

**CITY COUNCIL BUILDING  
CHATTANOOGA, TENNESSEE  
SEPTEMBER 27, 2005**

Chairman Robinson called the meeting of the Chattanooga City Council to order with Councilmen Bennett, Benson, Franklin, Hakeem, Page, Pierce and Rutherford present. Councilman Rico was absent due to a prior commitment. City Attorney Ken Fritz; Management Analyst Randy Burns; and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/  
INVOCATION**

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

**MINUTE APPROVAL**

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

**SPECIAL PRESENTATION:  
DARDE LONG—THE BANANA  
BALL**

Ms. Long stated that they were going to bring a little entertainment to the Council Meeting. She had with her Leslie Davidson and “Sonny” and Miranda Cagle; “Sonny” being a pony or miniature horse! She mentioned that the Banana Ball had lots of great events and was an important fund raiser for them, and she had tickets for the Councilmembers. She stated that this was one of the best things they did, and she invited Councilmembers to come and bring a guest, stating that dollars mean so much! She also mentioned “Boo Zoo” that was coming up. She ended by saying they just wanted to stop by and say thank you and to offer a package to Councilmembers. She then asked if anyone had any questions about the Zoo, stating that tonight they were not asking for anything—just giving!

Chairman Robinson noted that Darde had an “interesting” friend with her tonight. Ms. Long thanked the Council for having them, with Chairman Robinson noting that The Banana Ball is an important fundraiser.

**APPOINTMENT OF  
CITY ENGINEER**

Mayor Littlefield was present to make this appointment, stating that this would be a memorable night in **Bill Payne's** life, considering what he had to follow. He stated that this position was a key member of the Administration and one that had not been presented and confirmed by the Council. He stated that he was pleased to present **William C. Payne** as the candidate for City Engineer; that he had presented him in committee as well. He noted that Mr. Payne was a Chattanooga native and a graduate of Tyner High School; that he had been married ten years to his wife, Angela and was a resident of Hixson and a member of the Kiwanis Club of Brainerd; that he had a BS Degree in Civil Engineering from the University of Tennessee and was a licensed, professional engineer in the State of Tennessee that had served in both the public and private sector. He stated that Mr. Payne was a good local person that would serve us well.

Councilman Hakeem noted that this did come up in the Public Works Committee, with background information, and comes with a recommendation by acclamation.

**On motion of Councilman Hakeem, seconded by Councilman Franklin, William Calvin Payne was appointed to the position of City Engineer by acclamation.**

Chairman Robinson welcomed him aboard.

**CLOSE AND ABANDON**

**MR-2005-127 (NL Ventures V Mercer, LP)**

**Mr. Phillip Whitaker** was present representing the applicant.

Adm. Leach explained that there was a stipulation that was a part of this Ordinance as written in the terms of the conditions; that (3) stated that *The terms and conditions as per the letter dated August 1, 2005 from Jerry Stewart*; that this had been discussed by Staff, and they recommended that this portion be amended to say "*Subject to signing of appropriate easements agreement between the City of Chattanooga and the applicant*"; that this clarified that we need easements, and this is specified in the distinct document; that we needed a record of the easements.

**CLOSE AND ABANDON**  
**(CONT'D)**

Councilman Hakeem stated that we were talking about two different items—the building itself and that **Ordinance (b)** deals with the fences.

Adm. Leach agreed that these Ordinances were separate—that **2005-128** is required for the building, and the document allows the area to be abandoned underneath the building; that the document specified this.

Councilman Hakeem noted that earlier in committee something was said in regards to fences and asked if Mr. Pace could address the fences and if the security fences were treated separately and apart from the building.

Mr. Pace noted that we were now discussing **Ordinance 2005-127**; that **2005-128** included the fences.

Adm. Leach asked if **2005-128** included the substitution.

Councilman Hakeem stated that Adm. Leach was confusing the Council.

Chairman Robinson asked if this included this revision.

Attorney Fritz explained that the present **Ordinance 2005-127** does not include the language that Adm. Leach had mentioned.

Adm. Leach explained that they met with Attorney Whitaker before the meeting to discuss the terms and conditions outlined in the letter from Jerry Stewart; that they now wished to strike this and add the language that he had previously referred to.

Councilman Page stated that he would like to know that we (Council) know what we are doing and he could see that Attorney Whitaker also had questions. He stated that he wanted to make sure that there is clarity.

CLOSE AND ABANDON  
(CONT'D)

Attorney Whitaker stated that they were substituting new language for Condition (3) under Section (2); that they were striking the language and substituting in its place language to the effect that the City of Chattanooga agrees on terms and conditions of the easements.

The Ordinance was passed to Attorney Ken Fritz, and Chairman Robinson stated that he would write the proper language in.

Councilman Hakeem expressed some problem with the signing of these documents taking place before all is approved and working it out after the fact.

Councilman Benson noted that we were just eradicating **Section 2 (3)** and the letter from Jerry Stewart is now out, and we are starting with this new wording.

Mr. Stewart added that we were just agreeing that there will be easements.

Adm. Leach explained that there were sewer lines under the buildings and there is a parking area, and they have sewer lines in place; that we need to get something on the record as we abandon our interest that we want to maintain the sewers and that we need easements to do this; that eventually we will work this out and abandon the sewer lines but because of the timeliness of the action needed, we need this action to close on the property; that it is the recommendation of the Staff that we do have easements on the site that will provide us with access in the future.

Councilman Hakeem asked about leverage—if we were giving up our leverage; that if we know we need easements, why can't this gentleman (Mr. Whitaker) just say easements.

Adm. Leach explained that we are recognizing that we have easements but don't know which ones we will abandon in the future; that we want to retain ability to maintain these for a time certain; that Mr. Stewart is here tonight and can answer any questions; that we are just trying to establish a legal document.

Councilman Hakeem asked Mr. Stewart if he was comfortable with this.

**CLOSE AND ABANDON**  
**(CONT'D)**

Mr. Stewart responded “yes”; that we are in the process and that he had reviewed this; that it was sitting on his desk, and he had signed it, and he was happy with this; that we did not have any agreements about easements in the past.

Chairman Robinson noted that Attorney Fritz was including this language in the Ordinance and Councilman Hakeem asked him to read what he had included.

Attorney Fritz read “*subject to signing of easements agreement between the City of Chattanooga and the property owner*”.

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,

**AN ORDINANCE CLOSING AND ABANDONING OF APPROXIMATELY SIX FEET (6') OF CITY RIGHT-OF-WAY ALONG DIXIE CIRCLE, ADJACENT TO MERCER STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

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

**CLOSE AND ABANDON**

**MR 2005-128 (NL Ventures V Mercer, LP)**

Chairman Robinson noted that this had been reviewed and needed a motion to substitute.

Councilman Hakeem stated that he would like to hear what the substitution consists of.

Adm. Leach explained that they did revise the third stipulation and read from the Ordinance “*The City of Chattanooga reserves a sewer easement from the south line of Vance Road to a point approximately ninety feet, plus or minus (90' +/-) where said sewer intersects existing private sewer line*”.

CLOSE AND ABANDON  
(CONT'D)

Mr. Leach explained that this replaces language that was more general and clarifies the location of the sewer line.

Councilman Hakeem asked Mr. Leach to tell him about the fence and easements; that there was some discussion about temporary use.

Adm. Leach explained that there is temporary use for fences on the City Right-of-Way and the building that encroaches on the right-of-way; that this will be a separate document; that Councilman Hakeem is correct on this standpoint about fences, and this will be a separate item. He noted that this had been difficult for the Staff to work with.

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,

**AN ORDINANCE CLOSING AND ABANDONING PORTIONS OF THE EAST LINE RIGHT-OF-WAY OF THE 1000 BLOCK OF SOUTH LYERLY STREET RIGHT-OF-WAY AND PORTIONS OF THE WEST LINE RIGHT-OF-WAY OF THE 900 BLOCK OF SOUTH WATKINS STREET RIGHT-OF-WAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND SITE SURVEY ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was substituted.

Councilman Page stated that he did not understand what we were doing; that there is a lot of language, and the Council should have a better understanding of this in committee; that he did not feel good about this.

CLOSE AND ABANDON  
(CONT'D)

Attorney Whitaker explained that this property was in Highland Park and some would call it Ridgedale; that it is the old Dixie Yarn Plants; that the buildings encroach into the public right-of-way; that you can't tell this by just looking at the buildings but when a surveyor surveys it, the building does encroach; that they asked the City to agree to abandon the part where it encroaches; that this covers the building encroachment but not the fences encroachment, and he had asked for abandonment of the fences as well; that the City wanted to handle this by Temporary Usage but that a temporary use could be revoked on 30-days notice. He went on to say that they were willing to sell at a cheap price and to donate a parking lot for Parks and Recreation to use as a basketball court; that they would donate or sell cheaply; that they wanted the abandonment to include the fences.

Councilman Hakeem stated that he understood that the encroachment dealing with the fences is a separate issue and that this would be dealt with at another meeting.

Attorney Whitaker responded that this was not his understanding.

Attorney Fritz clarified that the fences were not part of this Ordinance.

Councilman Hakeem noted that there was enough uncomfortableness about this to not include it tonight. He indicated that we might want to leave **Ordinance (b) until another night.**

Councilman Benson stated that he and Councilman Pierce went out there and that the fence was pointed out—going east and west; that they went with Jerry.

Mr. Pace responded that it was not him---that there are several "Jerry's"—Jerry Mitchell and also Jerry Stewart; that it was not him.

Councilman Benson stated that he could not see that we have any use for anything other than the sewer line. Mr. Pace responded that we may have a use in the future; that it was their recommendation that we not include fences in the abandonment. Councilman Benson asked if this could be separated. Councilman Pierce noted that it was already separated, with Mr. Pace stating that fences were not included.

**CLOSE AND ABANDON**  
**(CONT'D)**

Councilman Pierce suggested passing this until we get in mind what we are actually doing; that he did not see us giving up land because of a fence.

Mr. Whitaker stated that they were delighted with whatever the Council will give them; that they would ask that the Ordinance be passed as written.

Councilwoman Rutherford stated that she did represent this area and that the Stowes had been outstanding citizens and had done a lot to help Ridgedale; that she planned to vote for this; that as far as the "silly" fences that she would like to see this parking lot turned over to the City and that she knew the Stowes were very generous.

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**AN ORDINANCE CLOSING AND ABANDONING PORTIONS  
OF THE EAST LINE RIGHT-OF-WAY OF THE 1000 BLOCK OF  
SOUTH LYLER STREET RIGHT-OF-WAY AND PORTIONS OF  
THE WEST LINE RIGHT-OF-WAY OF THE 900 BLOCK OF  
SOUTH WATKINS STREET RIGHT-OF-WAY, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON  
THE MAP AND SITE SURVEY ATTACHED HERETO AND  
MADE A PART HEREOF BY REFERENCE, SUBJECT TO  
CERTAIN CONDITIONS**

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

**TEMP. R-O-W USE**

Councilman Hakeem stated that Adm. Leach could correct him if he were wrong but that he thought **Resolutions (a), (c), (d), and (e)** were discussed in committee and come with a recommendation.



**TEMP. R-O-W USE (CONT'D)**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING HEIDI HEFFERLIN TO USE  
TEMPORARILY THE CITY RIGHTS-OF-WAY ALONG THE  
1800 BLOCK OF COWART STREET AND THE 200 BLOCK OF  
WEST 18<sup>TH</sup> STREET TO INSTALL STAIRS AND ELECTRICAL  
METERS INTO THE CITY'S RIGHTS-OF-WAY, AS SHOWN ON  
THE DRAWINGS ATTACHED HERETO AND MADE A PART  
HEREOF BY REFERENCE, SUBJECT TO CERTAIN  
CONDITIONS**

was adopted.

**CONFLICT OF INTEREST &  
ETHICS CODE**

Councilman Benson stated that this comes with a recommendation from the Legal and Legislative Committee.

On motion of Councilman Benson, seconded by Councilman Page,  
**A RESOLUTION AMENDING SECTION F OF RESOLUTION  
NO. 24117 ENCAPTIONED, "A RESOLUTION REPEALING  
RESOLUTION NOS. 18697, 18710, 19757, 20026, AND  
20480, AND ESTABLISHING NEW RULES OF PROCEDURE  
FOR THE CITY COUNCIL OF THE CITY OF CHATTANOOGA,  
TENNESSEE", TO ESTABLISH A CONFLICT OF INTEREST  
AND ETHICS CODE FOR MEMBERS OF THE CHATTANOOGA  
CITY COUNCIL**

was adopted.

Councilman Page complimented Councilman Benson for his work on this, stating that he thought it was an important piece of legislation.

**TEMP. R-O-W USE**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING EMJ CORPORATION TO USE TEMPORARILY THE CITY RIGHT-OF-WAY ADJACENT TO 215 LOOKOUT STREET AT THE INTERSECTION OF EAST 2<sup>ND</sup> STREET AND RIVERFRONT PARKWAY RELATIVE TO CONSTRUCTION OF THE WINDSOR AUGHTY/MUSEUM BLUFF VILLAGE CONDOMINIUMS, AS SHOWN ON THE DRAWING ATTACHED, HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**TEMP. R-O-W USE**

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING EMJ CORPORATION TO USE TEMPORARILY THE CITY RIGHT-OF-WAY ALONG CHERRY STREET FROM EAST 1<sup>ST</sup> STREET TO EAST 2<sup>ND</sup> STREET RELATIVE TO CONSTRUCTION OF THE WINDSOR AUGHTRY/MUSEUM BLUFF VILLAGE CONDOMINIUMS, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**AGREEMENT**

On motion of Councilman Franklin, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH MARCH ADAMS & ASSOCIATES, INC. FOR ENGINEERING SERVICES RELATIVE TO CONTRACT NO. E-05-011-101, 18<sup>TH</sup> STREET ROADWAY AND DETENTION—ADAMS STREET TO JEFFERSON STREET, IN AN AMOUNT NOT TO EXCEED THIRTY THOUSAND SIX HUNDRED FORTY-FIVE DOLLARS (\$30,645.00)**  
was adopted.

**OVERTIME**

Overtime for the week ending September 23, 2005 totaled \$10,076.50.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PUBLIC WORKS DEPARTMENT:**

- **BARRY L CHILDRESS**—Hire as Crew Worker, Pay Grade 3/1, \$18,850.00 annually, effective 9/15/05.

**FINANCE DEPARTMENT:**

- **ARTHUR CLARK**—Resignation of Accounts Payable Supervisor, effective 9/26/05.

**CHATTANOOGA POLICE DEPARTMENT:**

- **MICHAEL S. MCCOY**—Resignation of Police Officer, effective 10/07/05.
- **TROY V. CANNON**—Military Leave of Police Officer, effective 9/28/05—3/08/06.

**MAYOR/INFORMATION SERVICES:**

- **GREGORY PACK**—Termination of Customer Service Rep., effective 9/23/05.

**PURCHASE**

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford, the following purchase was approved for use by the Public Works Dept.:

**SOUTHERN IONICS (Lowest and best bid):**  
**Requisition R0085001/B0002560**

Liquid Sodium Bisulfate

\$338.00 per Dry Ton

**HOTEL PERMITS**

On motion of Councilman Pierce, seconded by Councilwoman Rutherford, the following hotel permits were approved:

**AMERICA'S BEST VALUE INN** – 2100 S. Market Street, Chattanooga, Tennessee.

**BAYMONT INN & SUITES** -- 3540 Cummings Highway, Chattanooga, Tennessee.

**DAYS INN** – 101 E. 20<sup>th</sup> Street, Chattanooga, Tennessee.

**DONATION**

On motion of Councilman Pierce, seconded by Councilman Hakeem, the Council made the recommendation for the Chattanooga Police Department to donate two (2) sets of blue lights, and three (3) sets of light bars for police cars to the Ocean Springs Mississippi Police Dept. due to the loss in Hurricane Katrina.

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the following purchase was approved for use of the Chattanooga Police Dept.

**PEYTON SCIENTIFIC, INC. (Single Source Purchase)**  
**Requisition R0084170**

Forensic Science Workstation

\$62,817.58

**BOARD APPOINTMENT**

On motion of Councilman Benson, seconded by Councilwoman Rutherford, the following Board Appointment was approved:

**BOARD OF ZONING APPEALS**

- Reappointment of **MILTON JACKSON** for a term ending **July 12, 2008**, representing District 7.

**HEARING:**  
**JACQUELINE S. MCCAIN**

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Attorney Ken Fritz stated that **Jacqueline S. McCain** had requested a hearing with the City Council concerning her termination of employment from the Chattanooga Police Dept. A hearing was set for **Monday, October 24<sup>th</sup> at 10:00 A.M.** with Councilpersons Rutherford, Hakeem, and Robinson serving as the panel. Councilman Pierce will be the alternate. Councilman Benson stated that he would try this one more time and also agreed to be an alternate. Chairman Robinson stated that we would call Councilman Benson if he is needed. Councilman Pierce stated that Councilman Benson could be the alternate since we know he will be in the office. It was determined that we would have two alternates—Councilman Pierce and Councilman Benson.

### COMMITTEES

Councilwoman Rutherford stated that the Safety Committee met today and that we heard from the Honorable Suzanne Bailey concerning issues involving Juvenile Court. Chairman Robinson stated that this was very interesting and informative.

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, October 11<sup>th</sup> at 4:00 P.M.**

Councilman Franklin was going to schedule a meeting of the **Parks and Recreation Committee** for next week but was informed that this committee does not meet now on a regular basis every other week. It just meets when there are items that need to be discussed.

Councilman Benson stated that he was scheduling a heavy **Legal and Legislative Committee** meeting for **Monday, October 4<sup>th</sup> at 3:00 P.M.** He noted that there would be a 30-minute presentation from RPA, and we also had the farm animals to bring back up. He indicated that we would probably have to start at 3:00 P.M. and then go to the scheduled 4:00 P.M. meeting of the Economic Development Committee and then the Legal and Legislative Committee would have to piggyback onto that meeting to finish since the committee is only meeting every other week. He indicated that Legal and Legislative would probably need at least one and one-half hours and would have to resume after Councilwoman Bennett's meeting.

Councilman Pierce asked Councilman Benson if he could start his meeting at 2:30 P.M. next Tuesday. Councilman Benson indicated that he would be willing to do this if everyone would come. This was not agreeable with other members of the Council.

Councilwoman Bennett reminded the Council of the **Economic Development Committee** meeting scheduled for **Tuesday, October 4<sup>th</sup> at 4:00 P.M.**

**COMMITTEES (CONT'D)**

Chairman Robinson stated that by late October we should have a report from the new department, **Education, Arts & Culture**; that she had stepped in to chair this committee and would need to get a couple of the other Councilpersons to serve with her on this committee. She reiterated that this would be towards the end of the month.

**ADJOURNMENT**

Chairman Robinson adjourned the meeting of the Chattanooga City Council until Tuesday, October 4<sup>th</sup> at 6:00 P.M.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

