

**City Council Building
Chattanooga, Tennessee
March 30, 2004
6:00 p.m.**

Chairman Franklin called the meeting of the Chattanooga Council to order with Councilmen Benson, Hakeem, Littlefield, Lively, Page, Pierce and Robinson; Councilman Taylor was absent due to personal commitment. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Chairman Franklin gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilwoman Robinson, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 4, ARTICLE II, SECTION 4-41, RELATIVE TO AIR POLLUTION
RULES, REGULATIONS, CRITERIA AND STANDARDS, BY ADDING RULE
25.10 RELATIVE TO GASOLINE DISPENSING FACILITIES**
passed second reading. On motion of Councilman Hakeem, seconded by
Councilman Lively, the Ordinance passed third and final reading and was
signed in open meeting.

CLOSE AND ABANDON

MR-2004-030: Hixson Church of Christ

On motion of Councilman Page, seconded by Councilman Lively,

AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE OPENED 5500 BLOCK OF CLEAR CREEK ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

passed second reading. On motion of Councilman Littlefield, seconded by Councilman Hakeem, the Ordinance passed third and final reading and was signed in open meeting.

AMEND CITY CODE

Councilman Littlefield stated that this matter

On motion of Councilman Littlefield, seconded by Councilman Benson,

AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 35, ARTICLE IV, SECTION 160, RELATIVE TO BILLING AND CHARGES FOR DISTRICT WRECKERS

was tabled four weeks (April 27, 2004).

CLOSE AND ABANDON

MR-2004-044: Nick Young

Councilman Hakeem stated this Ordinance and Resolutions (a), (b) and (e) were discussed in today's Public Works Committee meeting and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,

AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED PORTION OF THE 2800 BLOCK OF EBLEN DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

passed first reading.

CHANGE ORDER

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL), RELATIVE TO CONTRACT NO. W-02-012, MARTIN LUTHER KING BOULEVARD STORMWATER DETENTION, WITH MAYSE CONSTRUCTION COMPANY, WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY SEVENTY-NINE THOUSAND SIX HUNDRED SEVENTY-NINE AND 75/100 DOLLARS (\$79,679.75), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ONE MILLION ONE HUNDRED ONE THOUSAND FOUR HUNDRED THREE AND 76/100 DOLLARS (\$1,101,403.76)
was adopted.

TEMPORARY USE: DEVAN NORMAN

On motion of Councilman Lively, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING DEVAN NORMAN OF DESIGN BUILDERS OF CHATTANOOGA, INC. TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT THE ENTRANCE AND EXIT OF 5851-5861 FISK AVENUE TO EXTEND THE TEMPORARY USAGE LIMITS FOR APPROXIMATELY 200 FEET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

CONTRACT

On motion of Councilman Littlefield, seconded by Councilman Lively,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE A CONTRACT WITH HAZLETT, LEWIS & BIETER, CERTIFIED PUBLIC ACCOUNTANTS, TO AUDIT THE BOOKS, RECORDS AND ACCOUNTS OF ALL FUNDS OF THE CITY OF CHATTANOOGA FOR THE FISCAL YEAR ENDING JUNE 30, 2004, SUBJECT TO APPROVAL BY THE COMPTROLLER OF THE TREASURY, STATE OF TENNESSEE, AS PROVIDED BY LAW, FOR AN AMOUNT NOT TO EXCEED ONE HUNDRED SIX THOUSAND FIVE HUNDRED DOLLARS (\$106,500.00) FOR THE 2004 FISCAL YEAR, WITH A TWO POINT FIVE PERCENT (2.5%) ESCALATOR FOR THE SUCCEEDING FOUR (4) FISCAL YEARS, WITH THE FEDERAL AND STATE PROGRAMS, AND THE JOINTLY FUNDED AGENCIES PAYING A PRO -RATA SHARE OF THE COST
was adopted.

GRANT APPLICATION

On motion of Councilman Lively, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA FIRE DEPARTMENT TO APPLY FOR A GRANT FROM THE UNITED STATES FIRE ADMINISTRATION AND THE FEDERAL EMERGENCY MANAGEMENT AGENCY IN THE AMOUNT OF FOUR HUNDRED THIRTY THOUSAND DOLLARS (\$430,000.00), WHICH, IF AWARDED, WILL REQUIRE LOCAL MATCHING FUNDS OF ONE HUNDRED TWENTY-NINE THOUSAND DOLLARS (\$129,000.00) AND, IF SELECTED FOR APPROVAL, AUTHORIZING THE ACCEPTANCE OF SAID GRANT AND PAYMENT OF LOCAL MATCHING FUNDS
was adopted.

CONTRACT

On motion of Councilman Littlefield, seconded by Councilman Lively,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. W-03-002, MARKET STREET STORM DRAIN AND INTERSECTION IMPROVEMENTS (1ST STREET TO 4TH STREET) TO TALLEY CONSTRUCTION COMPANY FOR A TOTAL AMOUNT NOT TO EXCEED ONE MILLION THREE HUNDRED NINETY-SEVEN THOUSAND SIX HUNDRED SEVENTY-SEVEN AND 07/100 DOLLARS (\$1,397,677.07) INCLUDING A CONTINGENCY FEE IN THE AMOUNT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)
was adopted.

OVERTIME

Overtime for the week ending March 26, 2003 totaled \$7,789.93.

PERSONNEL

The following personnel matters were reported for the following departments:

PUBLIC WORKS DEPARTMENT:

- ✍ **CURTIS BUSBY** – Promotion, General Supervisor, Traffic, Pay Grade 14/Step 4, \$34,405.00 annually, effective March 19, 2004.

PERSONNEL (Continued)

- ✍ **WARREN TILLISON** – Lateral Transfer, Sanitation Worker, Citywide Services, Pay Grade 3/Step 11, \$25,823.00 annually, effective March 24, 2004.
- ✍ **HARRY H. JACKSON** – Hire, Crew Worker, Sr., Citywide Services, Pay Grade 5/Step 1, \$19,234.00 annually, effective March 29, 2004.
- ✍ **GEORGE MAFFETT, JR.** – Suspension (5 days without pay), Refuse Inspector (Citywide Services, effective March 24-30, 2004.
- ✍ **DWIGHT MANGHANE** – Suspension (8 days without pay), Equipment Operator, Sr., Citywide Services, effective March 24 – April 2, 2004.
- ✍ **JENNINGS ROBINSON, JR.** – Dismissal, Crew Worker, Citywide Services, effective March 25, 2004.
- ✍ **WALTER D. YOUNG** – Family Medical Leave, Crew Worker, Sr., Citywide Services, effective March 24 – June 16, 2004.
- ✍ **JIMMIE LEE WRIGHT**—Retirement, Crew Worker, Citywide Services, effective April 9, 2004.
- ✍ **SAMUEL L. BOYD** – Retirement, Equipment Operator, Sr., Citywide Services, effective March 19, 2004.

CHATTANOOGA FIRE DEPARTMENT:

- ✍ **CAPTAIN GARY ANDERSON** – Suspension (6 days without pay), Captain/Firefighter, effective March 26-April 4, 2004.

CHATTANOOGA POLICE DEPARTMENT:

- ✍ **ANDREW HILTON** – Resignation, Sergeant, effective April 1, 2004.
- ✍ **MITCHELL MOSS** – Return to Duty (from military duty), Police Officer, effective March 29, 2004.
- ✍ **CORTNEY WELTON** – Resignation, Secretary Senior, effective March 23, 2004.

PERSONNEL (Continued)

✍ **WAYNE HENNESSEE** – Hire, School Patrol Officer, \$26.79 per day, effective March 8, 2004.

PURCHASES

On motion of Councilman Page, seconded by Councilman Hakeem, the following purchase was approved for use by the Parks, Recreation, Arts and Culture Department:

MARSHALL MIZE FORD (Best value bid)
R0075005/B0001297

Two 4 X 2 Super cab Trucks (\$15,033.00 each)

\$30,066.00

CARRIER CORPORATION (Lowest evaluated and best bid)
R0063140/B0001164

HVAC Preventative Maintenance

\$33,320.00

PURCHASE

On motion of Councilman Lively, seconded by Councilwoman Robinson, the following purchase was approved for use by the Public Works Department:

BRADLEY TANK & PIPE (Lowest and best bid)
B0001161

Corrugated Metal Pipe

(Price information available and filed with minute material of this date)

COMMITTEE APPOINTMENTS

On motion of Councilman Littlefield, seconded by Councilman Page, the following committee re-appointments/appointments were approved:

NORTH SHORE REVIEW COMMITTEE:

- ? Re-appointment of **CLIFF BETTS** for a term expiring March 30, 2005;
- ? Re-appointment of **JOHN CLARK, TONY GREEN, DAVID KLING,** and **BILL WILKERSON** for terms expiring March 30, 2006;
- ? Appointment of **BLYTHE BAILEY** and **KARNA LEVITT** for terms expiring March 30, 2007.

BOARD APPOINTMENTS

On motion of Councilman Lively, seconded by Councilman Littlefield, the following board appointments were approved:

STORMWATER BOARD:

- ? Appointment of **JIM MOEGLIN, MILTON JACKSON** and **DOUG STEIN** for terms expiring March 30, 2006;
- ? Appointment of **RAY ADKINS** and **HARRY TATE** for terms expiring March 30, 2005;
- ? Appointment of **KEN DEFOOR** and **CLYDE SAWYER** for terms expiring March 30, 2007.

LIQUOR LICENSE

Councilman Littlefield stated Admin. Eichenthal and the City Attorney have made him aware that they have an application tonight from an individual for a retail liquor license. He stated while these requests are usually passed without a great deal of confusion, there is a question on the application where the individual has to indicate any violations of state or federal law. He stated the individual checked "no" and police records reflect the individual pled guilty to a DUI offense.

LIQUOR LICENSE (Continued)

Councilman Littlefield stated this presents a couple of problems; one, due to the DUI and secondly, the individual answered the question inaccurately or untruthfully, depending upon how a person would want to view it, and for that reason the told the City Attorney he would **make a motion that the application be denied; Councilman Lively seconded the motion.**

Councilman Pierce stated that he normally does not sign liquor licenses and would not sign this one, yet it was his thought this is sort of hard on a person charged with DUI. He stated that he has looked at a number of elected officials and others who have had this misdemeanor and indicated that he is not supportive of the industry. He stated even though this person misrepresented himself and did not say he had been charged with DUI, his major thing was that he wanted to go into business and did to want to be turned down merely on those facts. He stated that he personally thinks this is not enough reason to deny a person a license.

Councilman Benson stated that he would like to hear how the question is worded and maybe the individual did not think it was a felony, and it is not a felony.

City Attorney Nelson read the question from the application which states, *“Has the owner ever been convicted of a violation of any State law, Federal law or City ordinance”*.

Councilman Benson stated that the individual clearly prevaricated.

City Attorney Nelson stated that the individual checked *“no”*.

Councilman Benson asked in what district is the license being requested.

Councilman Littlefield stated that it is in his district, District 6.

Councilman Hakeem stated that he knows enough about the gentleman to know that if he talked to us now the Council would not understand 75% of what he had to say as he is not a native American. He asked if the individual has an alternative as far as *“talking”* with the State.

City Attorney Nelson stated that it is a requirement of the State to grant the license; that if the individual disagrees with the action he can file in Chancery Court within 60 days and have the Council's decision reviewed.

LIQUOR LICENSE (Continued)

City Attorney Nelson stated that the Council has before them three possible decisions: (1) that they could sign the application, (2) not act at all, in which after 60 days it becomes tantamount to approval and the State will act as if the Council granted it, and (3) move to deny as Councilman Littlefield has done.

Councilman Littlefield stated that he is not judging the individual, as he does not know him and really "feels" for his circumstances. He stated that it is quite possible he misunderstood the importance of the question, yet given the circumstances he does not see any other option and does not claim to be a saint, himself! He stated there are a combination of things, firstly, the DUI and dealing with the liquor industry and secondly, the untruthful response. He stated given the question he could have checked "yes" and gone into a long explanation of all that happened; that the individual might have tried to avoid going into detail. He stated for himself it would be that he had learned an important lesson and would expect to be denied if application was made; that it is always safer to answer such questions in great detail.

Councilman Page stated that he would like to make the point that an individual who has a DUI at a young age something like this is held against him for life; that he does not see this any different as a diabetic taking sugar to an alcoholic who may take a drink; that both are in the same categories and are not good. He stated the question is really holding this blemish on a person for life and not being able to go into business. He asked for clarification from the City Attorney as to whether the Council cannot act and if we do not, the application would be held in abeyance for 60 days and what happens after that.

City Attorney Nelson stated that it goes to the State as if it were granted.

Councilman Page stated that his other question has to do with the question on the application and how it was worded; that he sees this as a very harsh punishment for someone who made a mistake in life.

City Attorney Nelson stated under the liquor license it requires looking through the last ten years, which would bar him if it were a felony.

Councilman Pierce stated this is not a felony.

City Attorney Nelson stated that a felony carries 10 years; that this incident happened in 1999 and we are talking less than half of that. He stated in answer to Councilman Page's second question, the question is phrased, " *Has the owner ever been convicted of a violation of any State law, Federal law or City ordinance*". He stated the individual checked the "no" box.

LIQUOR LICENSE (Continued)

Councilman Benson asked if the individual was convicted. City Attorney Nelson responded "yes"; that he pled guilty and was sentenced eleven months and twenty-nine days, which was suspended after 48 hours.

Councilman Littlefield injected that this driver's license was also suspended a year.

Councilwoman Robinson expressed agreement with Councilman Littlefield and indicated that she is not as concerned about the DUI as she is about the fact the individual did not tell the truth; that that is the situation she has. She stated he could have indicated that he had made a terrible mistake and was an abiding, upstanding citizen and would never do it again; that he wanted them to know it did happen and would have to say "yes" it has happened. She stated that it is her thought truth is the issue.

Councilman Hakeem expressed agreement with Councilman Pierce, indicating that he is not an advocate for the industry either; that it has been close to five years since this has happened. He stated in reference to Councilman Page's comments, at what point do we not hold this against them if they have not had any other problems with the law, so to speak. He asked if a time line should be set; that in regard to his truthfulness, does it serve any purpose to have him come and state his case.

Councilman Pierce stated that it is his thought it would not serve any purpose to have the individual come before the Council; that he feels the Councilperson representing the District this may be going in has condemned this person from being in the industry due to the charge. He stated in looking at the court system today there are many people who get up and plead guilty to something they are not guilty of having committed basically to get the matter behind them. He stated the prisons are full of people who have pleaded guilty to crimes they did not commit. He asked that the individual be given the benefit of the doubt; that if this was a felony he could see it, but a DUI he cannot. He stated that he lied that he did not do it and questioned what action the Council would take against the President of the United States when he has not been truthful about everything!

Councilman Littlefield stated he is not sure denial of a liquor license would follow the individual for life; that at some point he can reapply truthfully and explain and it would probably go on through. He stated right now there is no other way to handle it from his standpoint, indicating he would not get mad at the Council members for their points of view. He stated he could not in good conscience support it.

LIQUOR LICENSE (Continued)

Councilman Benson stated that he worries about this and does not want to condemn someone for life. He stated that the individual is asking for livelihood in the area where he has actually been convicted operating outside the law. He stated that it does concern him that he will enter into some type of livelihood where he has failed once; that it is his thought once the individual has messed in a situation like this, he should go into another business, rather than where he had gotten into trouble.

Councilman Lively "called for the question" on the motion and second to deny.

Councilman Hakeem stated that he would like to hear from Admin. Eichenthal regarding the matter.

Admin. Eichenthal stated he and others in the Treasurer's Office raised the issue and they, in turn, raised it with Councilman Littlefield. He stated their thought is that the real problem was the fact that there was non-disclosure of a relevant question on the application. He stated that the experience he has had in situations like this is that it is relevant unless there is some sort of meaningfulness to the application process; that it winds up only punishing people who are fully disclosing, which creates the incentive not to tell the truth. He stated this was the real concern of him and the Treasurer in bringing it forward.

On roll call vote to deny the request:

Councilman Benson	"Yes"
Councilman Hakeem	Abstained
Littlefield	"Yes"
Lively	"Yes"
Page	Abstained
Pierce	Abstained
Robinson	"Yes"
Franklin	"Yes"

The request was denied.

COMMITTEES

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, April 13 at 4 p.m.**

COMMITTEES (Continued)

Councilman Littlefield scheduled a meeting of the **Legal and Legislative Committee for Tuesday, April 6 at 3 p.m.**

Councilman Page scheduled a meeting of the **Economic Development Committee for Tuesday, April 6 at 4 p.m.**

ANIMAL SHELTER UPDATE

Councilman Benson stated that he and Councilman Littlefield met with the Community Foundation who will be partnering with the City with regard to the animal shelter effort. He stated the Community Foundation will be the repository for the collection of monies and that City Attorney Nelson would work toward forming a quasi-government organization for a 501(c)3. He stated they came up with the name **Animal Care Trust or ACT** as the acronym for the group. He stated they would be going through a list as well as different candidates for a campaign committee to raise the funding necessary. He stated the effort would be kicking off as soon as the 501(c)3 status is granted.

SYLVIA BENNETT

Sylvia Bennett thanked the Council for denying the liquor license request. She stated if Council members stood over the casket of a 37 year old person who had to be buried due to DUI they would understand. She stated that she does court watching every week and taxpayers would be amazed to know they are paying for 80-100 DUI cases. She again thanked them for their vote to deny the request.

DANIEL DEAN

Daniel Dean thanked the Council for their work tonight and invited them to the first organizational meeting of the Service Animal Support Group he is attempting to create at Ryan's on Lee Highway at noon on Saturday, April 3. He stated they are going for a 501(c)3 designation to help individuals obtain service animals. He stated it would good if they could partner with ACT once it gets going to provide places for some of the animals. He stated the Council would hear from him again on other issues, particularly public access issues and the like, as well as an issue with regard to free City licenses for individuals who have service animals. He stated that he would like guidance as to where to go to make formal requests of this type.

ADJOURNMENT

Chairman Franklin adjourned the meeting of the Chattanooga Council until Tuesday, April 6, 2004 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)**