

CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
October 19, 2010

In the absence of Chairman Rico, who was out of the country, the meeting of the Chattanooga City Council was called to order by Vice Chairman Ladd, with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Robinson and Scott present. City Attorney Michael McMahan; 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 Vice Chairman Ladd, followed by invocation.

REZONING

2010-131 (Chattanooga City Council)

On motion of Councilman Murphy, seconded by Councilwoman Scott,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 399 MCCALLIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL BUSINESS ZONE
passed second and final reading and was signed in open meeting.

APPROP./LIBRARY

On motion of Councilman Murphy, seconded by Councilman McGary,
AN ORDINANCE APPROPRIATING NINETY THOUSAND SIXTY-EIGHT DOLLARS (\$90,068.00) FROM THE GENERAL FUND CONTINGENCY TO THE CHATTANOOGA-HAMILTON COUNTY BICENTENNIAL LIBRARY AS A MATCH OF HAMILTON COUNTY FUNDS, TO BE USED FOR ELEVATOR AND ROOF REPAIRS OF THE DOWNTOWN CENTRAL LIBRARY BUILDING
passed second and final reading and was signed in open meeting.

AMEND BUDGET ORD.

On motion of Councilman Murphy, seconded by Councilwoman Berz,
**AN ORDINANCE TO AMEND ORDINANCE NO. 12421, ENTITLED
“AN ORDINANCE APPROPRIATING, AUTHORIZING OR
ALLOCATING FUNDS TO THE CAPITAL IMPROVMENTS BUDGET
FOR THE FISCAL YEAR 2010/2011 AND TO AMEND THE FISCAL
YEAR 2010/2011 BUDGET ORDINANCE NO. 12410, “SO AS TO
PROVIDE FOR CERTAIN CHANGES IN REVENUES AND
APPROPRIATIONS IN SECTION 1 FOR THE PURCHASE OF 34.8
ACRES OF VAAP PROPERTY, IMPROVEMENTS TO SUMMITT
LANDFILL GAS GENERATION FACILITY AND INCREASE IN
APPROPRIATION TO THE C-HC BICENTENNIAL PUBLIC LIBRARY
AND TO PROVIDE FOR CERTAIN CHANGES IN REVENUES AND
APPROPRIATIONS IN SECTION 2 AND TO PROVIDE FOR CERTAIN
CHANGES IN REVENUES AND APPROPRIATIONS IN SECTION 3**

passed first reading with **Councilman McGary abstaining.**

Councilman McGary explained that the reason he was abstaining was because he was not present for this conversation.

Councilwoman Berz explained to Councilman McGary that we previously approved the Library Project, VAAP, and other things; that this is an Ordinance to amend our Budget Ordinance to make “okay” what we have already approved.

Councilwoman Scott added that the first expenditure is out of the Contingency Fund; the second item is coming out of the Landfill Post/Closure funds, which has been set aside for this.

Councilman McGary indicated appreciation for these explanations, stating that his concern was “certain changes in revenues and appropriations in Section 2 and changes in revenues and appropriations in Section 3”. He asked if that language was referring to the items that were spoken about or was it something else?

Attorney McMahan noted that there were three items, with Councilman McGary asking again if this language referred to these three items?

Ms. Madison explained that we have a Reserve for Solid Waste Fund and there is a Grant to accompany.

AMEND BUDGET ORD.(CONT'D)

Councilman McGary expressed appreciation for the explanation stating that we should do it like this all the time—that this was good.

TML DUES PAYMENT

On motion of Councilwoman Berz, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE PAYMENT OF THE 2010-2011
MEMBERSHIP DUES FOR THE TN MUNICIPAL LEAGUE IN THE
AMOUNT OF TWENTY-FOUR THOUSAND TWO HUNDRED FIFTY-
TWO DOLLARS \$24,252.00)**
was adopted.

R.E. PURCHASE(VAAP PROP.):

On motion of Councilwoman Robinson, seconded by Councilwoman Berz,
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN
OFFER TO PURCHASE REAL ESTATE AND ACCEPTANCE
AGREEMENT WITH THE U.S. GENERAL SERVICES
ADMINISTRATION (GSA) AND HAMILTON COUNTY FOR THE
PURCHASE OF 34.8 ACRES OF THE FORMER VOLUNTEER ARMY
AMMUNITION PLANT (VAAP) FOR THREE HUNDRED TWENTY-
SEVEN THOUSAND DOLLARS (\$327,000.00) WITH THE CITY'S
SHARE BEING ONE HUNDRED SIXTY-THREE THOUSAND FIVE
HUNDRED DOLLARS (\$163,500.00) AND AUTHORIZING THE
MAYOR TO SIGN ALL NECESSARY CLOSING DOCUMENTS TO
ACQUIRE SAID PROPERTY**
was adopted.

Councilman Murphy stated that he would feel better if we had an appraisal for this property—that he supposed the way the value was reached was adequate. He stated that linear corridors are valuable but have to go somewhere—that this goes nowhere! He went on to say that it has little value to the current owner but much value to Volkswagen.

Councilman McGary asked that Adm. Leach come forward and explain how negotiations proceeded in arriving at a fair value.

Mr. Leach came to the podium, along with Paul Parker from the County. He stated that they reviewed all the acquisitions that they made at the site and also

VAAP PROPERTY (CONT'D)

areas surrounding this and an appraisal was done in 2000 with \$7,900 an acre, which this is also; that this was essentially for raw land, which was unimproved. He stated that he could go through the list of land that had been acquired that might be comparable, which he proceeded to do, stating that the average price was \$9,300 per acre. He went on to say that Paul Parker negotiated with GSA on this property; that raw land's worth is determined by topography, location, and real estate, mentioning 9040 acres at \$7,900 an acre, stating that we were on target. He asked Mr. Parker to speak.

Mr. Parker stated that it was essential that we negotiate in order to deal with what we had to do; that we knew what we paid for the property and what the reasoning was based on previously; that they were not willing to accept less—that previously it was \$9,400 per acre, which we felt was reasonable then.

Councilwoman Scott stated that based on what was said, they would turn us down with another lower appraisal.

Mr. Parker stated that they were at their bottom figure and would not accept less; that this was essentially in the agreement.

Councilwoman Scott noted that the amount would differ from appraiser to appraiser. Mr. Parker stated that appraisals were matters of opinion. Councilwoman Scott asked, based on the agreement, if we were not able to acquire this property because of a dispute, would we be obligated to find property elsewhere? Attorney McMahan responded that we were committed to 1300+ acres, and he assumed this slip of land is in the center; that we had committed to get this parcel for them.

Councilman Murphy noted that every other parcel that Adm. Leach had mentioned, with the exception of the railroad, was a large parcel, and the parcel in question is oddly-shaped and Volkswagen has already built over it. He asked Mr. Parker what their opening bid was? Mr. Parker responded \$173,000 total. Councilman Murphy stated that it boggled his mind as to why the Federal Government would value this property—that it was not wide enough to build on. Adm. Leach noted that it was 200 ft. wide, prompting Councilman Murphy to note that this was a large road! Adm. Leach explained that it was to be a parkway.

MOU/HERITAGE DOG PARK

On motion of Councilman Benson, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH THE MCKAMEY ANIMAL CARE AND ADOPTION CENTER AND THE CHATTANOOGA GOODWILL INDUSTRIES TO OPERATE A MEMBERSHIP-FEE DOG PARK LOCATED AT HERITAGE PARK
was adopted.

AGREEMENTS
BROWNFIELDS TRAINING

On motion of Councilman McGary, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TO ENTER INTO AGREEMENTS WITH QUALIFIED CONTRACTORS, TO INCLUDE TRAINING CONTRACTS FOR THOSE COMPANIES WHO HAVE OVER TEN THOUSAND DOLLARS (\$10,000.00) IN SERVICES FOR CONDUCTING BROWNFIELDS JOB TRAINING CLASSES IN AN AMOUNT NOT TO EXCEED ONE HUNDRED THOUSAND DOLLARS (\$100,000.00)
was adopted.

Councilwoman Scott explained that this is grant money with no match and no city dollars are involved.

OVERTIME

Overtime for the week ending October 14, 2010, totaled \$8,699,55,

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ❖ **KENT J. ROSSI, JR.**—Employment of Accident Investigator, R/10, \$28,137.00 annually, effective 10/1/10.
- ❖ **NANCY S. POWELL**—Employment of Admin. Support Asst. 2, R/7, \$24,306.00 annually, effective 9/24/10.
- ❖ **REGINA V. WILSON**—Employment of Admin. Support Asst. 2, R/7, \$24,306.00 annually, effective 10/11/10.

CHATTANOOGA POLICE DEPT.:

- ❖ **ANTHONY J. ANDERSON & MARK T. FRAZER**—Hire as Police Officers, \$34,118.00 annually, effective 9/10/10.
- ❖ **DANIEL L. ANDERSON & THOMAS R. SEITER**—Re-hire as Police Officers, \$34,118.00 annually, effective 9/10/10.

CHATTANOOGA FIRE DEPT.:

- ❖ **JACK HORNER**—Promotion to Senior Firefighter, FD2A, \$41,986.38, effective 7/30/10.

PURCHASES

On motion of Councilwoman Berz, seconded by Councilman Gilbert, the following purchases were approved by the various departments:

PURCHASES (CONT'D)

PUBLIC WORKS DEPT.:

ASPLUNDH TREE EXPERT CO. (EPB Contract meeting specs.)
Requisition R33918

Contract for Tree Trimming Service

\$200,000.00 annually, approximately

ALLIED WASTE SERVICES (Low bid meeting specs.)
Requisition \$32719

Contract for Refuse & Recyclables Transport

\$202,040.00 annually, approximately.

GENERAL SERVICES DEPT.:

BARNES DISTRIBUTION (Lowest and best bid meeting specs.)
Requisition R32724

Contract for Nuts & Bolts

\$40,000.00 annually, estimated

LEE-SMITH, INC. (Lowest and best bid)
Requisition R30718

8 Yard Garbage Truck

\$128,485.00

BOARD APPOINTMENTS

On motion of Councilwoman Berz, seconded by Councilwoman Scott, the following Board Appointments were approved:

CHATTANOOGA METROPOLITAN AIRPORT AUTHORITY BOARD:

Appointment of FARZANA K. MITCHELL, for a three-year term to expire October 19, 2013.

BOARD APPTS. (CONT'D)

CITIZENS REVIEW COMMITTEE:

Appointment of **JANICE K. PULVER (DISTRICT 1)**, Term to be determined in accordance with Police Dept. Manual.

HEALTH, EDUCATIONAL AND HOUSING FACILITY BOARD:

Appointment of **ANNE M. WILKINS**, for a six year term, to expire **October 29, 2016**.

Appointment of **FAYE BOYLE**, for a six year term, to expire **April 21, 2016**.

ATTORNEY MCMAHAN

Attorney McMahan reported that he had a claim and a lawsuit to report to the Council tonight. The first matter involved a claim filed by Sharon Burse who fell as she was exiting her car on Broad Street. There was a “pot hole” that was subsequently repaired. The City was deemed to have “constructive knowledge” of the defect. The claimant incurred medical bills of \$1,768 and lost wages for two months of \$8,632. He recommended settlement of this case based on a special lawyer’s term of three times settlement of recommended claim. **On motion of Councilwoman Robinson, seconded by Councilman Murphy, authorization was given to settle the claim.** Councilwoman Scott asked for further clarification of the “special lawyer’s term”. Attorney McMahan explained that this was based on not involving a permanent disability when a person has to go to a doctor and loses wages—that it is called special damages and this would be within the range of settlements offered by most insurance companies for similar claims.

The lawsuit involved the City of Chattanooga’s involvement in a class-action suit against Hartford Ins. Co., which provides for employees who participate in the Hartford Retirement Plan. Attorney McMahan explained that this is a supplemental plan. This is in regards to a breach of fiduciary duty by Hartford in respect to investments where they made additional profits. This was filed in Connecticut, and the District Judge dismissed the case. The group of attorneys

ATTORNEY MCMAHAN(CONT'D)

that we retained out of D.C. filed an appeal in the Second Circuit Court of Appeals, and there was a mediation process and this mediation process produced \$30,000.00. **On motion of Councilwoman Robinson, seconded by Councilman Murphy, Attorney McMahan was granted permission to settle.**

Councilwoman Scott stated that she missed the part about the cost of our involvement. Attorney McMahan explained that the attorney fees would come out of the \$30,000 settlement. She asked if that was the final figure and if we would come out on the positive side? He responded that it would not be negative.

COMMITTEES

Councilman McGary asked Councilwoman Berz about the status of the Missy Crutchfield audit, stating that he understood that Randy Burns was working on this.

Councilwoman Berz stated that was a good question; that as announced last week, we will have a **Budget, Finance and Personnel Committee** meeting on **October 26, immediately following the Public Works Committee.** The Audit Committee will try to meet between now and then. She asked Mr. Burns if he had talked to anyone. Mr. Burns indicated that he did not have an answer at this time. Councilwoman Berz stated that the Audit Committee would review the City Auditor's Report to see if there are other questions; that they would talk with Randy Burns, and there will be a public report on the 26th.

Councilman Murphy scheduled a **Legal and Legislative Committee** meeting on **October 26th** to immediately follow the Budget, Finance and Personnel Committee. The Animal Control Ordinance will be discussed and also a review of the part of the Charter dealing with City Court.

Vice Chairman Ladd reminded everyone of the **Public Works Committee meeting scheduled for Tuesday, October 26th to immediately follow the Agenda Session.**

COUNCIL RULES OF PROCEDURE

Vice Chairman Ladd asked that Attorney McMahan read the Rules of Procedure with respect to recognition of members of the public on non-agenda items:

“The following procedural rules relative to recognizing members of the public who wish to address the Council on a matter not on the regular meeting agenda shall apply: (1) Each speaker wishing to address the Council shall be recognized only at the microphone provided for that purpose. (2) The speaker may address the Council only upon matters within the legislative and quasi-judicial authority of the Council. (3) Each speaker shall limit his or her remarks to three (3) minutes, unless permission for additional time is provided. (4) The speaker shall not be permitted to use any vulgar or obscene language. (5) The use of the floor by persons addressing the Council shall not be used to personally attack or personally denigrate others. (6) The Chair is prohibited from recognizing any person, neighborhood-association or organization to speak to the City Council during the “non-agenda matters’ portion of the agenda more than twice in any thirty (30) day period.”

ARTHUR DOUCETTE

Mr. Doucette stated that he lives at 28 South Crest, and was the neighbor of Kay Sanford. He stated first, he was not thrilled about allowing chickens and based on what he had heard tonight, there was a good chance the Council would approve this. If approved, he wanted regulations set. One regulation would be that no roosters are allowed. He stated that roosters are a huge detriment to peace. He went on to say that he had done a lot of research and read from several documents, which are made a part of this minute material. He talked about the number of chickens that should be allowed and also about the “novelty” wearing off and animal rescue groups having to field calls involving chickens and especially roosters. He talked at length about the inundation of roosters, which start crowing at 4:00 a.m. and this can go on for the rest of the day. He stated that roosters were dangerous and read from a subclinical report of a rooster attack that resulted in an ocular injury. He noted that most of these attacks are on children younger than 3 years old—that they are placed at great risk, substantiated by visual images.

ADJOURNMENT

Vice Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, October 26, 2010, at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL