can easily be recalled and it is called "the vote". She expressed agreement with Councilwoman Robinson's comments, however, her concern is that if we do not go for the 15 percent even though it is very high noting she will be voting for it because it is high, she does not think elected officials should be subject to the whim of people that disagree with the vote on taxes, a vote on art, a vote on whatever; that she would hope people elected her because they trusted her judgment and her ability. She stated if somehow she has failed them en masse obviously she would not get voted in again; that if at all it should be the most stringent numbers for recall and, therefore, she will vote for it.

Councilman McGary referred to the electronic communication from the City Attorney regarding some of the other states and their practice for recall noting "*New Jersey – no grounds required; Alaska – misconduct, incompetence or failure to perform prescribed duties; Ohio – general statement not to exceed 200 words; Colorado – general grounds not specific misconduct; and Florida – suspension/recall by governor upon specified grounds*". He stated from looking at the list different states have had different practices but we are all in good company by affirming states across our country do recognize the need for a recall; that if a decision is made that is egregious to the voters, even if one elected official considers it trivial or unfair, it is the voters who decide whether or not to recall elected officials. He stated it is his thought there is something to be said about the percentage number for Council individuals and suggested from the City Attorney's e-mail "*New Mexico's number of signatures require 20 percent of voters in last election or average of last four elections, whichever is greater*". He disputed the logic that says this has to be one or the other because we want to make it as simple as we can for voters, which is not being simple, it is being simplistic!

AMEND CHARTER (Continued)

Councilman McGary stated it is his belief if we put out a number whereby we say 15 percent of eligible voters or 50 of those who voted we can get a clear number one way or the other and that is in fair keeping for times when there are elections where there is a very low turnout and individuals are not penalized should they decide to recall.

Councilman Benson stated he sees what Councilwoman Robinson is saying but at the same time if we remain status quo we have the potential of some real city expenses down the road in litigation if we do not go along with the state at this time because of the rulings that have been handed down in the recent recall of the Mayor. He stated if we do not make a change and clarify this we are going to have litigation-after-litigation expenses.

City Attorney McMahan responded "no and (he) does not know that is the case". He stated if we do absolutely nothing Judge Hollingsworth has declared our current *Charter* provision in essence ineffective or contrary to state law; that we will be tied to the state law and the main point being under state law it is virtually impossible to recall a sitting Mayor or Council.

Councilman Benson stated what we doing is complying with state law but making enough changes to make it easier for recall in Chattanooga. City Attorney McMahan responded "recall of City Council members".

Councilman Benson stated it is wise for us from a fiscally responsible position to keep us out of all kinds of confusion legally down the road to make this change and then if we do not like the way the state law is affecting us we have a delegation and have the majority leader of the legislature from our city and we could get it amended. He stated to leave us like we are and go through what we have had to go through for the past year with the City Attorney expenses and other things it is his thought we would be negligent and fiscally irresponsible. He stated he will vote for this.

Councilman Rico "called for the question".

AMEND CHARTER (Continued)

On motion of Councilman Benson, seconded by Councilman Murphy,
AN ORDINANCE TO AMEND THE CHARTER OF THE CITY OF CHATTANOOGA, AND ALL ACTS, ORDINANCES, AND OTHER CHARTER PROVISIONS AMENDATORY THEREOF, PURSUANT TO THE PROVISIONS OF ARTICLE XI, SECTION 9, OF THE CONSTITUTION OF THE STATE OF TENNESSEE (HOME RULE AMENDMENT) SO AS TO MAKE APPLICABLE STATE LAW PROVISIONS TO RECALL POPULARLY ELECTED OFFICIALS OF THE CITY OF CHATTANOOGA

passed first reading on roll call vote:

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

The motion carried: six (6) "yes"; three (3) "no".

CLOSE AND ABANDON

MR-2011-101: Ian Grant c/o Sartin & Grant GP

City Attorney McMahan stated during this afternoon's committee meeting, Public Works in consultation with the land owner wanted to change condition four (4) in this Ordinance which used to read "200 feet" and they what to change it to "25 feet". He stated the Ordinance as submitted had a larger number than what they want to pass and he has redrafted it to read "25 feet" noting the Clerk has a copy of that and is what she read.

CLOSE AND ABANDON (Continued)

On motion of Councilman Rico, seconded by Councilman Benson,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
400 BLOCK FO WEST 22ND STREET FROM THE 2100 BLOCK OF BROAD
STREET WITH EPB, CHATTANOOGA GAS, AND AT&T TO MAINTAIN THE
EASEMENT IN THE FULL WIDTH, MORE PARTICULARLY DESCRIBED
HERIEN, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

CLOSE AND ABANDON

MR-2011-042: Jay Caughman

On motion of Councilman Rico, seconded by Councilman Benson,
**AN ORDINANCE CLOSING AND ABANDONING AN ALLEY AT THE WEST
LINE LOCATED IN THE 1600 BLOCK OF ROSSVILLE AVENUE WITH
CHATTANOOGA GAS TO MAINTAIN THE EASEMENT IN THE FULL WIDTH,
MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

BACK TAX SALE

On motion of Councilwoman Scott, seconded by Councilman Murphy,
**A RESOLUTION TO ACCEPT THIRTY-SIX THOUSAND EIGHT HUNDRED
EIGHTY-SEVEN AND 64/100 (\$36,887.64) FROM HAMILTON COUNTY
AS THE CITY'S PORTION FROM THE 2012 REAL PROPERTY BACK TAX
SALE FOR MARCH 2012 WITH THIRTY-FOUR THOUSAND TWO HUNDRED
THIRTY-TWO AND 10/100 DOLLARS (\$34,232.10) BEING APPLIED AS
CITY'S PORTION AND TWO THOUSAND SIX HUNDRED FIFTY-FIVE AND
54/100 DOLLARS (\$2,655.54) BEING APPLIED TO CITY ATTORNEY'S FEES**
was adopted.

TEMPORARY USE

On motion of Councilman Rico, seconded by Councilman McGary,
A RESOLUTION AUTHORIZING L. RAYMOND DEBARGE TO USE TEMPORARILY A PORTION OF TWO ADJOINING ALLEYS THAT INTERSECT NEAR THE 1600 BLOCK OF ROSSVILLE AVENUE FOR THE INSTALLATION OF A PEDESTRIAN SIDEWALK, FENCE, AND TRELIS ALONG SAID ALLEY'S CENTER LINE TO THE ALLEY'S SOUTH RIGHT-OF-WAY LINES, AS SHOWN IN THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIOSN
was adopted.

CONVEYANCE OF LAND

MR-2012-080: City of Chattanooga c/o Dan Thornton

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING CONVEYANCE OF A TWELVE FOOT (12') BY ONE HUNDRED THIRTY-FOUR FOOT (134') STRIP OF 2410 MCCALLIE AVENUE THAT WAS DEEDED TO THE CITY OF CHATTANOOGA IN DEED BOOK 1833, PAGE 3 IN 1969
was adopted.

TEMPORARY USE

On motion of Councilman McGary, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING JAMESTOWN WAREHOUSE ROW, LP C/O JOHN R. HEALY TO USE TEMPORARILY A RIGHT-OF-WAY LOCATED AT 1110 MARKET STREET, SUITE 319, FOR THE INSTALLATION OF A SIGN ALONG THE PORTION OF SAID RIGHT-OF-WAY, AS SHOWN IN THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

OVERTIME

Overtime for the week ending July 12, 2012 totaled \$33,607.12.

PERSONNEL

The following personnel matters were reported for the various departments:

HUMAN SERVICES DEPARTMENT:

- **SARAH ANDREWS** – Resignation, Teacher Assistant, Head Start, effective June 22, 2012.

CHATTANOOGA POLICE DEPARTMENT:

- **LARRY GUTHRIE** – Retirement, Police Sergeant, effective July 12, 2012.

CHATTANOOGA FIRE DEPARTMENT:

- **RONALD BARROWS, MARILYN HENRY, JODY HOUSTRUP** – Retirement, Fire Captain, effective July 12, 2012.
- **JAMES GASTON** – Retirement, Fire Lieutenant, effective July 12, 2012.
- **DAVID KAY** – Retirement, Firefighter Senior, effective July 12, 2012.

PUBLIC WORKS DEPARTMENT:

- **WILLIAM NEWELL** – Demotion (Voluntary), Plant Operator 2, Waste Resources, Range 11, \$39,964.91, effective June 29, 2012.
- **MICHAEL KEATON** – Hire, Electrician 2, Waste Resources, Range 14, \$34,201.00 annually, effective July 2, 2012.

PURCHASES

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

FINANCE AND ADMINISTRATION:

PURCHASES (Continued)

BB&T HUFFAKER & TRIMBLE (Lower and better bid)
R60177/302041

Blanket Contract for Public Employee Performance Bonds

\$10,000.00 – Annual estimation

PUBLIC WORKS DEPARTMENT:

FISHER SCIENTIFIC COMPANY (Per contractual agreement)

Laboratory Equipment Supplies per SWC 563 (Contract No. SWC 447)

\$25,000.00 – Annual estimation

STRINGFELLOW, INC. (Change Order)
R56289

Change Order for Asphalt Reclaimer (*This purchase requisition had incorrectly stated the price as \$23,893.00; the change order will increase the amount of the purchase order by \$90.00, correct amount is \$23,983.00.*)

\$90.00

INFORMATION SERVICES:

ADIL BUSINESS SYSTEMS (Lowest bid)
R58798/301943

Blanket Contract for Temporary Technology Staffing

\$150,000.000 – Annual estimation

FRIENDS OF FESTIVAL AGREEMENT RENEWAL

Councilman McGary stated in reviewing the contract for Friends of Festival an extension for the Riverbend event was set to expire at the end of this month. He asked if it will be brought to Council any time soon.

City Attorney McMahan responded there is a meeting scheduled later this week; that the staff is working on it and it will come back before Council when staff finishes their negotiations with Friends of the Festival.

COMMITTEES

Councilman Murphy scheduled a meeting of the **Legal, Legislative and Safety Committee for Tuesday, July 24** immediately following the Agenda Session.

Councilwoman Scott asked when we will have the discussion of term limits and the possibility of moving our elections up.

Councilman Murphy responded Mr. McGary's pedicabs issue is next week and we will find time to talk about Councilwoman Scott's idea after that.

Councilman Gilbert scheduled a meeting of the **Parks and Recreation Committee for Tuesday, July 24** to discuss a park recycling proposal, May Fair/Sweetbriar Park and a system wide Master Plan.

NEXT WEEK'S AGENDA: JULY 24, 2012

Chairman Ladd asked if there were any questions regarding next week's agenda; being none the meeting continued.

PERRIN LANCE

Perrin Lance of 216 North Hickory stated it is ironic on the same day the EPA ordered our city to perform a \$250,000,000 fix to our sewer system along with a half million dollar civil penalty that this City Council has just taken steps toward reducing the ability of everyday citizens to hold their elected leaders accountable by raising the number of signature required for a recall election.

PERRIN LANCE (Continued)

Mr. Lance stated the EPA order is the result of decades of failed city leadership to address a very obvious problem; that previous Councils, Commissions and Mayors have known about the condition of our sewer system and if they have failed to take decisive collective action toward staving off a problem that could have been fixed sooner rather than later. He stated he is not particularly pointing any blame to anyone on the present Council for the sewer issue; that he is putting blame to the Council now for making it increasingly more difficult for the everyday people of Chattanooga to hold their leaders accountable so that we do not end up with the EPA orders and half million dollar fines in the first place. He stated the state law of Tennessee clearly gives the option right now to make recall initiatives and referendums a challenging but available voice for citizens who want to exercise their democratic spirit. He stated he understands that the city recall makes it far too easy but it is not; that during the previous recall election 9,903 signatures were verified to recall the Mayor and hold local leadership accountable -- 331 signatures shy of the number of voters who voted for Mayor Littlefield. He stated our city's recall laws, which the Council could have easily approved again tonight, ensure an accurately reflected number of citizens are needed to recall to trigger an election; that it uses a very common sense formula – half the number of voters in that particular election plus one, which is the number needed to win an office in the first place. He stated it is common sense in his "book" and common sense in most Chattanooga's "book"; that the Council is clearly choosing to make it harder for citizens to hold elected officials accountable but do not have to hose this way and encouraged the Council to do so.

Chairman Ladd expressed that she fully believes the Council's action this evening on this vote on recall is better than what we had and reduces the number; that it is a very clear cut fair way to do it.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, July 24, 2012 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)