

**CITY COUNCIL BUILDING  
CHATTANOOGA, TENNESSEE  
NOVEMBER 25, 2008**

Chairman Bennett called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gaines, Gilbert, Rico, Page, and Pierce present. Councilwoman Robinson was absent due to personal 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 Councilman Rico, seconded by Councilwoman Berz, the minutes of the previous meeting were approved as published and signed in open meeting.

Chairman Bennett wished everyone a Happy Thanksgiving! She explained that all agenda items had been covered in a Council Work Session at 3:00 P.M. today.

**SPECIAL PRESENTATION  
LARRY ZEHNDER**

Adm. Zehnder related to the Council that a Conference of Tennessee Recreation Depts. was recently held in Memphis, and the City of Chattanooga received a Four Star Award for Renovated New Facilities for Warner Park. Adm. Zehnder stated that the Council deserved this award, and he appreciated this and so does the State of Tennessee.

Councilwoman Berz stated that she personally thanked Adm. Zehnder for the outstanding job he was doing; that it is the City's privilege to have him working for us, and she thanked him, stating that the Award was his.

**LARRY ZEHNDER (CONT'D)**

Chairman Bennett agreed that the Parks and Recreation Dept. won this award and further added that Adm. Zehnder was awarded the 2008 Fellow Award, which is the highest professional honor that can be given. She stated that it was a real honor to see Mr. Zehnder so recognized by the State.

**AMEND CITY CODE**  
**BRAKING DEVICES**

Councilman Benson noted that this had been discussed in the Legal and Legislative Committee and comes with a recommendation for approval.

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE,  
PART II, CHAPTER 24, SECTION 24-438 RELATIVE TO  
MUFFLERS AND APPROVED ENGINE COMPRESSION  
BRAKING DEVICES**

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

**CARTA APPROP.**

Councilman Benson also noted that this had been discussed in Legal and Legislative Committee.

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE APPROPRIATING FROM THE CAPITAL  
PROJECTS FUND TO THE CHATTANOOGA AREA REGIONAL  
TRANSIT AUTHORITY (CARTA) AN AMOUNT NOT TO  
EXCEED NINE HUNDRED EIGHTY-FOUR THOUSAND FIVE  
HUNDRED NINETY-TWO DOLLARS (\$984,592.00) TO BE  
USED FOR THE NORTH SHORE GARAGE AND CAPITAL  
NEEDS OF CARTA AND AUTHORIZING THE  
ADMINISTRATOR OF THE DEPARTMENT OF FINANCE TO  
ENTER INTO AN AGREEMENT WITH CARTA TO REIMBURSE  
THE CITY AN AMOUNT NOT TO EXCEED FOUR HUNDRED  
SEVENTY-NINE THOUSAND TWO HUNDRED EIGHTY-EIGHT  
DOLLARS (\$479,288.00) OVER A TERM OF TEN (10) YEARS  
AT AN INTEREST RATE OF FOUR PERCENT (4%)**

passed first reading.

**AMEND CITY CODE**  
**LEDS SIGNAGE**

On motion of Councilman Benson, seconded by Councilwoman Gaines,  
**AN ORDINANCE AMENDING CHATTANOOGA CITY CODE SECTION 3-19, TO INCLUDE ADVERTISING SIGN REQUIREMENTS FOR SIGNS CONTAINING LIGHT EMITTING DIODE (LEDS) WITHIN SIGNAGE NEAR STREETS AND ROADWAYS WITHIN THE CITY OF CHATTANOOGA**  
was deferred for one week. This will be discussed in the Legal and Legislative Committee next week.

**AMEND CITY CODE**  
**RELATIVE TO SIGNS**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 3, SECTIONS 3-6, 3-94, 3-101, 3-102, 3-131, AND 3-132, RELATIVE TO SIGNS**  
passed first reading.

**AMEND ORD. 11704**  
**PLYMOUTH LANE**

Councilman Rico noted that **Ordinances (d), (e), and (f)** were discussed in Public Works Committee and, **he made the motion that they be deferred indefinitely. This was seconded by Councilman Pierce.**

Councilman Benson stated that he had a problem with deferring these Ordinances; that they were advertised last week for first reading and now they were advertised this week for first reading, and we were proposing that they be postponed again; that the people who kept coming in the interest of these cases must be frustrated! He noted that we had not even had the first hearing yet, and there had been new developments today; that he did not feel right postponing these Ordinances without a hearing.

Chairman Bennett asked if we were ready to move forward with these?

**PLYMOUTH LANE (CONT'D)**

Councilman Benson asked that the Council listen to Mr. Haynes before we dispose of these Ordinance.

Councilman Page stated that he thought we had an understanding in the Public Works Committee, and the consensus was that we vote on these Ordinances today for first reading.

Councilman Benson stated that we could vote on closing the bridge part, which were Ordinances (d) and (e) and dispose of these; however the third Ordinance (f) was different.

**In this case, Councilman Pierce withdrew his second to postpone indefinitely.**

Adm. Leach explained that Ordinances (d) and (e) are related to Ordinance (f); however they are different issues—that Ordinances (d) and (e) can move forward because we are merely removing a statement of connectivity, which does not affect Ordinance (f).

**In this case, Councilman Rico withdrew his motion to postpone indefinitely.**

Councilman Pierce asked if Attorney Anderson was present and if he wished to speak.

Attorney Anderson stated that he wished to confirm what the Ordinance will be saying—that if it says “until such time this shall be re-platted at the expense of the developer”, then he would want this deleted, and then he would be okay with it.

Adm. Leach responded that again, he did not know; that Attorney Anderson would have to talk to the City Attorney and get the language modified—that he was not sure; that his department had been working with Phil Noblett on this—that it might not be ready tonight, but he was understanding there was no issue as long as the language was changed.

Attorney Anderson stated that he was going by the language in the Ordinances that Ms. Crownover had given them this afternoon.

**PLYMOUTH LANE (CONT'D)**

Councilman Pierce asked Attorney Anderson if he could come back next week and argue this point?

Attorney Nelson suggested that the Council go ahead and act on first reading tonight—that the Ordinance would have to be amended.

Councilwoman Berz questioned if something had to be amended, why pass it on first reading tonight?

Attorney Nelson responded that it gets this behind us before next week.

Councilwoman Berz confirmed that we amend only on first reading.

Councilman Page stated that this would need to be revised before next week.

**At this point, Councilman Pierce moved that Ordinance (f) be deferred until next week. This was seconded by Councilwoman Gaines.**

Councilman Benson wanted to know what would happen in the interim to cause this to be deferred? He wanted to know what we would be using next week's time for?

Councilman Page stated that he thought we had a Third Option in Committee that was reasonable—that if there was something different, he would like to hear it too. Councilman Benson agreed that everyone needed to know.

Councilman Rico stated that he thought the applicant was not satisfied with Option 3.

**Mrs. Smith** stated that she would like to have the Third Option repeated.

Councilman Pierce questioned who would pay for the survey?

Councilman Page stated that he was in favor of moving on Ordinance (f) tonight and treat it the same way that we are treating Ordinances (d) and (e). He stated that the question was “Do the Smiths want to proceed with this and pay the \$3,000 for a new survey?”

**PLYMOUTH LANE (CONT'D)**

Councilman Benson asked that the Smiths and Greg Haynes come forward.

Mrs. Smith stated that she would like to have some clarification on the Third Option.

**At this point, Councilman Pierce withdrew his motion to defer this.**

Councilman Benson asked Mr. Haynes to explain this.

Mr. Haynes stated that the Third Option was to abandon the right-of-way and maintain a Sewer Easement of 20 ft.

Adm. Leach added that AT&T and another utility wanted to retain the full 50 ft. width, also; that his Department was okay with a 20 ft. easement as long as they could get their equipment in.

Mrs. Smith confirmed that there would be no connectivity and that the City would retain a 20 ft. easement.

Councilman Benson stated that we could vote on first reading tonight and then have a week to make any needed changes.

Councilman Rico asked Mrs. Smith if she understood that they would have to have this re-platted at a cost of \$3,000.

Mrs. Smith stated that it was her understanding that they did not **have** to do this.

On motion of Councilman Benson, seconded by Councilman Pierce,  
**AN ORDINANCE AMENDING AND MODIFYING ORDINANCE  
NO. 11704 (CASE NO. MR-2005-075) WHICH IS AN  
ORDINANCE CLOSING AND ABANDONING A PORTION OF  
THE 7500 BLOCK OF PLYMOUTH LANE, 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.

**AMEND ORD. 11705**  
**HEWITT LANE**

On motion of Councilman Pierce, seconded by Councilman Rico,  
**AN ORDINANCE AMENDING AND MODIFYING ORDINANCE  
NO. 11705 (CASE NO. MR-2005-076) WHICH CLOSED AND  
ABANDONED A PORTION OF THE DEDICATED RIGHT-OF-  
WAY WITHIN THE 7500 BLOCK OF HEWITT LANE, MORE  
PARTICULARLY DESCRIBED HEREIN, AND AS SHOWN ON  
THE ATTACHED MAP ATTACHED HERETO AND MADE A  
PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN  
CONDITIONS**  
passed first reading.

**CLOSE AND ABANDON**

**MR-2008-137 (Jacquelyn C. Smith)**

On motion of Councilman Page, seconded by Councilman Benson,  
**AN ORDINANCE CLOSING AND ABANDONING THE  
UNNAMED DEDICATED RIGHT-OF-WAY DESIGNATED FOR  
BUILDING OF CONNECTIVITY TO HEWITT LANE PER  
CONDITIONS OF PRIOR ORDINANCE NO. 11705 LOCATED  
ON THE WEST LINE OF THE 1700 BLOCK OF HOLLY OAK  
LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS  
SHOWN ON THE MAPS AND DRAWINGS ATTACHED  
HERETO AND MADE A PART HEREOF BY REFERENCE,  
SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**CONTRACT**

On motion of Councilman Rico, seconded by Councilwoman Berz,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT  
NO. T-06-003-201, ST. ELMO AVENUE AT TENNESSEE  
AVENUE INTERSECTION IMPROVEMENT, TO TALLEY  
CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF ONE  
HUNDRED FIFTY-TWO THOUSAND THREE HUNDRED  
FORTY-EIGHT AND 34/100 DOLLARS (\$152,348.34), PLUS  
A CONTINGENCY AMOUNT OF FIFTEEN THOUSAND TWO  
HUNDRED THIRTY-FOUR AND 66/100 (\$15,234.66) FOR A  
TOTAL CONTRACT AMOUNT NOT TO EXCEED ONE  
HUNDRED SIXTY-SEVEN THOUSAND FIVE HUNDRED  
EIGHTY-THREE DOLLARS (\$167,583.00)**  
was adopted.

**AGREEMENT**

On motion of Councilman Rico, seconded by Councilman Pierce,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH INCRETE SYSTEMS RELATIVE TO CONTRACT NO. E-07-015-202, INSTALLATION OF STAMPED CONCRETE AT WALNUT STREET AND 1<sup>ST</sup> STREET, IN AN AMOUNT NOT TO EXCEED TEN THOUSAND NINE HUNDRED SEVENTY-SIX AND 50/100 DOLLARS (\$10,976.50)**  
was adopted.

**AD VALOREM TAXES  
AGREE./VOLKSWAGEN**

On motion of Councilman Rico, seconded by Councilwoman Gaines,  
**A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE VOLKSWAGEN GROUP OF AMERICA, INC. PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES**  
was adopted.

**MEMO OF UNDER-  
STANDING/RE: VW**

On motion of Councilwoman Berz, seconded by Councilman Rico,  
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY, A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY, THE STATE OF TENNESSEE, HAMILTON COUNTY, THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, THE CHATTANOOGA AREA CHAMBER OF COMMERCE, VOLKSWAGEN GROUP OF AMERICA, INC. AND/OR AGENCIES OF ANY OF THE FOREGOING RELATIVE TO THE VOLKSWAGEN GROUP OF AMERICA, INC. PROJECT**  
was adopted.



**SURPLUS PROPERTY  
CONVEYANCE (VW)**

On motion of Councilwoman Berz, seconded by Councilman Rico,  
**A RESOLUTION DECLARING SURPLUS THE CITY'S INTEREST  
IN PROPERTY OWNED JOINTLY BY THE CITY AND  
HAMILTON COUNTY AND KNOWN AS TRACTS 1 AND 2 OF  
THE PROPOSED MEGA SITE OF THE ENTERPRISE SOUTH  
INDUSTRIAL PARK, TAX MAP NOS. 130-001.01 AND 001.10,  
AND AUTHORIZING THE MAYOR TO EXECUTE A  
QUITCLAIM DEED CONVEYING SAID PROPERTY TO THE  
INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF  
CHATTANOOGA FOR DEVELOPMENT RELATIVE TO THE  
VOLKSWAGEN GROUP OF AMERICA, INC. PROJECT**  
was adopted.

At this point, Councilman Page asked that Mayor Littlefield be given a chance to speak about the previous Resolutions involving Volkswagen.

Mayor Littlefield stated that he felt as long as everything is moving ahead, it is better not to interrupt! He noted that this had been talked about at length in committee; that we were very fortunate to have this happening in our community with all the economic distress that is going on around the world. He questioned what he could say that has not already been said—that we had already gone into great detail in committee and everything that needed to be said, had been said. He did add that 12,000 jobs would be created, and the project was continuing to unfold, and the City is in a hurry to keep up with the progress that is being made.

**DIVERSITY/VW GROUP**

On motion of Councilwoman Gaines, seconded by Councilwoman Berz,  
**A RESOLUTION URGING VOLKSWAGEN GROUP OF  
AMERICA, INC. TO USE ITS BEST EFFORTS TO MAXIMIZE  
DIVERSITY AMONG ITS EMPLOYEES AT ALL LEVELS OF THE  
CORPORATE STRUCTURE AND TO FURTHER UTILIZE ITS  
BEST EFFORTS TO ASSURE A DIVERSE WORKFORCE AND  
OWNERSHIP OF THOSE COMPANIES AND ENTITIES IT  
CHOOSES TO CONSTRUCT ITS IMPROVEMENTS TO THE  
ENTERPRISE SOUTH SITE**  
was adopted.

**OVERTIME**

Overtime for the week ending November 20, 2008, totaled \$74,984.90.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**CHATTANOOGA POLICE DEPARTMENT:**

- **DANYA HIGHTOWER-COX**—FMLA for Communications Officer, 10/27/08—1/27/09.

**CHATTANOOGA FIRE DEPARTMENT:**

- **ABDUL SWAFFORD**—FMLA for Senior Firefighter, 8/30/08—11/19/08.

**PARKS AND RECREATION DEPARTMENT:**

- **BOBBY DODD**—Hire as Crew Worker 1, Range GS.02, \$21,199.00 annually, effective 11/14/08.
- **DEREK BATES**—Hire as Crew Worker 1, Range GS.02, \$21,199.00 annually, effective 11/21/08.

**EDUCATION, ARTS & CULTURE DEPARTMENT:**

- **MELISSA A. TURNER**—Hire as Public Relations Coordinator 1, Range 15, \$35,911.00 annually, effective 12/05/08.

**HOTEL PERMITS**

On motion of Councilman Rico, seconded by Councilwoman Berz, the following hotel permits were approved:

**MAINSTAY SUITES**—7030 Amin Drive, Chattanooga, TN 37421

**LAMAR’S HOTEL**—1020 E. MLK Blvd., Chattanooga, TN 37403

**REFUND**

On motion of Councilman Rico, seconded by Councilman Page, the Administrator of Finance was authorized to issue the following refund due to an overpayment on the 2006 and 2007 Water Quality Fees:

**VIVIAN ROBERTS**--\$4,499.09.

**PURCHASES**

On motion of Councilman Rico, seconded by Councilman Page, the following purchase was approved for use by the General Services Dept.

**REJECT ALL PROPOSALS FOR ANNUAL BLANKET AGREEMENT FOR CAR WASH SERVICES.**

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

**CUES, INC. (Single Source Purchase)**  
**Requisition R011593**

TV Truck Repair Parts

\$26,656.43

### SPECIAL COUNCIL MEETING

Attorney Nelson announced that the City is about to go to the Bond Market, and we will need to set a Special Meeting of the Council on **December 9<sup>th</sup> at 12:00 Noon**. He explained that the Charter prevents us from adjourning a meeting from week to week.

### COMMITTEES

Councilman Gilbert scheduled a **Parks and Recreation Committee meeting on December 2, 2008 to immediately follow the Budget, Finance and Personnel Committee meeting**. The topic to be discussed will be a Lease Agreement between the City and UTC.

Councilwoman Berz scheduled a **Budget, Finance and Personnel Committee meeting on December 2, 2008 to immediately follow the Legal and Legislative Committee meeting to discuss On the Job Injury Claim Re-Pricing and Check Processing; also renewal of the Cariten Retiree Contract and Mercury Payment Services for the Pharmacy**.

Councilman Benson scheduled a **Legal and Legislative Committee meeting on December 2, 2008 at 3:00 P.M.** to discuss LED signage or mobile signs. He stated that people in the Industry know that this will be coming up.

### AGENDA

Chairman Bennett asked everyone to turn to next week's agenda. She explained that all of the Ordinances for Final Reading had been discussed at tonight's meeting on First Reading. **Resolution (a)**, authorizing an Agreement with the Tennessee Dept. of Transportation (TDOT) relative to the Railroad Crossing Improvement Project at Jersey Pike and Pelican Drive, with the City's participation being 10% of the project cost or an estimate of \$30,000.00 was discussed at today's Public Works Committee meeting. **Resolution (b)**, authorizing Change Order No. 1 (Final) to Contract No. E-06-024-201, Tunnel Boulevard Sidewalk Extension Project, with Talley Construction Company, Inc., increasing the contract amount by \$10,316.38, for a revised contract amount not to exceed \$268,451.23, and releasing the contingency funds in the amount of \$15,498.77 was also discussed in today's Public Works Committee meeting.

**AGENDA (CONT'D)**

**Resolution ©** declaring as surplus, property located at 400 W. 45<sup>th</sup> St. will be discussed in next week's Legal and Legislative Committee meeting. **Resolution (d)** authorizing a Lease Agreement by and between the City and the University of Tennessee at Chattanooga for the use and management of the Warner Park Indoor Softball Complex located in the 1000 block of McCallie Ave. will be discussed at next week's Parks and Recreation Committee meeting.

**COUNCILWOMAN BERZ/  
INTRODUCTION**

At this point, Councilwoman Berz introduced two people to the Council and asked them to stand. They were Aden and Sean Simmons. She stated that they had come in from Atlanta today and were very interested in government; that they visited the Mayor's Office last week and wanted to know if our Mayor knew their Mayor. She stated that she was happy to say that these young men are her grandchildren.

**JAMES MATHIS**

**James Mathis** addressed the Council, stating that he was from Red Bank. He stated that he wanted to ask a question in reference to **Resolution (f)** on tonight's agenda, which urges Volkswagen Group of America, Inc. to use its best efforts to maximize diversity among its employees at all levels of the corporate structure and to further utilize its best efforts to assure a diverse workforce and ownership of those companies and entities it chooses to construct its improvements to the Enterprise South Site. He wanted to know if in this Resolution "Best Efforts" replaces Affirmative Action as it relates to Title VI?

Attorney Nelson responded "no".

**ADJOURNMENT**

Chairman Bennett adjourned the meeting of the Chattanooga City Council until Tuesday, December 2, 2008 at 6:00 P.M.

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**CHAIRMAN**

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**CLERK OF COUNCIL**