

**CITY COUNCIL BUILDING  
CHATTANOOGA, TENNESSEE  
March 6, 2007**

Chairman Pierce called the meeting of the Chattanooga City Council to order with Councilmen Benson, Franklin, Gaines, Page, Rico, Robinson, and Rutherford present. Councilwoman Bennett was out of town on a prior commitment. City Attorney Randall Nelson; 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 Councilman Rico, followed by invocation.

**MINUTE APPROVAL**

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

**APPROPRIATION/  
CHATT. TRACK CLUB**

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines,

**AN ORDINANCE APPROPRIATING FROM THE  
CHATTANOOGA OUTDOOR OPERATING BUDGET TO THE  
CHATTANOOGA TRACK CLUB THE AMOUNT OF FIVE  
THOUSAND DOLLARS (\$5,000.00) AS PART OF THE  
PARTNERSHIP TO HOST THE CHATTANOOGA  
WATERFRONT TRIATHLON**

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

**COMCAST FRANCHISE**

At this time Chairman Pierce recognized Councilman Page, who deferred to Councilman Benson.

Councilman Benson stated that this had been collaborated with the City Attorney and had been recommended for approval through the Legal and Legislative Committee; that it was made clear in the meeting that this in no way gives Comcast a monopoly; that there had been letters to the editor of the newspaper implying that Comcast had exclusivity, and he wanted to correct this mis-information.

Attorney Nelson explained that the Ordinance does say non-exclusive, which allows other companies to enter the market; that FCA requires that it be non-exclusive; that the writers of these letters need to know whereof they speak.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,

**AN ORDINANCE GRANTING A FRANCHISE TO COMCAST OF THE SOUTH TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE SYSTEM IN THE CITY OF CHATTANOOGA, TENNESSEE, FOR THE PURPOSE OF PROVIDING CABLE SERVICE; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCE, IF ANY; AND PRESCRIBING PENALTIES FOR THE VIOLATIONS OF THE PROVISIONS HEREIN**

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

Chairman Pierce acknowledged the Comcast representative in the audience and jokingly asked if he was bringing the City another check!

Attorney Nelson noted that this was advertised to be a Public Hearing tonight, prompting Chairman Pierce to ask if there were any questions from the audience.

**COMCAST FRANCHISE**  
**(CONT'D)**

At this point Mr. Jerry Evans came forward. It was explained to him that this was not about the issue he was interested in but was concerning Comcast. He acknowledged that he had a hearing problem and was just eager to speak his mind.

At this time, Chairman Pierce asked the Comcast representative if he would like to say anything.

**Mr. Russell Byrd** of Comcast came forward, stating that he lived at 815 Foxhill Lane in Knoxville, Tennessee. He stated that he would like to personally say that he enjoyed the process with Attorney Nelson and his Staff; that as mentioned by Councilman Benson and Attorney Nelson, this was a process where both parties hammered out a mutually beneficial arrangement to both the City and Comcast; that the City was satisfied and that they were satisfied and that he appreciated the process they had gone through.

**AMEND CITY CODE**  
**PARKING**

On motion of Councilwoman Rutherford, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,  
PART II, CHAPTER 24, BY ADDING SECTIONS 24-333  
THROUGH 24-336 RELATIVE TO PARKING**

was substituted. On motion of Councilman Page, seconded by Councilman Franklin, the Ordinance passed second and final reading and was signed in open meeting.

APPROP.(SISTER CITIES)

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**AN ORDINANCE APPROPRIATING FROM THE GENERAL  
FUND TO THE CHATTANOOGA SISTER CITIES THE  
AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00) TO  
SUPPORT THE HOSTING OF THE SISTER CITIES  
INTERNATIONAL SUMMIT DURING THE REGIONAL  
CONFERENCE**  
passed first reading.

CLOSURE & ABANDON.

**2006-232 (CNE—Bob McNutt)**

Councilman Rico stated that this was discussed in the Public Works meeting and comes with a recommendation for approval.

Chairman Pierce asked Mr. McNutt to give an overview of this.

**Mr. McNutt** stated that he was with CNE and that was fairly technical—that it had been a huge pain and a long process. The location is a new subdivision in Jefferson Heights; that when this was platted, curbs were drawn and when the surveyor put them in, he made a triangle, and the gutters overhung slightly; that here they were in March and had found that the City has to abandon a small portion in order for the new homeowner to take possession.

Chairman Pierce noted that the agenda reflected that this was added per his permission and that this explanation was for the benefit of Councilman Benson.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,  
**AN ORDINANCE CLOSING AND ABANDONING A PORTION  
OF THE NORTHERN RIGHT-OF-WAY OF AN ALLEY LOCATED  
ON THE WEST LINE OF THE PROPOSED 500 BLOCK OF  
EAST 18<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED  
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO  
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO  
CERTAIN CONDITIONS**  
passed first reading.

CONTRACT

On motion of Councilman Page, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO EXECUTE A CONTRACT WITH PUBLIC AGENCY TRAINING COUNCIL, INC./LEGAL AND LIABILITY RISK MANAGEMENT INSTITUTE (PATC/LLRMI) FOR THE PERFORMANCE OF AN AUDIT OF THE CHATTANOOGA POLICE DEPARTMENT INTERNAL AFFAIRS DIVISION AND THE TRAINING DIVISION REGARDING POSITIONAL ASPHYXIA RELATED TRAINING**  
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE AWARD OF A CONTRACT FOR THE REPLACEMENT OF SIDING AT NORTH CHATTANOOGA HEAD START TO TOWER CONSTRUCTION COMPANY FOR THEIR LOW BID IN THE AMOUNT OF THIRTY-NINE THOUSAND SIX HUNDRED NINETY DOLLARS (\$39,690.00)**  
was adopted.

EDUCATION, ARTS & CULTURE GRANT

Councilwoman Rutherford noted that this was discussed in the Education, Arts & Culture Committee and comes with a recommendation for approval.

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF EDUCATION, ARTS & CULTURE TO APPLY FOR AND, IF AWARDED, ACCEPT AN "ACCESS TO ARTISTIC EXCELLENCE" GRANT FROM THE NATIONAL ENDOWMENT FOR THE ARTS IN AN AMOUNT UP TO FIFTY THOUSAND DOLLARS (\$50,000.00), WHICH WILL REQUIRE MATCHING FUNDS UP TO FIFTY THOUSAND DOLLARS (\$50,000.00) TO BE USED TO DEVELOP NEW AUDIENCES FOR NATIONALLY SIGNIFICANT PERFORMANCES AT THE MEMORIAL AUDITORIUM AND TIVOLI THEATRE**  
was adopted.

**OVERTIME**

Overtime for the week ending March 2, 2007, totaled \$49,115.26.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PUBLIC WORKS DEPARTMENT:**

- **JASON CRASS**—Resignation of GIS Specialist, effective 2/22/07
- **DAVID THORNE**—Hire Combination Inspector, Pay Grade 14/5, \$36,955.00 annually, effective 3/2/07.
- **ALEX CHANDLER, JR.** -Retirement of Crew Worker, effective 3/16/07.

**MAYOR'S OFFICE:**

- **BEVERLY TINKER**—Retirement of Special Projects Asst., effective 2/28/07.

**CHATTANOOGA POLICE DEPT.:**

- **GREGORY CARTER**—Termination of Communications Officer, effective 2/28/07.

**DEPARTMENT OF GENERAL GOVERNMENT:**

- **BEVERLY ADAMS**—Resignation of Management & Budget Analyst, effective 3/2/07.
- **PRECIOSA GODUCO**—Promotion to Accountant, Sr., Pay Grade 19/11, \$57,106.00, effective 2/16/07.

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines, the following purchase was approved for use by the Chattanooga Fire Dept.:

**LAUNDRY SYSTEMS OF CAROLINA (Lowest and best bid)**  
**Requisition R0096004/B0003821**

Two (2) IPSO Washing Machines

\$12,359.16

**PURCHASE**

On motion of Councilman Rico, seconded by Councilman Franklin, the following purchase was approved for the Chattanooga Personnel Department:

**GARRETT MEDICAL, INC. (Change Order Increase)**  
**Requisition R0089137/P0024664**

Medical Supplies

\$25,378.16 Original Contract  
\$20,000.00 Change Order Increase  
\$45,378.16 New Contract Amount

**REFUNDS**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the Administrator of Finance was authorized to issue the following refunds for overpayments of stormwater fees and/or property taxes:

**Various Assessed Owners (See minute material for individual names)**

**\$62,240.65**

**HEARING: BILLY MCNEESE**

Attorney Nelson asked Councilman Rico to speak to the hearing that was held on Monday for Billy McNeese.. Councilman Rico stated that the panel sustained the termination of Mr. McNeese, an employee of the Parks and Recreation Department.

**FORTWOOD AREA STUDY**

Chairman Pierce asked for a Study to be done of the Fortwood Area. **On motion of Councilwoman Robinson, seconded by Councilman Franklin, this matter will be referred to the Planning Staff.** Chairman Pierce asked if it would be in order to ask for a freeze during the course of this Study on any requests for change. Attorney Nelson asked if Chairman Pierce was referring to a moratorium, and if so, he stated that he would talk to Chairman Pierce about this later.

**COMMITTEES**

Councilman Page reminded Councilmembers of the **Economic Development Committee meeting scheduled for Tuesday, March 20<sup>th</sup> immediately following the Public Works Committee meeting.**

Councilman Benson reminded Councilmembers of the **Legal and Legislative Committee meeting scheduled for Tuesday, March 13<sup>th</sup> at 3:00 P.M.** He stated that we would be considering the moratorium on the downzoning of Fortwood; following that we will have a status report on the issue of subdividing subdivisions as it relates to contemporary problems. He asked if Mr. Bennett would be ready with the Status Report by then, as he felt we needed to get people involved before we launch the long-range plan of a Task Force. He invited those present tonight to be at the Legal and Legislative Committee that is scheduled at 3:00 P.M. next Tuesday. He added that he thought those present tonight should still be able to speak.

Chairman Pierce acknowledged that those present could still address the Council tonight and would have three minutes each and then the matter could be taken to Councilman Benson's committee meeting.



**JERRY EVANS**

**Mr. Jerry Evans** approached the Council, stating that he would be the speaker for the Carr Street situation in East Brainerd. He asked that the City Council ask the County to lower their taxes; that Gary Bumgarner had built five houses on two acres of land, and these houses had vinyl siding. He stated that they did not know that Mr. Bumgarner could do this to them; that their subdivision was developed in 1963, and their houses were 115 ft. off the street and these houses only set back 25 ft.; that this had destroyed the integrity of their subdivision. He stated if the Council doubted him that they go by and look for themselves; that he could not believe that these were built at the beginning of his subdivision. He stated that if the Council went by and looked at these, they would see that there was no way that he should have been allowed to build in this subdivision. He stated that it was already done; that he built five houses in 40 days and had destroyed the integrity of their houses, and there was “no rhyme or reason” to this, and he was asking (no pleading) on behalf of himself and the other retired people that this Council petition Bill Bennett to lower their taxes; that Mr. Bumgarner had been allowed to do this, and they had no recourse. He stated that he knew Chairman Pierce was a “fighter”, and he understood the battle, and he also knew that when someone built something wrong that Councilwoman Rutherford would “skin them alive”. He ended by saying that he knew this was in Councilman Benson’s district.

Chairman Pierce explained that the builder was within his rights, adding that it was “bad” that this got by Mr. Evans too late. He stated that Mr. Evans would have to get with Mr. Bennett about a tax decrease—that he would need to look at the photographs and see the homes and see if they had ruined the rest of the homes.

Mr. Evans asked if he could take the time of the others to speak but then decided that Mr. Braden needed to address the Council about the need of a fire lane. He added that the Council would not believe the water that had backed up on them.

Chairman Pierce pointed out that Mr. Evans had been Fire Chief, and he should have known a long time ago that a fire lane was needed.

**BILL BRADEN**

**Mr. Bill Braden** was the next speaker. He stated that he had been a resident in this subdivision for 44 years, and he went along with what Mr. Evans was saying. He mentioned the water problems in the whole area, and the bottleneck into the drainage ditch beside his house. He stated that when you build more homes, you create more problems; that he had already taken this up with Stormwater, the City, the State, and they all say they are in compliance. He reiterated that when they built more homes, they created more problems, and there was nothing they could do about this. He stated that somebody had to do something; that they built a wall across the ditch; that there are more houses and more run-off, and it went through his yard.

Councilman Benson responded that he felt like a kid who was seeing bad stuff under his Christmas tree; that Mr. Braden was right about the stormwater—that it was bad before this happened and that Mr. Leach was in charge, and that this needed to be looked at; that the ground was not soaking up the water, and it was having a bad effect on the street; that it piles up in the Rosemere Subdivision too; that if this developer creates one ounce more stormwater, they will be held responsible. He reiterated that we need to try to do something about this and again told those present that there would be a Legal and Legislative Committee meeting next Tuesday at 3:00 P.M., and we will try to see what can be done to make the best out of this situation.

Mr. Braden indicated that they had been building there a long time, and they had taken pictures and those in authority should have all the information they needed.

Attorney Nelson asked if the water situation was worse since the houses had been built. Mr. Braden responded “yes”. In that case, Attorney Nelson suggested that Mr. Braden might want to consult an attorney about this. Mr. Braden noted that there were drainage problems in the whole area and somebody had to do something.

Councilwoman Rutherford asked if there was not a State Law that says you can't divert stormwater on someone else's property? Attorney Nelson mentioned a common law to that effect, reiterating that the person would need to get a lawyer. Councilwoman Rutherford noted that problems started when Rosemere built a wall and asked if the people could go back on the developer for something that happened some years ago. Attorney Nelson responded “probably not”.

**STEPHEN BROTHERS**

**Steve Brothers** next addressed the Council. He stated that he resided at 820 Kay Circle and had been there 42.5 years; that the subdivision was built in 1974 and contained 35 brick homes; that this was adjacent to Carr Street, and he was in complete agreement with Jerry Evans about these “starter” homes. He stated that this should have been stopped before it started; that Mr. Bumgarner had approximately four acres at the north entrance of the subdivision, and his plans were to build twelve more “starter” homes on his property, whereas their homes were brick homes on half acre lots. He stated that this was not in the spirit of the community, and the request should be denied for multiple homes, and the City should make every effort to stop this building in their neighborhood and the adjoining property. He went on to say that these “starter” homes had 1200 sq. ft. and other houses in the neighborhood have 2000 sq. ft.; that the inside of these starter homes look okay, but the outside is different; that they feared that these houses would change ownership and lower their property values by eventually becoming rental property. He also mentioned a safety problem with the traffic. He asked that the City pass an Ordinance that says no lot shall be smaller than the smallest lot in a subdivision and also say that new houses must conform to the same type of exterior as those in the neighborhood. He reiterated that he had been here 42.5 years.

Attorney Nelson asked Mr. Brothers if his neighborhood had subdivision restrictions. He responded that they did have restrictions.

Mr. Evans stated that his subdivision had very little in the way of restrictions—that they just wanted neighbors to cut their grass and paint their houses; that they all had great big lots.

Attorney Nelson asked that they bring a copy of any subdivision restrictions to the committee meeting next Tuesday. Mr. Brothers stated that he had a copy for Irwin Acres.

Chairman Pierce informed them that the City’s hands may be tied. He noted that the City Attorney had asked that they bring copies of these restrictions to next week’s meeting, and we will take a look at them.

Mr. Evans again stated that the Council could not believe what they were building on them!

**JERRY EVANS (CONT'D)**

Chairman Pierce reminded Mr. Evans that Councilman Benson would be carrying this fight, and that he needed to stay on him; that Councilman Benson represented his District well. He then expressed appreciation that these people had come out tonight.

At this point another man in the audience asked to speak. Chairman Pierce indicated that we had already had three speakers and conferred with Councilman Benson on whether this man should be allowed to speak. The man reminded Councilman Benson that it was what they had discussed about Graysville Rd. Councilman Benson asked that he be allowed to speak, and Chairman Pierce stated that he could talk 2-3 minutes.

**JIM LANDRESS**

**Mr. Landress** stated that he was the son of Mrs. Lois Styles who owns a home on Kay Circle and that he stayed with her quite a bit. He stated that Graysville Rd. is inundated with traffic and is used for a shortcut from Georgia to Hamilton Place Mall; that there is a lot of traffic, and this is a two-lane wide road with a deep ditch. He suggested that the City use some of the money they are spending downtown and put it into storm drainage in this area; that these people had paid for it and had not gotten anything.

**FLOYD KILPATRICK**

**Mr. Kilpatrick** next addressed the Council and thanked them for giving him this opportunity. The people on the subdivision and stormwater issue had left the room, and Mr. Kilpatrick noted that he had a lot of influence if he could clear the room like this! He stated that he knew he did not have a lot of time—only three minutes, and he only wanted to ask permission to come before the Legal and Legislative Committee, which he had heard would meet next Tuesday; that he had an issue he would like to bring before this committee.

Chairman Pierce explained to Mr. Kilpatrick that he did not have to appear before the Council to ask to be placed on a committee agenda.

**FLOYD KILPATRICK(CONT'D)**

Councilman Benson stated that Mr. Kilpatrick would need to tell him what the issue concerns.

Mr. Kilpatrick responded that it concerned the Office of Multi-Cultural Affairs; that he had filed a complaint and thought this office could be more effective if the City could take two steps—Subpoena or Injunction powers to give the office more “teeth” for race relations in this City.

Attorney Nelson explained to Mr. Kilpatrick that only the State of Tennessee can authorize subpoena power and the Courts only have injunctive power; that the City can’t confer subpoena powers on another board; that the State Law ties our hands.

Mr. Kilpatrick maintained that the Council had the authority to authorize a recommendation to the State Legislature to authorize such powers; that the Council could make this recommendation to the State Legislature.

Attorney Nelson explained that this would only happen if the General Assembly sees fit, and of course it would not happen unless someone asked for it. He went on to explain that the timeframe for the introduction of a Bill to this session of the Legislature had passed, and we would have to wait until next year.

Chairman Pierce asked if Mr. Kilpatrick had discussed this issue with Dr. Brown or Representative Favors? Mr. Kilpatrick responded that he had not because he felt it was appropriate to come to the City first and have the City make the decision; that the City might decide they would not recommend this action.

Councilman Benson noted that he had a week to think about this and asked Mr. Kilpatrick to come to the Legal and Legislative Committee meeting on the 13<sup>th</sup>, and he would have to be third on the list.

**WILLIAM KIRCHNER**

**Mr. Kirchner** addressed the Council, stating that he knew he had only three minutes and asked if the minutes were long or slow. He stated that he came thanking the City Council for allowing him to speak back in September of last year concerning the birth of Lafayette; that he had told the Council then that he planned to present a program sometime during the coming year to honor LaFayette and celebrate his service to our country. He noted that there was an exhibit at Mt. Vernon that is already up and well. He mentioned a program that will be held in Chattanooga on Tuesday, March 13<sup>th</sup> at the Downtown Library at 6:30 P.M. This will honor Edward Young Chapin, Sr., who meant so much to Chattanooga, and this new annual event will be called the “Chapin Distinguished Lecture”. He noted that Councilmembers may have already received an invitation that was sent out by the Library, and he was just coming tonight to thank the Council for their support, as the City of Chattanooga was listed as a community partner, which means that the City of Chattanooga is one of their supporting partners.

He stated that he just had one request—that he would like to see a Flag come from the city of Lafayette, Georgia, that had been on Lafayette’s grave for a full year in Paris from the time of Lafayette’s death in 1834. He stated that this flag in the Lafayette community pre-dates the flag we have by one year; that if we could obtain this flag it would be part of our exhibit. He stated that so far they had not had much luck with the community of Lafayette’s Mayor about the Flag and also a Bust of Lafayette that was done in the 1780’s. He reiterated that he would like for the Council to help them get Lafayette, Georgia to bring this Flag up to us and also the Bust.

Councilwoman Rutherford stated that it would seem that the Department of Arts, Education and Culture could work with Mr. Kirchner on this.

Missy Crutchfield was in the audience and stated that she had an e-mail from Jim Frierson earlier concerning this and would be happy to speak with Mr. Kirchner.

**WILLIAM KIRCHNER**  
**(CONT'D)**

Mr. Kirchner stated that he still had a few brief remarks to make; that the first time an American Flag waved over the graves was in the southeast quarter of Paris on July 4, 1834, after Lafayette's death; that at that time only a few words were spoken; that Jackson had gotten the news in Washington and thought that some honor should be reserved for Lafayette, as did George Washington, and Congress was notified; that John Quincey Adams was in the house at that time and convinced the U.S. to do a eulogy. As Mr. Kirchner's time was drawing short, he reiterated to the Council that there would be lots of other nice exhibits and that Professor Lloyd Kramer from the University of North Carolina will be the speaker at the event.

Chairman Pierce expressed appreciation to Mr. Kirchner for coming.

**ADJOURNMENT**

Chairman Pierce adjourned the meeting of the Chattanooga City Council until Tuesday, March 13<sup>th</sup>, 2007, 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)**

