

**City Council Building
Chattanooga, Tennessee
September 16, 2008
6:00 p.m.**

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gaines, Page, Pierce, Rico, Robinson and Shockley present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Shockley gave invocation.

MINUTE APPROVAL

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

SPECIAL PRESENTATION

Charlie Galvin, President of the Lookout Valley Neighborhood Association, introduced **Susie Dailey**, Treasurer of the Association. She stated the Association has been around for twenty years and has had great support in the past from all Council members. She stated they are present tonight to pay tribute to a very special person who has taken a very active role in being a part of the Association and keeps them focused on the goals they have in their vision for a new playground and walking trail, which they now have. At this time she asked Chairman Bennett to come forward and presented her with a plaque in an effort to say "thank you" in recognition of her commitment and service to the community.

Chairman Bennett was greatly surprised and noted that it was her thought the ladies were present to talk about the Chalk Art Festival and expressed thanks!

SPECIAL PRESENTATION (Continued)

Ms. Galvin stated that the Chalk Art Festival would be a weekend festival wherein artists would paint the street with chalk and bring alive a whole new wave of art. She stated they would take a look at this on Thursday to see if there is any city interest to raise funds.

Chairman Bennett again expressed thanks and recognized other members of the Association that were present noting all of them work very hard.

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONIN GORDINANCE, BY AMENDING ARTICLE V, SECTION 405(13), TO PROVIDE FOR A BUILDING FAÇADE FRONTING EXISTING OR PLANNED PUBLIC MAINTAINED STREETS WITHIN THE MIXED USE ZONE (MXU)

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

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTIONS 1212(1) AND (2) AND 1311(1) AND (2) RELATIVE TO MAJOR AND MINOR CHANGES TO RESIDENTIAL AND INSTITUTIONAL PLANNED UNIT DEVELOPMENTS AFTER REVIEW OR ADOPTION

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

CAPITAL IMPROVEMENTS BUDGET

Councilmen Benson and Rico made the motion and second to substitute the amendments to this Ordinance; the motion carried.

CAPITAL IMPROVEMENTS BUDGET (Continued)

On motion of Councilman Rico, seconded by Councilman Benson,
AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2008/2009 AND TO AMEND THE FISCAL YEAR 2008/2009 BUDGET ORDINANCE NO. 12139, THE 2004-2005 CAPITAL BUDGET ORDINANCE NO. 11606, THE 2006/2007 CAPITAL BUDGET ORDINANCE NO. 11903, AND THE 2007/2008 CAPITAL BUDGET ORDINANCE NO. 12024
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

Mr-2008-053: Bob Franklin c/o Girl's Preparatory School

Councilmen Rico and Pierce made the motion and second to approve this matter on second and final reading.

Chairman Bennett asked Rich Bailey if he had an opportunity to peruse the contract that City Attorney Nelson sent in reference to this matter.

Rich Bailey stated at the end of last week's Council meeting there were two requests to change the contract that has not yet made. He stated when he reviewed the contract this morning, he saw one change was made appropriately and the second, to his eye, had not been made appropriately. He stated he has not had an opportunity to show the document to legal counsel and would like an opportunity to do so to be sure the change requested is the working change that appears in the contract and matches the change requested and it does not appear to be so to him.

City Attorney Nelson stated that he can tell Mr. Rich that the contract does not reflect the change. He stated what was requested was that the city act by ordinance at any future reference to this matter and that would not be the appropriate way for the city to act. He stated that an ordinance is law and normally if we were going to enforce a contract we would do it by court action which is authorized by the Council by resolution, so, we can not bind a future Council to do something by which they ought to do by resolution.

Mr. Bailey stated he was speaking in terms of enforcing the contract; that the wording in the contract refers to changing the contract so it seems to him since this contract is part of the ordinance the Council is intending to pass, would it not be changed by ordinance.

CLOSE AND ABANDON (Continued)

City Attorney Nelson responded "no"; that once the city abandons a right-of-way, then it is no longer ours and if we attempt to impose our will by ordinance we may very well be subject to suit for taking of property without compensation. He stated there are only two things we can do: (1) close the road completely because public works says they are not going to fix it or (2) block off the road if they do not get GPS to fix it themselves and that was his understanding. He stated what we have done is abandoned the road but maintained an additional right for the neighborhood by contract which the city can enforce.

Councilman Page stated right now he is not clear on where we are in negotiating this arrangement. He stated he has no problem waiting another week but would like clarification from somebody, maybe the city attorney, Mr. Bailey or Mr. Franklin as to where we are with this process. He stated he would have to abstain at this point as he does not have enough information.

Councilwoman Berz stated she is trying to figure out in English where the two are not together; that Mr. Bailey refers to words but she does not know what he is talking about.

Mr. Bailey stated at one point two-or-three weeks ago this contract was suggested as a way to address the neighborhood's concerns. He stated when he first saw the language certain changes were suggested to make it more in line and one of the changes is what we are talking about here. He stated it is his understanding the effective change was to make the process of changing this contract something that would have the weight of the Council; that information the city attorney gave is that the city could not enforce or pass a law about that which is new information to him (Bailey).

Councilwoman Berz stated that she just wanted to know Mr. Bailey's concerns underlying this.

Mr. Bailey stated it is a little awkward to say – for 20-to-30 years there has been a very strained relationship between the neighborhood and GPS which led to the neighborhood discussion he represents. He stated it is felt it is in their best interest if this process and agreement was open and subject to traditional public process as much as possible; that the wording in question in the document made reference to the changes agreed upon by parties and they feel it is important to make sure any changes to be done should be in full public view and notification and the ordinance wording, in their minds, seems like the best way to do that.

CLOSE AND ABANDON (Continued)

Mr. Bailey stated another reason is that this process began in February with Planning which was subject to traditional public notice, but when it came back to the Council the only way they were aware was when they saw it had been postponed because Councilwoman Bennett was out of town.

Councilwoman Berz stated that the road will be open for use all the time and if there is any fixing to be done GPS would do that. She stated she was trying to "get her arms around" some of the objection and asked if there is something else Mr. Bailey wants to happen condition-wise because something GPS is doing that is getting in his way; that she can not seem to get hold of it.

Mr. Bailey stated that he was not sure how to respond; that there is a history of mistrust and they are trying to get around it and create a better foundation going forward.

Councilwoman Berz asked how that would happen if they agree to keep it open and asked if there is something else that he is wanting, another condition.

Mr. Bailey responded "no"; that the only point of contention was the one condition that was not phrased what the neighborhood requested; that information from the city attorney is the first he has heard as to the reason for phrasing it differently. He stated that he just got this information and is not sure he fully assimilated it; that it is his thought it would be wise to speak with the attorney who helped think through this originally.

Councilwoman Berz acknowledged that Mr. Bailey's statement helps her to understand.

Councilman Rico stated at first the road was going to be blocked for a certain time and then it was agreed not to do that which would take care of the problem; that at the beginning that was the problem – the road closing.

Chairman Bennett stated that attorneys have been working with the contract; that information has been given without a lot of time to digest and work through and get it into the final form. She stated that it is her thought the bottom line with the neighborhood is Mr. Bailey wants to be sure what is in place in the contract and the terms agreed on are binding. She stated that is really the bottom line however legally binding it needs to be worded.

City Attorney Nelson stated there is no problem with what we have done so far, it is that if we ever decide to amend the agreement, then the neighborhood wants to be notified somehow and that would not necessarily happen.

CLOSE AND ABANDON (Continued)

Chairman Bennett asked if that would be part of the public process in terms of a resolution or any changes.

City Attorney Nelson stated that it would depend on what the change was; that, for instance, if we decide to change the specifications to which GPS would construct the road we probably would not have to go through any public process, it could just be done; but if we change zoning or have to widen the road or do something like that it would probably have to go back through Planning. He stated he does not know what any possible change might be in the future and can not bind the future Council along those lines.

Chairman Bennett clarified that the request can not be granted. City Attorney Nelson responded "pretty close".

Councilman Benson stated eight months ago Mr. Bailey was at Planning. Mr. Bailey responded that he was not there; that others were there.

Councilman Benson stated there was quite a number and because of the history of contentiousness between the neighborhood and the school the entire Planning Commission tried to listen closely. He stated it was announced at that time it would be before the City Council four weeks from that day so they all knew it was going to get in the cycle for legislative action. He stated this has been going on for eight months, now, and has come a long way from the very beginning as a "win-win" for the city.

Mr. Bailey stated he was not present at Planning and can not speak to what was said about a four week notice; that he understood from those at Planning that the issue had been "killed" and the road would not be closed and, subsequently, four-or-five months later it took everyone by surprise when it showed up on Chattanooga.com. He stated in subjective conversation with Messrs. Franklin and Tucker information was passed that they went to public works and public works encouraged ownership of the road that was outside the communication process of the Planning Commission. He stated his concern is Planning has a well-defined public notice process and he did not know that the City Council's action does that unless specified to do so. He stated he is not sure what to do at this point.

Councilwoman Berz asked the City Attorney if we close and abandon a street do we have any more to say about it.

CLOSE AND ABANDON (Continued)

City Attorney Nelson responded "normally we do not"; that it becomes property of whoever dedicated the property to the city, but in this instance we have contracted or would contract with GPS for them to keep the road open, build to certain specifications and open 24/7 in perpetuity. So, we would have contract rights to enforce if something happened to the road.

Councilwoman Berz addressed Mr. Bailey stating that may be his answer; that we are giving the street to GPS with conditions that it will always be open, be paved to certain specifications and, therefore, what she does not understand is what else needs to happen. She stated it seems this guarantees what Mr. Bailey wants and (she) is just does not understand.

Mr. Bailey stated this clause in the contract specifies how contracts can be changed by either party; that their concern was to have a way to be notified publicly if such change occurs. He stated because of what the City Attorney has said that makes perfect sense, but their concern is still to become aware of any change that is being contemplated which includes the city. He stated because of the wording the underlying issue is mistrust and he is one of the more moderate of people in the neighborhood when it comes to mistrust.

Councilwoman Gaines asked when the Council takes this vote, where it says "subject to conditions" (in the ordinance) this changes by law whether they would have to be notified.

City Attorney Nelson responded "no".

Councilwoman Gaines stated that answers it!

Councilman Page suggested postponing the matter a week and let them settle it. He stated he would ask the Chairperson and Council person for that district what she would like to see and he would try to listen to her.

Chairman Bennett stated that this area is a shared responsibility as the school is in District 1 and the community is in District 2. She stated they looked hard at this and Messrs. Franklin and Bailey worked hard to address some of the issues and are hopeful through that process mistrust has shown good faith to work through it. She stated what she is hearing from the attorney may be what the neighborhood is asking for may not be legally possible; that we have gone the extent through the legal means to assure the community will have what they need and that is what she is hearing from the City Attorney.

CLOSE AND ABANDON (Continued)

Chairman Bennett stated the other challenge is to see what other means can be worked out between GPS and the neighborhood to be sure of some notification; that it would be between the Council person representing the neighborhood and the neighborhood to stay in touch with their Council person. She stated as long as she and Councilwoman Robinson are on the Council they will know if something comes through; that she does not know of anything else they can do and asked if she were missing something.

City Attorney Nelson stated that it is his thought the thing that might be accomplished by the neighbors in case representation changes at some point is that they should make contact with their new representatives and ask to be heard on a matter if such a matter comes up.

Chairman Bennett stated neighborhood leaders change, as well.

Mr. Bailey stated if in the future a change comes up between GPS and the city, is it fair to assume any such change would go to the city attorney who would consult with the appropriate representative whether they return or not.

City Attorney Nelson stated any such change would, in all probability, come before the City Attorney, but normally those changes come from the public works department and that is where we got this. He stated the original recommendation from Planning to go ahead and close and abandon, someone in public works talked with them and hit upon another method to accomplish the same purpose to satisfy both sides.

Mr. Bailey stated by passing this ordinance, it is taken completely out of the political influence of elected officials and could be a decision made administratively between GPS and the department head.

City Attorney Nelson responded "yes and no"; that it depends on the type of change. He stated if paving the road and there is a need for additional time or whatever that is something administration can handle, but if there is a change in terms of the agreement it would come back for an amendment to the contract.

Mr. Bailey stated substantive changes would come back to the Council.

City Attorney Nelson added "by resolution". He explained that an ordinance is a law and a resolution is a method by which this body authorizes the administration to enter into various contracts.

CLOSE AND ABANDON (Continued)

City Attorney Nelson stated if the Council has to amend the contract so as to permit the closure of the road, for instance, something like that would have to go back to Planning and would definitely have to come back to the Council.

Chairman Bennett stated anything at the level that would have a true impact on this community and would have to come in the form of a resolution back to the Council for an amendment.

Councilman Benson stated only two things that would bring this matter back would be a Code violation or a condition violation.

City Attorney Nelson added "if there was a violation to the contract".

Mr. Bailey stated the complexity of this discussion takes him back to something mentioned earlier and dropped because Councilwoman Bennett said it would be redundant with an ordinance and that is writing his understanding of what is going on here in plain English for the affected parties; that he is going to write a letter that attempts to put this whole situation in plain English and will ask for the signature of the two representatives and someone on behalf of GPS simply to put into everyone's file. He expressed appreciation for everyone's comments and noted that this "boils down" to the process of influencing elected officials; that they will be vigilant in trying to stay in touch and knows of no other way. He stated this is a very disappointing process as they are going from having a right-of-way protected by the city as its owner and giving it away to a private entity. He stated he would have to write a letter and expressed appreciation for the Council's indulgence.

Councilwoman Berz asked if the conditions are substantive changes and inquired as to what the changes are.

City Attorney Nelson responded, basically, GPS will have the road open 24/7 and 365 days in perpetuity; that it will be paved to a certain standard being standard of our city streets and that is the "guts" of it.

Councilwoman Berz stated anything else would have to come back before us.

City Attorney Nelson responded "yes".

Councilwoman Berz stated that the City Attorney said "yes"; and given those terms it is her thought the neighborhood is protected and is sure of it.

At this point Councilman Pierce "called for the question".

CLOSE AND ABANDON (Continued)

On motion of Councilman Rico, seconded by Councilman Pierce,
**AN ORDINANCE CLOSING AND ABANDONING THE 700 BLOCK OF
FRAZIER AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS
SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

LIFT CONDITION

2008-136: David Mathews

On motion of Councilman Rico, seconded by Councilwoman Gaines,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT THE CONDITIONS
IMPOSED IN ORDINANCE NO. 7654, RESERVATION OF ANY EXISTING
EASEMENT FOR ANY UTILITY, ON A TRACT OF LAND LOCATED ON THE
FORMER 1600 BLOCK OF FIRST 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 second and final reading and was signed in open meeting.

REZONING

2008-144: Shull Harris Construction, LLC

On motion of Councilman Benson, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3370 JENKINS ROAD, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM C-5
NEIGHBORHOOD COMMERCIAL ZONE TO R-4 SPECIAL ZONE**
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2008-146: City of Chattanooga c/o Dan Thornton

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE EASTERN RIGHT-OF-WAY OF THE 1100 BLOCK OF LINDSAY 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.

INTERCEPTOR SEWER SYSTEM BUDGET

On motion of Councilman Rico, seconded by Councilwoman Berz,
AN ORDINANCE TO AMEND ORDINANCE NO. 12139, ENTITLED "AN ORDINANCE, HEREINAFTER ALSO KNOWN AS THE 'FISCAL YEAR 2008-2009 BUDGET ORDINANCE', TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, AND ENDING JUNE 30, 2009, AND APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; PROVIDING FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES," SO AS TO SET FORTH THE BUDGET OF THE INTERCEPTOR SEWER SYSTEM AND TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 31, SECTIONS 31-36, 31-37, 31-41 AND 31-43
passed first reading.

REGIONAL STRATEGIC SKILLS FORECAST

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AFFIRMING CHATTANOOGA'S INTENT TO PARTICIPATE IN A REGIONAL STRATEGIC SKILLS FORECAST AND ASSURING LOCAL MATCHING FUNDS IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)
was adopted.

PERSONAL SERVICES CONTRACT EXTENSION

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE MAYOR TO EXTEND THE PERSONAL SERVICES CONTRACT WITH DR. BARBARA MEDLEY FOR OVERSIGHT OF THE OFFICE OF MULTICULTURAL AFFAIRS FOR THE PERIOD OF SEPTEMBER 1, 2008 THROUGH OCTOBER 31, 2008 IN AN AMOUNT NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000.00)
was adopted.

SOLICIT/ACCEPT DONATIONS

On motion of Councilman Rico, seconded by Councilman Shockley,
A RESOLUTION AUTHORIZING THE OFFICE OF MULTICULTURAL AFFAIRS TO SOLICIT AND ACCEPT DONATIONS FROM BUSINESSES WHICH INCLUDE GIFT CERTIFICATES, LOW-COST MERCHANDISE FOR PRIZES, AND FOOD FOR CONSUMPTION BY EVENT PARTICIPANTS FOR ALL CURRENT AND FUTURE SWEET DIVERSITY EVENTS
was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AMENDMENT TO THE AGREEMENT WITH PLANTATION PIPE LINE COMPANY RELATIVE TO THE CONSTRUCTION OF THE SUMMIT SOFTBALL COMPLEX, WHICH AMENDMENT INCREASES THE CONTRACT PRICE BY THIRTY-FOUR THOUSAND SEVEN HUNDRED FIFTY-EIGHT AND 95/100 (\$34,758.95), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED ONE HUNDRED SEVENTY-NINE THOUSAND SEVEN HUNDRED FIFTY-EIGHT AND 95/100 DOLLARS (\$179,758.95)
was adopted.

MEMORANDUM OF UNDERSTANDING

Councilman Benson stated that he researched this matter and this conference has been called the Homicide Conference for ten-to-twelve years. He stated that Councilwoman Robinson's suggestion to refine the title to the Annual Homicide Prevention "Something" Conference should be considered as it leaves the wrong impression. He suggested that another adjective is needed to help with that.

MEMORANDUM OF UNDERSTANDING (Continued)

City Attorney Nelson stated a brochure was distributed last week; that even though that is the title the Conference deals not only with prevention but also on how to do detective work and that type of thing in homicide investigations.

On motion of Councilwoman Gaines, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE CHIEF OF THE CITY OF CHATTANOOGA POLICE DEPARTMENT TO ENTER INTO A MEMORANDUM OF UNDERSTANDING, IN SUBSTANTIALLY THE FORM ATTACHED HERETO, WITH HAMILTON COUNTY, TENNESSEE, TO CO-HOST THE 17TH ANNUAL HOMICIDE CONFERENCE IN CHATTANOOGA, WITH THE CITY'S PORTION NOT TO EXCEED SIX THOUSAND DOLLARS (\$6,000.00)

was adopted.

PAYMENT ACCEPTANCE

On motion of Councilman Rico, seconded by Councilwoman Gaines,

A RESOLUTION AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS, INTERCEPTOR SEWER FUND, TO ACCEPT A PAYMENT FROM TENNESSEE-AMERICAN WATER COMPANY AS REIMBURSEMENT FOR FIELD RELOCATION OF INTERCEPTOR SEWER TO AVOID THE EXISTING THIRTY-INCH (30") WATER MAIN RELATIVE TO CONTRACT NO. W-05-007-202, WARNER PARK/ENGEL STADIUM PARALLEL INTERCEPTOR SEWER CONTRACT, IN THE AMOUNT OF FIFTEEN THOUSAND TWO HUNDRED TWENTY AND 17/100 DOLLARS (\$15,220.17)

was adopted.

CHANGE ORDER

On motion of Councilwoman Gaines, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. E-08-001-201, RIVERFRONT PARKWAY MODIFICATIONS, WITH YERBEY CONCRETE CONSTRUCTION, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY SIXTY-FOUR THOUSAND FOUR HUNDRED EIGHTY-FOUR AND 24/100 DOLLARS (\$64,484.24), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED SIXTY-THREE THOUSAND SEVEN HUNDRED SIXTY-FIVE AND 01/100 DOLLARS (\$263,765.01), AND RELEASING THE CONTRACT CONTINGENCY AMOUNT OF THIRTY-TWO THOUSAND EIGHT HUNDRED TWENTY-FIVE AND 75/100 DOLLARS (\$32,825.75)

was adopted.

CHANGE ORDER

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. E-03-011-201, IGOU GAP ROAD IMPROVEMENTS PHASE 1, WITH HIGHWAY, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY FOUR HUNDRED NINETEEN THOUSAND THREE HUNDRED EIGHTY-FIVE AND 30/100 DOLLARS (\$419,385.30), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO MILLION SIXTY-TWO THOUSAND FOUR HUNDRED SEVENTY-SIX AND 30/100 DOLLARS (\$2,062,476.30), AND RELEASING THE CONTRACT CONTINGENCY AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00)
was adopted; Councilman Benson voted "no".

OVERTIME

Overtime for the week ending September 11, 2008 totaled \$92,414.47.

PERSONNEL

The following personnel matters were reported for the various departments;

CHATTANOOGA POLICE DEPARTMENT:

- **JAMES DAVES** – Suspension (5 days without pay), Police Officer, effective September 5-9, 2008.
- **ELIZABETH BUSH** – Family Medical Leave, Police Records Technician, effective September 15 – December 8, 2008.
- **ANTHONY GLENN BEAN, RONALD DALE BESS, JOSHUA PAUL BREWER, DAMON LEE DAVIDSON, ROBERT EDWARD DILLINGHAM, CHARLES ANDREW DILLON, ERIC EUGENE EPPS, CORNELIUS GAINES, JULIEANN GARCIBUSTAMANTE, TERRANCE DELWIN GRAVES, SHAKIR SAID GHAZI, CLAYTON JOSEPH HOLMES, JEFFREY RAY IRVIN, JORDAN ROSS MCGRATH, JOSHUA EVAN MCGUIRE, MICHAEL KERRY MOORE, AMANDA DIANE MORGAN, TIMOTHY DANIEL MORGAN, WILLIAM RAND NICHOLS, ANDREW CHARLES PEKER, MARK MONTGOMERY POLLARD, LEONAD SLOAN RANKHORN, NATHAN PAUL ROGERS, CURTIS JOHN ROTH, CRISTINA LEILA RUSSELL, DANIEL COREY RUSSELL, CAMEKA DANYALE SANDERFUR,**

PERSONNEL (Continued)

MICHAEL J. SANTO, AARON JAMES SAWYER, JAMES HOWARD SMITH, JAMES AARON VINSON, THOMAS ASHLEY WHITFIELD, JEREMY ISAAC WILLIAMS, JEREMEY MARK WILSON – Police Cadet, Range P1, \$34,118.00 annually, effective September 19, 2008.

PARKS AND RECREATION DEPARTMENT:

- **JOHN URSTADT** – Hire, Zookeeper 1, Range 5, \$22,046.00 annually, effective September 12, 2008.
- **MAURICE B. WHITE, ARISTOTLE HUFFMAN** – Hire, Crew Worker 1, Range 2, \$21,200.00 annually, effective September 12, 2008.
- **CLIFFORD L. SANFORD** – Discharged, Crew Worker 1, effective September 10, 2008.
- **KEVIN BRADY** – Resignation, Director of Parks, effective September 15, 2008.

CHATTANOOGA FIRE DEPARTMENT:

- **CHRISTINA A. HENSLEY** – Resignation, Fire Cadet, effective September 9, 2008.
- **MICHAEL D. BATTLE** – Resignation, Fire Cadet, effective September 10, 2008.

REFUNDS

On motion of Councilman Pierce, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund of gross receipts tax:

CBIZ MEDICAL MANAGEMENT PROFESSIONALS	\$1,417.06
ROSS GLASS & ALUMINUM LLC	\$2,946.55

BOARD APPOINTMENTS

The following Board appointments/reappointments were approved:

BOARD OF GAS EXAMINERS:

On motion of Councilman Rico, seconded by Councilwoman Gaines the re-appointment of **JESSIE GRAHAM** as the Educator/Technologist as required by *City Code* for a four term tem expiring September 16, 2012 was approved.

BOARD OF MECHANICAL EXAMINERS:

On motion of Councilman Rico, seconded by Councilman Page the re-appointment of **JESSIE GRAHAM** as the Educator/Technologist as required by *City Code* for a four year term expiring September 16, 2012 was approved.

ANIMAL CARE TRUST BOARD OF DIRECTORS:

On motion of Councilwoman Gaines, seconded by Councilwoman Berz the appointment of **MARIE CHINERY** to serve as the city's appointment per the Operating Agreement was approved.

PERSONNEL INQUIRY

Councilman Pierce inquired as to the conditions for the resignation listed in the Parks and Recreation Department's personnel report.

Adm. Zehnder stated the resignation was due to personal issues regarding that person in particular involving a personal family situation. He stated the person offered the resignation two weeks ago.

Councilman Pierce stated that he wanted to make sure the resignation had nothing to do with the city, clarifying that it was "just personal".

Adm. Zehnder stated that it was the person's choice to resign and personal issues were cited. He stated he would be happy to share the note of resignation with Councilman Pierce if he would like to see it.

COMMITTEES

Councilman Shockley scheduled a meeting of the **Parks and Recreation Committee** immediately following Economic Development on Tuesday, September 23. He stated Committee topics would include Trust for Public Land with Stringer's Ridge in particular, and Resolutions for a security agreement and the donation of Chickamauga Creek property.

Councilwoman Robinson stated that the Education, Arts and Culture Committee heard an update today on The Passage Indian art installation on the 21st Century Waterfront concerning necessary repairs and upgrades to comply with *City Code* requirements for safety. She stated the Committee also heard an update of a proposal brought forth by Education, Arts and Culture and administration to enhance The Passage with audio presentation. She stated it has been said the call to work for the repairs to The Passage will be open next summer and that the consideration of the audio presentation will not delay the reopening of The Passage, but will occur on its own separate congruent timeline.

Councilman Pierce inquired as to whether Councilwoman Robinson knows the cost for the audio.

Councilwoman Robinson responded "not yet" as the information is being pulled together. She stated it has been said the necessary repairs and upgrade accounts for about 95 percent of the work down there and the conduits that will be put into place during the repairs may or may not be used for the audio, but they will not add significantly to the cost of repair and the upgrade.

Councilman Page scheduled a meeting of the **Economic Development Committee for Tuesday, September 23 immediately following Legal and Legislative.**

Councilwoman Gaines stated members of the Safety Committee will be notified within the next few days regarding a meeting as there is the need to go back and revise the noise and curfew laws. She stated when she has an available date from the City Attorney's office committee members would have a short briefing regarding the two matters.

Councilwoman Berz stated that the Budget, Finance and Personnel Committee met last week and noted that a report was to be given by Ms. Kelley regarding the pharmaceutical contract.

City Attorney Nelson stated that the proposed agreement information should be in Council members' mailboxes on tomorrow.

COMMITTEES (Continued)

Councilwoman Berz stated that the matter is on the agenda and she is scheduled to be out of the city next week in Austin, Texas at a conference. She stated Councilman Page has agreed to review the matter with Ms. Kelley leading the discussion.

Councilman Benson stated that the **Legal and Legislative Committee is scheduled to meet on next Tuesday following the agenda discussion** to try to bring into the "closing gates" the Transportation Incident Management Ordinance.

CITY FACILITIES TOUR

Chairman Bennett reminded Council members of the city facilities tour scheduled for next week. She stated that she has placed in Council members' mailboxes a copy of a report to citizens from the city of Charlotte that they would find interesting to go through regarding a similar strategic planning process.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, September 23, 2008 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)**