

**City Council Building  
Chattanooga, Tennessee  
October 9, 2012  
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/Auditor Randy Burns and Council Clerk Carol O'Neal were also present.

### **PLEDGE OF ALLEGIANCE**

Councilwoman Berz led everyone in attendance in the Pledge of Allegiance.

### **MINUTE APPROVAL**

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

### **SPECIAL PRESENTATION: CHATTANOOGA ZOO**

Councilman Murphy stated he knows everyone knows how proud he is of the Zoo and noted he is proud he represents the wildest animals in the city of Chattanooga! He brought attention to the flying squirrel he was holding in his hands and commended the zoo on its second, unannounced, USDA inspection that happened this last year. He stated the Zoo's largest fundraiser will be held this weekend, the Banana Ball, and tickets are still available. He stated there is a new exhibit that he saw today that is amazing with several hundreds of thousands of dollars invested in a city asset which is a great example of public/private partnerships at work. He stated it is the "Deserts and Forests of the World" where there will be Fennec Foxes, all the reptiles and other things that live in the desert as well as the forest exhibit and is several thousand square feet. He recognized the presence of Gary Chasen, a member of the Zoo Board, and asked Darde Long, Executive Director of the Zoo, to come forward.

**SPECIAL PRESENTATION: CHATTANOOGA ZOO**  
**(Continued)**

**Darde Long** expressed thanks to the Council for their continued support and delighted in reporting the second USDA inspection which is a real accomplishment. She stated she has exciting news she cannot share just yet and presented Marisa Ogles, Director of Marketing and Communications, who presented Council members with a gift; that they have been working on their infrastructure and the people with her tonight represent some of the finest animal care staff. She presented Council members with tickets for the Banana Ball and expressed hope they can join them for the event. She introduced Ian Salter, a recent graduate of the UTC who has been involved with the Zoo since he was 15, as well as Lisa who was recently promoted to Curator of Birds and Animals, noting they are now doing Animal Adventure Shows each Saturday and Sunday which started during the celebration of their 75<sup>th</sup> Anniversary. She presented two animals from the zoo – a porcupine named Amira and a Wallerbe named Ben and informed the Council they are doing 75 Days of Fun to celebrate their 75<sup>th</sup> Anniversary. She stated they are delighted to be present to say “thank you” and again expressed hope the Council loud join them at the Banana Ball. She expressed thanks to Gary Chasen and the Board noting the Board is passionate about the Zoo. She stated they have a Mapco promotion going on where signs regarding the zoo are displayed which are to help encourage people to give money; that Mapco, free of charge to the Zoo and zero cost to the Zoo, did a 95 store promotion for three months this summer, during which time they collected money in boxes and there will be a substantial check presented to the Zoo on Saturday at the Banana Ball. She stated 8,300 people visited the Zoo this past Saturday during GoFest; that Jack Hanna will be present for the Ball on Saturday as well as the Mapco presentation on Saturday. She noted “Boo in the Zoo!” would be held for two weekends.

Councilwoman Robinson expressed her thanks! Chairman Ladd expressed appreciation to Ms. Long for being present and bringing the delightful guests!

**AMEND CITY CODE**

On motion of Councilman McGary, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 10, ARTICLE II, SECTIONS 10-10 THROUGH 10-30, RELATIVE  
TO HISTORIC ZONING**  
passed second and final reading and was signed in open meeting.

## CLOSE AND ABANDON

**MR-2012-101: ARS Ventures, LLC**

On motion of Councilwoman Scott, seconded by Councilman Benson,  
**AN ORDINANCE CLOSING AND ABANDONING OF THE UNIT BLOCK OF EAST MANNING STREET BEGINNING AT ITS INTERSECTION WITH THE WEST LINE OF THE 300 BLOCK OF WOODLAND AVENUE TO THE EAST LINE OF THE 300 BLOCK OF NORTH MARKET STREET; AN UNOPENED ALLEY BEGINNING AT THE UNIT BLOCK OF EAST MANNING STREET TO ITS INTERSECTION WITH THE 400 BLOCK OF NORTH MARKET STREET; AND AN UNOPENED ALLEY BEGINNING AT ITS INTERSECTION WITH THE SOUTH LINE OF THE UNIT BLOCK OF EAST MANNING TO THE NORTH LINE OF THE UNIT BLOCK OF EAST KENT STREET, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

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

## REZONING

**2012-082: Dr. W. C. Helton**

Pursuant to notice of public hearing the request of Dr. W. C. Helton to rezone property located in the 4200 block of Cherryton Drive came on to be heard.

The applicant was present; there was no opposition.

Councilwoman Berz inquired as to what Mr. Helton plans to do with the property.

**Mr. Helton** stated his first objective is to save the building as it was falling into disrepair, vandals were making a waste of it and his personal passion on this as it was at Alton Park and John P. Franklin School is to save the building to where it can become useful again in the community. He stated he is doing the same thing here and have already started working on the infrastructure, the water, power and lights that had basically been ripped out that have now been restored to two of the three buildings already and have put them in sanitary condition. He stated they hope to have that on all three buildings before he starts putting businesses or space in there; that he have been talking to school board members and other people about possible uses of the building once it is back in useable condition. He stated right now the county is still storing furniture in the main gymnasium and as they find other places for it they will be moving it out; that they may be in a position to lease some of the property back to the school system or other governmental offices who have expressed an interest.

**REZONING (Continued)**

Mr. Helton stated he plans to have after school-type programs, weekends and summers with programs that are not offered for credit in the school system, noting he is a retired school administrator with 30 years experience and will be doing such things as gymnastics and arts that are not offered in the school system. He stated the ball stadium is still there and they have cleaned that up and probably 400-500 things have crossed his desk that it could be used for and have churches talked about using it for church purposes. He stated if the economy ever picks up it will be a great opportunity for a lot of community-wide activities that he is certain everyone will be pleased with.

Councilman Benson stated this was approved by Planning but approved with conditions that are quality control for the adjacent neighborhoods. He asked that the conditions be read as they are the only reason the request received the recommendation for approval.

**Greg Haynes**, Director of Development Services with the Regional Planning Agency (RPA), the stated six conditions include: *"No access to Shawnee Trail; No boarding houses, lodging houses, dormitories or halfway houses; Truck delivery permitted only between 8:00 a.m. to 8:00 p.m.; If the building is demolished, the square footage of the new building cannot exceed one hundred twenty-five (125%) percent of existing building's footprint; Dumpster activity restricted between the hours of 8:00 a.m. and 8:00 p.m.; and Lighting to be directed down and away from residential areas"*.

On motion of Councilman Gilbert, seconded by Councilman Rico,

**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE PROPERTY  
LOCATED IN THE 4200 BLOCK OF CHERRYTON DRIVE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-  
4 OFFICE ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**REZONING**

**2012-119: Alan Haniszewski/RTB Holdings**

Pursuant to notice of public hearing the request of Alan Haniszewski/RTB Holdings to rezone part of properties located at 1944 Rossville Avenue and 1910 Jefferson Street came on to be heard.

The applicant was not present; there was no opposition.

**REZONING (Continued)**

Mr. Haynes stated this request was approved with the condition this is for single family only.

Councilwoman Berz inquired about the C-3, noting the recommendation is for approval for single family dwellings.

Mr. Haynes stated this is in an area where there is similar development; that the main reason for the C-3 is to have small lot size and not be restricted with frontage, lot size and building setbacks; that it gives them flexibility to match the development with the existing single family development that is already there in the area.

Councilwoman Berz asked if that is the condition; that it be single family. Mr. Haynes responded "yes"; that the typical C-3 conditions go with the C-3 residential and the condition was added to make sure it is only residential and not commercial.

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 PART OF PROPERTIES LOCATED AT 1944 ROSSVILLE AVENUE AND 1910 JEFFERSON STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

**AGREEMENT**

On motion of Councilman Rico, seconded by Councilwoman Scott,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH TENNESSEE AMERICAN WATER COMPANY RELATIVE TO WATER USAGE DATA FOR THE PURPOSE OF SEWER BILLING AND SHUT-OFF SERVICES FOR NON-PAYMENT**

was adopted.

**CHANGE ORDER**

On motion of Councilman Rico, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1 FOR ARCADIS U.S., INC. RELATIVE TO CONTRACT NO. W-10-003-101, CONSTRUCTION OF AREA 2 CLOSURE CAP FOR CITY LANDFILL FOR CONSTRUCTION ENGINEERING SERVICES, FOR AN INCREASED AMOUNT OF ONE HUNDRED TWENTY-EIGHT THOUSAND DOLLARS (\$128,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED SEVEN HUNDRED SEVENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$772,500.00)**  
was adopted.

**PAYMENT AUTHORIZATION**

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING PAYMENT OF AN ADDITIONAL THIRTY-SEVEN THOUSAND EIGHT HUNDRED FIFTY-THREE AND 21/100 DOLLARS (\$37,853.21) FOR CHATTANOOGA'S SHARE OF CHANGE ORDER NO. 1 (FINAL) OF THE CONTRACT BETWEEN THE CHATTANOOGA HOUSING AUTHORITY AND LEE ADCOCK CONSTRUCTION CO., INC., CONTRACT NO. E-10-016-201, FAIRMONT AVENUE TOWNHOUSES, FOR A REVISED CHATTANOOGA SHARE OF THREE HUNDRED SEVENTY-NINE THOUSAND FIFTY-THREE AND 21/100 DOLLARS (\$379,053.21)**  
was adopted.

**CONTRACT**

On motion of Councilman Rico, seconded by Councilman Scott,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO AWARD CONTRACT NO. W-12-006-201, ALTON PARK PUMP STATION UPGRADE AND NEW FORCE MAIN TO MAYSE CONSTRUCTION COMPANY, IN THE AMOUNT OF FIVE HUNDRED FORTY-NINE THOUSAND NINE HUNDRED NINETY DOLLARS (\$549,990.00), WITH A CONTINGENCY AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000.00), FOR AN AMOUNT NOT TO EXCEED FIVE HUNDRED NINETY-NINE THOUSAND NINE HUNDRED NINETY DOLLARS (\$599,990.00)**  
was adopted.

**ACCEPT FUNDS**

Councilman McGary made the motion to accept Resolutions (e) – (g) as one unit since they were all in reference to funds for the Main Terrain Art Park; Councilwoman Robinson seconded the motion; the motion carried. He expressed continued appreciation for Clearscapes Architecture, Allied Arts and the Lyndhurst Foundation for their vision and partnership concerning this particular project.

On motion of Councilman McGary, seconded by Councilwoman Robinson,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ACCEPT FUNDS FROM CLEARSCAPES ARCHITECTURE + ART, FOR CONCRETE ART FOUNDATIONS RELATIVE TO THE MAIN TERRAIN ART PARK, PARTNERSHIP AGREEMENT NO. R-11-001-803, IN THE AMOUNT OF TWO THOUSAND FOUR HUNDRED TWENTY-FIVE DOLLARS (\$2,425.00)**

was adopted.

**ACCEPT FUNDS**

On motion of Councilman McGary, seconded by Councilwoman Robinson,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ACCEPT FUNDS FROM ALLIED ARTS OF GREATER CHATTANOOGA RELATIVE TO THE MAIN TERRAIN ART PARK, PARTNERSHIP AGREEMENT NO. R-11-001-804, IN THE AMOUNT OF FIVE THOUSAND FIVE HUNDRED DOLLARS (\$5,500.00)**

was adopted.

**GRANT**

On motion of Councilman McGary, seconded by Councilwoman Robinson,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO APPLY FOR AND, IF APPROVED, ACCEPT A GRANT FROM THE LYNDHURST FOUNDATION FOR THE MAIN TERRAIN ART PARK, PARTNERSHIP AGREEMENT NO. R-11-001-802, IN THE AMOUNT OF TWENTY-SEVEN THOUSAND DOLLARS (\$27,000.00)**

was adopted.

**TEMPORARY USAGE**

On motion of Councilman McGary, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING FORK & PIE C/O MIKE ROBINSON TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED IN THE 800 BLOCK OF MARKET STREET FOR THE INSTALLATION OF AWNINGS, AS SHOWN ON THE MAP AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**STRATEGIC FUNDRAISING PLAN**

On motion of Councilman McGary, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF EDUCATION, ARTS AND CULTURE TO SOLICIT FUNDING FOR THE CIVIC FACILITIES ACCORDING TO THE ATTACHED STRATEGIC FUNDRAISING PLAN FOR 2012-2013**  
was adopted.

**SPECIAL EXCEPTIONS PERMIT**

**2012-110: Muhamed Mahalbasic**

The applicant was not present; there was no opposition.

On motion of Councilman Rico, seconded by Councilman Murphy,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR PROPERTY LOCATED AT 862 WHEELER AVENUE TO ALLOW A DUPLEX IN AN R-1 RESIDENTIAL ZONE**  
was denied.

**SPECIAL EXCEPTIONS PERMIT**

**2012-118: AD Engineering/Tiffany Farley**

The applicant was present; there was no opposition.

Councilman Benson stated there was no opposition in the district and noted he worked with the applicant. At this point he called for the question.



### SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated she will be voting against it because it is a special exception in an R-1 and thinks in principle that is not okay.

Councilman Murphy asked if this is for a proposed planned unit development, the applicant responded "correct".

Councilwoman Scott stated she would like more information about why it requires a special exception.

Mr. Haynes explained all planned unit developments (PUDs) are special permits which means any zone that permits residential can have a PUD overlaid on top of that which allows, in this case, an R-1 rather than developing it with single family detached residential which is what they want to do anyway; that the PUD also allows multi-family apartments, condominiums, townhouses -- any of those type of uses. He stated in this case the applicant wants to do single family but wants to have small lot sizes, less setbacks and less frontage which is typically why most people do an R-1 PUD. He stated the only thing is the zone underneath the PUD is the density, that an R-1 PUD only allows no more than five units an acre; an R-2 PUD would allow eight units an acre and the higher zone the more units. He stated in this case they want to do single family but in a straight R-1 they would have to do a 7,500 square foot lot with 60 foot frontage and they want to do less than that which is the main reason for this PUD.

Councilwoman Scott inquired as to the average dimensions on the lots. Mr. Haynes responded for this case it is 3.92 acres which equals fourteen (14) lots.

Councilwoman Scott inquired as to the current zoning.

Mr. Haynes responded "R-1"; that typically a preliminary PUD is done first, goes through the process and once approved a final is presented which goes back through the same process, or they can submit a plan to be reviewed and approved as a preliminary and final together which is what this one is -- a preliminary and final approval. He stated the only difference in that is they are required to submit more information, which they have done.

Councilwoman Robinson stated she is trying to get a correct orientation and asked if this is where the Allemande Hall is on the corner and whether it takes in all the property that runs ....

## SPECIAL EXCEPTIONS PERMIT (Continued)

**Tiffany Farley**, applicant, stated they are two properties that are joined together which is why there are two different addresses; that they are joining them together and re-platting it.

Councilwoman Robinson inquired as to the owner. Ms. Farley responded "Jason Davis".

Councilwomen Berz stated this is a great project but she has to think about law by exception or Ordinance by exception and keeps saying this on the record; that we need to change the ordinances to meet a growing and changing Chattanooga. She stated when we keep doing things by exception we set ourselves up for some of the lawsuits we have gotten into; that she thought she heard Mr. Haynes say R-2 would allow the applicant to do what she wants.

Mr. Haynes responded he used that for comparison; that a PUD can be put on any zoned property that allows residential; that the only zone that does not allow residential is M-1. He stated he used R-2 as a comparison, if an R-2 PUD is done more units per acre can be done; in an R-3 more units can be done an acre; that an R-1 is the least dense a PUD can be developed as no more than five units an acre can be done.

Councilwomen Berz stated from what Mr. Haynes just said the applicant wants to do more than that. Mr. Hayes responded "no", she wants to do less.

Councilwoman Berz stated it is the size of the lot. Ms. Farley responded "correct".

Councilwoman Berz asked if Mr. Haynes said an R-2 would allow for that. Mr. Haynes responded, "no".

Councilwoman Berz stated Mr. Haynes said there are more per acre in an R-2. Mr. Haynes stated that was just to explain there are different types of PUDs; that across the street is an existing PUD which is why Staff recommended approval as there is some precedence for it.

Councilwoman Berz stated there is a principle involved here and we keep coming up against it and that has to do with special exceptions. Mr. Haynes stated the difference with this special exemption permit is there is more required of the applicant.

**SPECIAL EXCEPTIONS PERMIT (Continued)**

Councilwoman Berz stated we need to change the ordinances to allow for changing instead of getting in the special exceptions loop all the time as it sets us up. She stated she plans to vote against this.

Councilman Rico called for the question.

Councilman Benson stated this is in the district he represents and knows we have had a complete renaissance on Pinewood and this is part of it; it is a great improvement and all the neighbors think so. He stated the problem is this is not the typical special exception; this is permitting this PUD; that this is not a special exception like the Meo Mio or the alcohol permits until three in the morning, this is a PUD. He encouraged everyone to drive up-and-down Pinewood as it is taking a house that has been under a threat of blight, overgrowth and unoccupied and are tearing it down and going straight back; that it is not going to be anything except an asset to this community. He stated they worked on it and asked if there were any complaints but has never heard any from the people who live around it and all are overjoyed with it. He encouraged the Council to vote for it.

Councilman Rico again called for the question.

Councilman Murphy asked if Mr. Bridger could come up with a new set of verbiage other than special exceptions to make everyone comfortable; that these are "tools" that are needed in a "tool box" and people keep get hung up on the special exceptions part of it.

**John Bridger**, Executive Director of RPA, stated they will do their best.

On motion of Councilman Benson, seconded by Councilman Rico,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A  
RESIDENTIAL PLANNED UNIT DEVELOPMENT ON PROPERTY LOCATED AT  
7435 AND 7437 PINWOOD DRIVE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted; **on roll call vote:**

<b>RICO</b>	<b>YES</b>
<b>MCGARY</b>	<b>YES</b>
<b>MURPHY</b>	<b>YES</b>

SPECIAL EXCEPTIONS PERMIT (Continued)

SCOTT	YES
ROBINSON	YES
BENSON	YES
GILBERT	YES
BERZ	NO
LADD	YES

LEASE AGREEMENT

On motion of Councilwoman Berz, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO ENTER INTO A LEASE AGREEMENT, IN SUBSTANTIALLY THE FORM ATTACHED, WITH DIAGNOSTIC RADIOLOGY CONSULTANTS, P.A. TO LEASE ONE HUNDRED SEVENTY-THREE (173) SQUARE FEET FOR AN X-RAY EXAMINATION AREA AT THE CITY OF CHATTANOOGA WELL ADVANTAGE CENTER**  
was adopted.

GRANT

On motion of Councilwoman Berz, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE GANG TASK FORCE TO APPLY FOR AND, IF AWARDED, ACCEPT A GRANT FROM COMMUNITY CULTURAL CONNECTIONS FROM ALLIED ARTS IN THE AMOUNT OF FOUR THOUSAND FIVE HUNDRED DOLLARS (\$4,500.00)**  
was adopted.

OVERTIME

Overtime for the week ending October 4, 2012 totaled \$24,739.31.

**(Councilman Rico excused himself from the meeting at this point.)**

## PERSONNEL

The following personnel matters were reported for the various departments:

### CHATTANOOGA FIRE DEPARTMENT:

- **MATTHEW MARTIN, WILLIAM PHILLIPS** – Promotion, Fire Lieutenant, Range F3A, \$43,358.00 annually, effective September 21, 2012.
- **TERRELL BRADSHAW, IAN MOON, LARRY OLIVIER** – Promotion, Firefighter Senior, Range F2A, \$36,004.00 annually, effective August 24, 2012.
- **JOYCE BRIDGES** – Promotion, Fire Captain, Range F4A, \$49,132.00 annually, effective September 7, 2012.

### FINANCE DEPARTMENT:

- **MISTY O'MALLEY** – Leave without Pay, Management Budget Analyst 1, effective October 1-19, 2012.

## DONATIONS

Admin. Zehnder duly reported a significant donation from Bright School in the form of a sculpture entitled "Star Light Star Bright" valued at \$30,000.00. He also distributed a listing of Senior Olympic Winners for 2012 from Hamilton County and gave a briefing on the Bike Share Program noting the total number of trips between July 23 and October 8 totaled 10,000 with an average trip per day of 127. He stated the busiest day is 298 trips, busiest 48 hour period is 427 users, the average trip time is about 25 minutes and the total mile traveled with the bikes is about 2,000 miles. He stated another factoid is the initial impact of this is we saved 400,000 calories that were burned because people are now using bicycles!

## DONATIONS

Admin. Crutchfield duly reported the donation of \$3,000 from the Chattanooga Bar Association in support of the Connecting the Dots Summit and \$3,000 from the Electric Power Board in support of the veterans' memorial kiosks and information system.

### NOTE OF THANKS

Chief Parker expressed thanks to Council members who were present for the Fire Prevention Kickoff and announced that Lt. Terry Knowles was named "Firefighter of the Year". He stated he is a fine young man and wanted to recognize him tonight.

Councilman Murphy expressed thanks to the Chief and asked if he has spotted the two ways out of the Assembly Room, as we are to do that for Fire Prevention Week. Chief Parker responded "yes"; that there are four exists out of the Assembly Room!

### DONATION

Captain Neblette duly reported a donation from Target in the amount \$4,999.00 for community outreach programs such as the Community Safety Fair; that this past year the Fair was held at Virginia College and this year it will be at Coolidge Park.

### PURCHASES

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

PUBLIC WORKS DEPARTMENT:

**SOLUTIONWERKS, INC. (Best proposal)**

**R64294**

Purchase of Maintenance Services and Supervision for Cryogenic Oxygen Plant, Five year Turnaround

\$217,300.00

**THE ESCHELMAN COMPANY (Best bid)**

**R64291/302173**

Purchase of One (1) Rotacut Macerator

\$26,586.00

## PURCHASES (Continued)

PERSONNEL DEPARTMENT:

FITCO (Lowest bid)

R65149/302209

Purchase of Fitness Equipment

\$179,769.00

## BOARD APPOINTMENTS: HOUSING AUTHORITY

Dan Johnson reported the appointments/re-appointments of proposed appointees to the Chattanooga Housing Authority, however **Councilman Gilbert made the motion that the CHA requests be deferred two weeks; Councilman McGary seconded the motion.**

## BOARD APPOINTMENT

On motion of Councilwoman Berz, seconded by Councilman McGary, the following Board appointment was approved:

### STORMWATER REGULATIONS BOARD

- Appointment of **DONALD R. CONLEY III** for a four year term expiring October 1, 2016.

## CERTIFICATION OF ELECTION RESULTS

City Attorney McMahan reported receipt of the Official Certification from the Election Commission of the two items on the August ballot with the first being Ordinance 12525 which dealt with the deannexation of the Elder Mountain property; that the vote was 21 in favor and 20 against. He also reported there has been an election contest filed on that and since there was a one vote difference if the court should find only one person was not entitled to vote in that election that election will become uncertain and will have to do it over again; that until the judge rules we do not know that.

## CERTIFICATION OF ELECTION RESULTS (Continued)

City Attorney McMahan stated the other election in August was on Ordinance 12566 which dealt with the independent City Auditor which passed by a total of 14,152 to 5,156.

**(The Official Certification document is filed with minute material of this date.)**

## PUBLIC HEARING

City Attorney McMahan stated on next week's agenda is an ordinance *"Adopting a plan of services and extending the corporate limits of the city of Chattanooga, Tennessee by annexing certain territory contiguous to the present corporate limits of said city being Tax Map No. 132A-A-026 to this ordinance located in Hamilton County, Tennessee owned by Barrier Properties, LLC d/b/a Cambridge Square being more fully described herein"*. He stated Mr. Price is present representing the property; that this is the annexation of approximately four-to-five tenths acres of property which is partially in the city and partially in the county. He declared a public hearing in process and asked if there is anyone present who desires to comment on this matter; being none the hearing was duly closed.

## COMMITTEES

Councilman Gilbert asked for a discussion in Housing Committee regarding the Chattanooga Housing Authority appointments. Councilwoman Robinson scheduled a meeting of the **Housing and Neighborhood Services Committee for Tuesday, October 16** and clarified that the meeting is just in regard to the Housing Authority appointments.

Councilman Murphy stated it is his understanding the discussion desired was of residency in general and not necessarily the Housing Authority Board per conversation. It was noted there are two separate issues; that this is just in regard to appointments to the Chattanooga Housing Authority Board. He scheduled a meeting of the **Legal, Legislative and Safety Committee for Tuesday, October 16** immediately following the Agenda Session.

Councilwoman Scott stated there was a post audit review on fleet purchases done November 3, 2011 and the conclusions of that were the vendor that was examined was selling catalog items to the city at a markup of fifteen percent over their cost which was not in keeping with the contract; that the vendor had not met contract terms related to the parts of the contract that were to be sold



## COMMITTEES (Continued)

with static pricing; that the employees were purchasing from the vendor items that were not under the blanket contract and there were not proper checks/overseeing of the contracts with the vendor. She stated the department has made some recommendations and reported that fleet services working with Internal Audit determined the amount of overcharges which was \$12,903 which has been credited back based on that review; that there have been other changes with the way contracts are handled to improve the process. She stated the other thing is it was determined they would not be just stocking things and actually ordering parts as they were used which should cut down on costs noting the city has made some excellent progress on that.

Councilwoman Scott also stated Council members received a memo on October 5 from the City Auditor and the city has to follow TCA 6-56-304 requiring all purchases be made only after public advertisement in competitive bid unless specific exemptions exist, being purchases that are under \$10,000, purchase for emergency needs, purchase of real estate property or contracts for services from professionals of high ethical standards, i.e., engineers and architects. She stated there has been a law -- Tennessee Code Annotated 12-3-1011 -- which allows a municipality to use competitive sealed proposals which purchasing has been doing to purchase goods and services rather than competitive sealed bids, however, the Council has to pass an ordinance to allow that. She asked the Council if they have looked over the memo and decide; that if we need to go with the initial law on that then we do not need to meet, but if not and we need to pass another ordinance to allow us to do that, we do need to meet. She inquired as to the consensus of the Council.

City Attorney McMahan stated his department is working on a proposed ordinance to bring to the Legal and Legislative Committee and the Council can decide at that time whether it is worthwhile to adopt it.

Councilmen Murphy thanked Councilwoman Scott for bringing the matter up; that this type of thing where we are trying to figure out which direction the Council wants to go going forward is probably better reserved for our agenda meeting we have each Tuesday. He stated we can "cut to the chase" on these things a lot sooner and if they are a time pressing theme it is possible additions can be made to the agenda and solve the problem at the evening meeting rather than just initially having it brought up.

Councilman Benson stated The Economic Development Committee will not meet until we conclude the study that the City Attorney and RPA is doing to make certain recommendations on the TIF policies and practices.

## COMMITTEES (Continued)

City Attorney McMahan stated he and John Bridger had discussed this and it will probably be a series of meetings where certain topics will be brought forward for discussion.

John Bridger stated they have a rough draft that they are reviewing with administration, will send it to stakeholders for review and feedback and at that point will have a draft to present to the Council, estimating it would be at least three weeks out from an initial draft presentation to Council. He stated the Council will need to deliberate on it some and that is the need for the three months.

Councilman Benson stated he will plan three weeks from now or whenever it is ready. He acknowledged the presence of attorneys here tonight regarding the previously approved TIF wanting to know if they are present to speak or just observing.

Atty. Mike Mallen stated at the conclusion of the meeting they might want to say something.

## NEXT WEEK'S AGENDA: OCTOBER 16, 2012

Chairman Ladd referred Council members to next week's agenda and inquired as to whether there were questions; being none, the meeting continued.

## KARL EPPERSON

**Karl Epperson** of 1201 Boynton Drive expressed thanks to the Council for attending the Affordable Housing Summit on the Westside noting it was very informative on both sides and that he learned a lot of things from the Council. He stated those who could not attend or did not attend for whatever reason missed a good meeting. He stated five main things were covered and it was said we needed better paying jobs, better transportation, better education, affordable housing, a better voucher program and not such a long waiting list for affordable housing and addressing the gang problem. He stated Councilmen Benson and Rico were on the Council when he ran for Mayor eight years ago and if it is researched it will be found the things the "press" asked and was discussed in debates when he ran for Mayor in 2008 was better paying jobs, better transportation, better education, affordable housing and why there was a backup on the waiting list for it and the gang problem that was beginning to

### **KARL EPPERSON (Continued)**

come! He stated this shows this Council and the people of this city have discussed these same problems for the past eight years and with that much discussion does it not beg to answer the question "when are we going to get together and act upon them"!

### **ROBERT LEBRON SMITH**

**Robert Lebron Smith** of 3605 East Glen Court stated his concern is when he turns off Sumter on Nimitz the street is deteriorating somewhat badly as to where it is difficult to turn in anymore; that he received a bill from the county and city for taxes and will do that. He expressed hope at this point the city would send someone to make corrections on the corner because it is deteriorating which is his main purpose for being present. He expressed appreciation that something be done.

Councilman Gilbert stated Mr. Smith was at the meeting this past Saturday and brought this matter up. He expressed hope people from Public Works would address the situation as the road is deteriorating. He stated a lot of the members in the community are concerned about Tunnel Boulevard as it is a main corridor and is a terrible road; that they are looking for something to be done as that was the main theme of that night as something needs to be done for Tunnel Boulevard, noting Councilman Murphy agrees, as well.

Chairman Ladd asked Admin. Leach to meet with Mr. Smith after the meeting to inform him of the plans and any specifics about his (Smith's) particular area.

### **REV. ROBERT K. LEOPOLD**

**Rev. Robert K. Leopold** of 1616 Read Avenue was present representing both the clergy, fellows in the Body of Christ, stating they consider fair housing, affordable housing, to be a moral issue. He stated he and his Brother Clergy were not able to attend the Summit last evening but wanted their "voice" added to the conversation. He stated he has personally lived in the south side since July of 2008 and one of the things that attracted him and those like him to the south side is the diversity of the area; that since he moved into the neighborhood he has seen people going from living in houses to being homeless which pains him as a person of Faith. He stated often developing properties do not live in the developments they develop as they put profits over the neighborhood and over the neighbors -- profits over people; that there is a moral need for affordable

**REV. ROBERT K. LEOPOLD (Continued)**

housing in this city, particularly in the heart of the city downtown and on the south side. He stated a war on poverty does not mean a war on the poor; that today he stands before the body on behalf of himself and his Brother Clergy in solidarity with the poor. He ended his comments by reading Matthew 25 noting at the end of the reading that he would not tell what happened to the goats, because it was not good.

**LEROY GRIFFITH**

**Leroy Griffith** of 115 Grove Street, Apartment A expressed concern about the Mayor's nominations, noting it is not a direct thing against the Mayor; that there are many like him who think there should be more people who live in public housing on the Housing Authority Board that governs public housing. He stated that is the way to get the most expertise of how to solve some of the problems in public housing.

**BUCK SCHIMPF**

**Buck Schimpf** of 318 South Crest Place stated he is a real estate developer of 40 years with the last 20 years here in Chattanooga and most of those developments have been in the urban core discussed in this overlay of affordable housing. He stated he is well aware of risks and is trying to separate the moral issues of that type of problem that we need to solve versus the economic issues of developing in downtown Chattanooga or any downtown. He stated in his years of developing he was very comfortable and became knowledgeable if there is a substantial residential tax base there is a thriving downtown. He stated this is a fairly new problem as 10-11 years ago when he purchased Loveman's no one believed anybody would move to downtown and now it has gone to the other end. He stated when he did Loveman's it was not necessarily for a profit as it was not much of a profit but (he) did get his share out of it. He stated it proved downtown living was desirable and could be accomplished on a grander scale and in that way it did prove that and it was a success; that four years ago he purchased the land now called Cameron Harbor and is getting ready to celebrate the first phase grand opening of the Springhill Suites Hotel by Marriott this Thursday. He stated part of that will be subsequent residential, different types of restaurants and is proud of the Riverwalk which will be constructed and will be given to the city.

### BUCK SCHIMPF (Continued)

Mr. Schimpf stated his reason for mentioning both developments is neither one would have happened if the ordinance as written was in place; that he read the *Chattanooga Home for All* and likes the report and the different statistics in the affordable housing ordinance noting he has a lot of questions about it; that although the effort is laudable he did not see any developers, lenders, appraisers, risk takers, people that actually make it happen being part of this solution we all have to find. He stated he will not go through the different things in the report although he has several; that we do have several problems that any downtown developer will do -- the assembling of the proper amount of land, the cost, the construction, taxes. He stated one small basic economic example of how this affects because it is said it is a very small portion -- a 100 unit complex and take 10 percent, it takes \$500 of rent which would normally pay \$1,500, that is \$1000 a month for ten units that would be lost; twelve months is \$120,000; current appraisals at six percent is a \$2 million dollar value that disappears but the cost is still there. He stated these are the things that are economics, not the moral issue, just plain and simple economics.

Chairman Ladd thanked Mr. Schimpf for coming to share his view point; that one of the positives that occurred with the Summit held last evening was the need for more discussion with developers, involving everyone in this process. She guaranteed there will be ongoing dialogue and expressed hope it will be done the way things normally happen in Chattanooga; that we will find a "fit" that matches our city and it is one design and model that will hopefully work for a lot of needs; that she wants Mr. Schimpf to be involved in that.

### HELEN BURNS SHARP

**Helen Burns Sharp** of 129 Walnut Street distributed a position paper she prepared on the proposed Black Creek Mountain TIF project. She stated this case is coming before the IDB on next Monday and she will be requesting that the IDB hold a public hearing before considering the resolution; that she realizes the Board had the required public hearing on May 1 and therefore met the letter of the law but that was at a time when no one knew about this project and the notice was in the classified section of the paper. She stated it is her thought from everyone's standpoint it would be better if there were another public hearing so that everyone could ask questions and make comments, including the developers. She stated in her position paper she identified 15 issues she thinks need to be addressed prior to issuance of bonds that range from eligibility of the project under state law to the precedent approving this project may set. She stated this work is entirely hers and did not work with any other individuals or interest groups; that she became aware of the project after

### HELEN BURNS SHARP (Continued)

reading about it in the paper, after the Bond Board meeting; that in her professional career she was involved in tax increment financing districts and it is a very valuable economic tool, was glad it was being explored in Chattanooga and started following it.

Ms. Burns stated she would like for the record to reflect she was not seeking controversy or the limelight and has no personal agenda against the developers; that she has heard and believe they are successful businessmen who give back to the community; that the article in the Times-Free Press about that project is wonderful and sounded like a TIF project. She stated it is her thought Black Creek is a great development and is sorry she is putting the Council and Bond Board in a difficult situation which seems to be at the end of the process. She stated all that voted for this believed it was in the best interest of Chattanooga; that what frustrated her about the process is there were no guidelines in place to guide the Council; that she tried in e-mails to raise issues that she hoped the Council would discuss. She stated the fundamental concern was and is the issue of public benefits since developers are requesting a \$9 million dollar public tax subsidy; that they make the case the tax base will go from here-to-here (*demonstrating a large portion with her hands*) once the area is developed and believes it will; that even after the 15 year period where the city will not be getting taxes what studies show – what she thinks is a common misconception – is that residential development on the fringe of the city will be taking in so much property tax revenue but will cost more to provide services.

Ms. Burns stated her other concern is whether or not this is really economic development as there is no specificity on the number of jobs, where they will be, what they will pay, nothing in the development agreement to say what will happen if they do not materialize. She stated once the Council voted to approve the plan she tried to get over it and go to the last meeting; that she called Mr. Mallen and asked if it would be on a particular agenda because she wanted to be there and he told her he could not tell her unless she got an attorney, so she got an attorney who has reviewed her work on this project.

Councilwoman Scott addressed Mr. Bridger and stated as the RPA works to try to draft guidelines or criteria is there any room for citizens like Ms. Sharpe that might want to give input into that since she has had some experience in another city.

Mr. Bridger stated once they have administration's review of the draft they can put it on the website and that way anyone who wants to look at it and review can give feedback; that the more review and feedback they get the better.

### HELEN BURNS SHARP (Continued)

Councilman Benson stated Ms. Sharpe has hired Mr. Konvalinka for assistance and asked if that puts the Council in a place where the lawyers will have to get involved in this; that he is afraid to say anything!

City Attorney McMahan stated the lawyers have been involved and will be involved and the Council should feel free to openly discuss whatever it is they want to discuss concerning this project.

### ALFRED SMITH

**Atty. Alfred Smith** of Miller and Martin, 832 Georgia Avenue, noted he lives at 216 Scenic Highway. He asked Atty. Mike Mallen to distribute a memo that was prepared by George Masterson; that at the suggestion of a member of the City Council when they started the process of the Black Creek Mountain TIF they engaged Berry and Sims, a very fine firm in several cities in Tennessee, who had been the draftsman of the 2004 amendment to the Industrial Development Corporation Act that allowed TIFs to be done through the IDB. He read from Mr. Masterson's memo a summary paragraph which has been spread upon the minutes: *"As a general response to Ms. Sharp's request, I point out that the Black Creek Mountain TIF plan has been previously approved, after publication of all required notices and extensive discussion, by the Chattanooga IDB, the Hamilton County Commission" (a 9-0 vote) "and the Chattanooga City Council" (a 5-2 vote). "Mrs. Sharp now seeks to delay the TIF financing by requesting that the members of the IDB vote against approval of documents that implement a financing that is consistent with the prior IDB, County and City approvals, complies with all applicable state laws and expressly imposes no risk of non-payment or default on the IDB, the City or the County"*.

Atty. Smith stated the developers have proceeded with this project, have already spent substantial sums of money on beginning the road up Aetna Mountain; that he has not seen Mrs. Sharpe until tonight's meeting. He stated he saw her letter in the paper and read about her appearances before the IDB and does not understand where she was when this was discussed before the City Council and when it was discussed at great length before the County Commission as those were the places to raise issues like this. He stated it is the "fourth quarter, the buzzer has sounded and the game is over on this"; that it is his thought they have adequately addressed all the issues in the past and knows they have adequately addressed all the points she raised in her memo that was distributed to the Council.

### ALFRED SMITH (Continued)

Councilman McGary stated he can answer the question as to where Ms. Sharp was during the discussion with the Council; that she had appealed to a number of Council members, he being one, and met with her a couple times at least prior to the initial discussion concerning the TIF and has had opportunity to discuss this issue with her at length; that in fact some of her concerns were concerns he has voiced. He stated the Council, from his perspective, was "flying blind" in regard to state law governing how we should act, but as a Council had not given thorough discussion toward this subject concerning TIF financing; that we were discussing it only in concert as to a project and felt that was a little backward, not that he was against the project, per se, but felt there were no guidelines and now find ourselves backing up, issuing a moratorium and going through that same process. He assured Ms. Sharp was part of that process and noted it is his understanding that the document distributed before the Council is in regard to a response to Ms. Sharp's article in *The Chattanooga*. Atty. Smith responded "yes".

Councilman McGary stated it is not in response to the memorandum Ms. Sharpe distributed. Atty. Smith stated it is the same thing that she just passed out that was in *The Chattanooga*; that he has not seen what she just passed out but assumed it is the same thing.

Councilman McGary asked Ms. Sharp if it is correct what just produced to the Council was printed in *The Chattanooga*. Ms. Sharpe responded "that is correct".

Councilman McGary stated in light of what Ms. Sharp said to the Council regarding attorneys he asked Mr. Mallen to testify to the truthfulness of her assertion that she approached him and was told she could not get information until she had an attorney, and noted now that she has an attorney are the two parties talking, is there any communication - what is happening.

**Atty. Mike Mallen** thanked Councilman McGary for asking the question noting Ms. Sharp called him two-to-three months ago and asked when the IDB meeting was going to happen and pressed him with that question; that it is his thought she thought he was clairvoyant as the IDB meeting had not been scheduled at that time and there was no way he could have told her when the meeting was because it had not been scheduled. He stated the appropriate thing to do was to finish the drafting of the bond documents and then schedule it, not schedule something not knowing how long the bond documents would take to satisfactorily complete; that it was a question that had no answer because the meeting had not been scheduled.



### ALFRED SMITH (Continued)

Atty. Mallen stated he told her he was not able to answer her question and then she asked if he would help her understand some things about TIF legislation and he told her ethically that was very inappropriate since his client was active in this project and told her if she had legal questions she needed to seek legal advice but he was not going to render any advice and that is the first part.

Atty. Mallen stated the second part of Councilman McGary's questions "are the parties talking", they received a copy of what the Council received under cover from John Konvalinka mid-afternoon, so, "no", he has not talked to John and John has not reached out to them; that in looking at the cover letter it looks like John just ministerially sent her work product over, which is what it appears to him. He stated he cannot answer; that Ms. Sharp can answer if John's firm is actually preparing what the Council has. He stated during her conversation with the Council she said it was her exclusive work product.

Councilman McGary stated going forward what can be expected as it seems more documents can be produced but asked where the true conversation is taking place.

Atty. Mallen stated the conversation takes place Monday at the legally called and noticed IDB meeting; that they have met all the legal requirements and elements and will ask the IDB to proceed with approval of the bond documents; that they have already unanimously approved the project.

Councilman McGary asked if Mr. Mallen sees any need to have a conversation in light of the documents produced.

Atty. Mallen responded "no"; that Councilman McGary can read Ms. Sharp's misinterpretations of Tennessee law; that she worked in Oregon and Tennessee is not compelled to follow Oregon; that that is her major misinterpretation as she is going by how things are done in Oregon.

Councilman Murphy stated he "wears many hats" and one of them is as a member of the County IDB and the city and county have the Industrial Development Corporations and if Ms. Sharp wants to make a plea to them she can do that and the attorneys can tell that Board it is too late and thinks they should not go back on what they have already decided. He stated he is a little bit at a loss as to why we are here tonight; that the attorneys know how he voted and thinks they are great; that he came out on the "wrong side" of that one, but that vote is over and asked why are we here.

**ALFRED SMITH (Continued)**

Atty. Smith expressed agreement with Councilman Murphy's comments but slightly in a more refined manner as the policy decision on this was made as it should have been by the County Commission and the City Council and those votes were made several months ago. He stated the IDB is just a conduit to provide the financing; that we start with the IDB under the Statute, come back to the IDB to approve the bond documents, which is what will be done on Monday; that it really is not necessary and will do it if they have to, but it is really pointless to go back and discuss the policy issues before the IDB which does not even make the policy decision in the first place.

Councilman Murphy stated they (IDB) have a fiduciary duty as members of that Board; that Ms. Sharp's argument will be this is a bad decision for the Corporation; Mr. Smith's is it is a good one and the point he just made. He stated his point is this is the wrong place for this discussion at this point.

**ADJOURNMENT**

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, October 16, 2012 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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