

City Council Building  
Chattanooga, Tennessee  
February 15, 2011  
6:00 p.m.

Chairman Rico called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gilbert, Ladd, McGary, Murphy, Robinson and Scott present. City Attorney Michael McMahan, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

#### **PLEDGE OF ALLEGIANCE/INVOCATION**

Following the Pledge of Allegiance, City Attorney McMahan gave the invocation for the evening.

#### **MINUTE APPROVAL**

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

#### **REZONING**

##### **2010-109: Ken Prichard**

Councilwoman Scott asked if anyone is present wanting to speak to this issue; no one came forward. The applicant was present.

On motion of Councilwoman Scott, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 38, ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 1133 OLD PINEVILLE ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL  
ZONE**

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

**CLOSE AND ABANDON**

**MR-2010-140: Cagle Development**

On motion of Councilman Benson, seconded by Councilwoman Ladd,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY  
LOCATED BETWEEN THE 2100 BLOCK OF E. 3<sup>RD</sup> STREET AND THE 2100  
BLOCK OF GARFIELD STREET, MORE PARTICULARLY DESCRIBED HEREIN,  
SUBJECT TO CERTAIN CONDITIONS**

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

**DEANNEXATION**

On motion of Councilman Murphy, seconded by Councilman McGary,  
**AN ORDINANCE DEANNEXING CERTAIN PROPERTIES ON ELDER  
MOUNTAIN AND ELDER MOUNTAIN ROAD WHICH ARE CURRENTLY IN  
THE CITY OF CHATTANOOGA**

Was deferred until March 15.

**AMEND CITY CODE**

Councilman Benson made the motion to approve on the grounds that he wants to see if this will work to be fair to the industry as well as the non-consensual owners that cars are being hauled. He stated originally when this was passed it stated the first 24 hours of storage would be free at no charge and no penalty; that that puts a lot of responsibility on the wrecker industry to watch and guard that car for 24 hours not getting charged for it. He stated some have come back and asked that it be moved down to eight hours free sheltering; that he made the motion and asked that it be put on the agenda and go for 12 hours with no charge for the sheltering of the car. He urged the Council to vote for it and if it does not work and if there is any abuse we can put it back to 24 hours.

Councilman McGary stated we talked about this a couple weeks ago and have thoroughly hashed out this issue; that there are two considerations he wanted to bring to the table. He stated we need to be sensitive to our residents that participate in events such as Riverbend, noting that he gave the analogy previously if a person is towed at 8 p.m. on a week night at Riverbend and we make this only eight or 12 hours storage timeframe, that individual will pay. He stated the towing company is not going to open until after they report to work the next day and they are at work eight hours a day, get off and 5 p.m. and want to retrieve their vehicle and have to pay -- it is that simple.

### AMEND CITY CODE (Continued)

Councilman McGary encouraged the Council to be considerate of those individuals, and noted "yes" they should not have parked Riverbend night in a place they should not have parked however give them a reasonable timeframe to retrieve their car. He stated it will be one thing to say they were able to retrieve their car by noon if not working, if they cannot we are penalizing them. He stated secondly, an individual approached him and said it is not fair, and when he probed further and asked why he was told the district wreckers get certain privileges and why not do that for everybody else. He stated his response was if they want the district wrecker benefits they need to become a district wrecker. He stated they do not want the accountability before the Beer and Wrecker Board and all of their entities and they are choosing not to be a district wrecker but they want the district wrecker benefits. He stated we are doing them a disservice by giving them benefits and cutting out the reason to become a district wrecker. He stated it should be kept at 24 hours and does not see why it needs to be moved to 12.

Councilman Benson stated district wreckers are 8 hours and this ordinance is for 12 hours; that they wanted eight hours, but he did not agree to go any lower than 12 hours. He stated the Council can vote it up or down noting that he said the same thing to them that they should become a district wrecker if they want 8 hours. He stated according to this they have to keep it for 12 hours and that would mean if they get it picked up at 8 p.m. then will be open the next morning at 8 a.m. and there is no charge. He stated they are not getting the same as district wreckers.

City Attorney McMahan clarified the ordinance as currently written provides 24 hours; that to go with Councilman Benson's suggestion will change 24 hours to 12 hours and if they want to leave it at 24 hours just vote against this.

Councilman McGary stated he is reading "revised" on the agenda and asked how the ordinance has been revised. City Attorney McMahan stated the original proposal changed it down to 8 hours and Mr. Benson decided to put in on 12 hours; that the original ordinance still has 24 hours and Councilman Benson is trying to reduce 24 hours down to 12 hours.

Councilwoman Scott stated we definitely do not need to change the time limit on this; that they can already charge \$250 for parking in the wrong spot and that is significant enough penalty and many of the wrecker people she has talked to felt that was appropriate.

**AMEND CITY CODE (Continued)**

Councilwoman Scott stated we are nickeling", "twenty dollaring" and even beyond for us to keep adding this on; that if it is there longer than 24 hours they are going to get an additional twenty dollars. She stated there is not a lot of expense in keeping that car on the lot for 24 hours; that most people are going to go pick up their car. She stated we already have one of the highest tow away wrecker fees in this area and do not need to add anything more to it.

Councilmen Benson stated he wanted to correct something as they cannot charge \$250; that we put a \$150 maximum on it and Councilwoman Scott stated \$250. Councilwoman Scott acknowledged that she stood corrected and stated even \$150 is enough!

Councilman Benson stated he could vote either way on this but wanted to get the facts correct, it is not \$250. Councilwoman Scott stated Councilman Benson is correct that we first voted it for \$250.

Chairman Rico asked for clarification and asked who cannot; that he received an e-mail from someone that was towed away last week who had to pay \$250. Councilwoman Ladd stated it took two weeks for the ordinance to go into effect.

On motion of Councilman Benson, seconded by Councilman Murphy,  
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 35, ARTICLE IV, SECTION 171(e)(3) RELATIVE TO MAXIMUM  
STORAGE FEES FOR TOWED VEHICLES FROM PRIVATE PROPERTY**

**failed; on roll call vote:**

SCOTT	"NO"
ROBINSON	"NO"
LADD	"YES"
BENSON	"YES"
GILBERT	"YES"
BERZ	"NO"

**AMEND CITY CODE (Continued)**

MCGARY	"NO"
MURPHY	"YES"
RICO	"NO"

**AMEND CITY CODE**

**Councilwomen Berz and Ladd made the motion and second to approve this ordinance.**

Councilman Gilbert stated the people need to be grandfathered-in because we grandfathered-in other organizations and situations; that everyone says it's about safety; that the the sports bars have 105 and clubs have 105, sports bars and clubs both have alcohol; that the difference is the clubs do not have a dancing location. He stated safety is still there for both facilities as far as getting out (of the facility) and asked what is the difference, noting there is no difference. In referencing the situation that actually occurred in Rhode Island, he stated if they had a water sprinkler system in that particular building people still would have run to the door because most of those killed was due to attempting to get out the door, not the fire, it was their trying to exit the building. He stated sprinklers will help but will not necessarily save a lot of lives because people are trying to get out the door. He stated Nashville has 200 and we are going to 100, and to him there are a lot of different issues of why doing one versus the other; that if we do it, do it for both rather than one as the danger is still there for both. He stated the definition now is night club "this" and sports clubs "this", however the danger is still in both.

Councilwoman Scott stated we discussed earlier about extending the time frame from 22 months to three years and asked for clarification on which one we are talking about as far as the timeframe.

City Attorney McMahan stated the ordinance in Mrs. O'Neal's packet has 2012 and (he) has one in his hand extending it to 2013. Chief Parker stated it was discussed earlier and the general consensus was extending it to December 31, 2013.

Councilwoman Scott asked if that is what we will be voting on (2013); the response was "yes".

### AMEND CITY CODE (Continued)

Councilwoman Ladd stated that we really wrestled with this issue and looked at it from the standpoint of the business owner and the safety of the attendees and from the city's responsibility. She stated our commitment is to adopt and follow the NFPA regulations, but one thing we have not talked about is the jeopardy we put our firefighters in if we do not give them standards that help the general public with safety then we are opening ourselves up to responding to situations that put them in danger, also. She stated she wants us to support our firefighters and what they have requested as she knows the work that goes behind these standards, what they mean and the testing that has been done. She stated there is an appeals process in place with this particular program that allows bars that have infractions to appeal if they think there has been unfair judgment on the behalf of someone in our administration in the fire department. She stated for those reasons she will support this.

Councilman McGary stated for purposes of all the deliberations and conversations he has heard, two realities "hit home" with him as he knows many people have said to him personally that there have been no fires in nightclubs and why are we coming down so hard on nightclubs. He stated the reality that keeps coming back to him is although here has not been a fire, yet, that is not to say there will not be one in the future, and assuming there would be a fire the reality is very simple -- the institutional organization building entity will be sued and the city of Chattanooga will be sued, no question about it. He stated since we already have had such a lengthy discussion in Council about this issue, there is a full record of this Council knowing the responsibilities before us as a body concerning this particular ordinance. He stated he does not understand why we would "wash our hands and say 'no' we not do anything about it". He stated it is a liability and safety issue that comes back and hits home to him; that the second consideration is a matter of enforcement and asked if we pass this ordinance tonight starting tomorrow what is the understanding of how this is to be enforced.

Fire Marshall Whitmire stated starting tomorrow the businesses that are recognized as nightclubs in the ordinance will have to comply by 2013 for what the Council is voting on. He stated with the sprinkler system we have continuous violators who are reluctant to correct violations once we have called it to their attention and have given them that time, they will also be required and they do have an appeals process if that is the way we require them to place the sprinkler system in their business due to a violation.

## AMEND CITY CODE (Continued)

Councilman McGary stated it is his understanding three years would be the window; that actually the timeframe has been longer than that because the department has been questioning how to enforce this. He stated if we add the total number of years this has been in question what would be the total.

Fire Marshall Whitmire stated four years coming up; that the biggest thing was the economic issue; that they wanted to give time because the actual *Manual* says to enforce existing buildings, but due to the economic issue they felt they needed to give time and that is why they did the study through Nashville, Memphis and Knoxville.

Councilman Murphy stated the problem he has with the ordinance is a couple-fold and asked the City Attorney if he is aware of the frequency of suits against municipalities for failure to adopt suggested *Code* changes by professional organizations and if they are frequently successful.

City Attorney McMahan stated he has not researched that issue; that adopting the *Codes* in Tennessee has another feature that we have to keep reasonably current within seven years to maintain our status as a self-policing jurisdiction. He stated we cannot issue building permits, cannot run our own Fire Marshall program, etc. He stated we have to keep our ordinances within seven years of being recognized *Standard Codes* and *Fire Codes* that have been recommended. He stated there is an incentive and is not aware of any Tennessee city that has been sued on this issue; that there is another facet to it.

Councilman Murphy stated that was his understanding; that the other problem he has is it treats all of these uses as if they are equal and he is certainly not qualified to opine as he is not an engineer or firefighter, but does have a smidgen of common sense! He stated when there are buildings in varying types of construction some have higher fuel loads, some lower; that if there is a sheet metal butler building on a concrete pad there are virtually no combustibles. He stated there could be a building like that with double crash door exits every 20 feet all the way around on all four sides of egresses that will be easy and unimpeded that will be treated the same under this ordinance as would be a building that may only have two exits that may have stairs at the exit, and stairs at an exit in an emergency are very dangerous as people miss a step in a crowded and hustling situation with people trying to get out. He stated the first person goes down and then the next and then the crushed deaths and entrapment; that not all buildings that have this use are created equal.

## AMEND CITY CODE (Continued)

Councilman Murphy stated regardless of the outcome of this vote it is his thought if there is one of these uses there is a moral duty to evaluate their own property to see whether they are more like that butler building that has virtually nothing that can burn in it and has an exit every 20 feet with double crash doors or whether a situation like what used to be Parkway Billiards. He stated that is one of his problems in treating all uses as if they are the same and they are not.

Councilman Benson stated this afternoon's session was very valuable to him as he got a greater value out of a conversation in the hall with the Chief and "Dickie" Hutsell and others and it answered some of his questions. He stated there is still one not answered -- what constitutes a nightclub; that it is said it is easy to define according to our ordinance; that the way it is written if an establishment quits selling beer or whiskey at 11 p.m. it is not a night club. Richard Hutsell responded "yes".

Councilman Benson stated a good rowdy, honky tonk place would stand up and say they cannot sell any beer after 11 p.m., so all that want a six pack on their table should come and it will last until 3 a.m. He stated he does not know if that definition is right.

Mr. Hutsell stated it says "alcohol served" and it does not mean sold. He stated if it is being served and consumed after 11 p.m. . . .

Councilman Benson stated that did not answer his question; that they would bring a six pack at 10:55 p.m. and asked is that okay? Mr. Hutsell responded "no, sir".

Councilman Benson stated it is not being served as it has already been served.

Mr. Hutsell responded that is not the intent of the *Code*. He stated what was brought up in the meeting earlier with Councilman Benson was there are two modes of appeal. He stated if we define a business or establishment as a nightclub the first option of appeal is to come to the City Council and state they are not; that the second line of appeal for the sprinkler system is the Board of Construction Appeals.



### AMEND CITY CODE (Continued)

Councilman Benson stated that he likes that and does not like the open clause where it says "on or before December 13, 2013" which worries him. He stated that means it could be two weeks after this ordinance passes they can go in and tell them they have to put a sprinkler system in there; that it is a question he did not get an answer to.

Fire Marshall Whitmire asked if Councilman Benson is saying if we take over a business two weeks before 2013 will they have to put a sprinkler system in.

Councilman Benson responded "no. He asked if the Choo Choo was covered today and the Fire Marshall said he did not know. Chief Parker stated it was he who said that and noted he would go out to look at it tomorrow.

Councilman Benson stated he does not know if the Choo Choo is included tonight. Chief Parker stated there is a second reading and will have an answer tomorrow.

Councilman Benson stated the Fire Marshall has discretion to go ahead and make them put in the fire sprinkler four weeks from now if he wants to. Fire Marshall Whitmire stated he does not read it that way. He stated he has to be able to articulate why he would do that and it could be because of violators.

Councilman Benson stated it needs to be rewritten; that if it needs to be extended to 2013 it should say that. The Fire Marshall confirmed that is what it says.

At this point Councilwoman Robinson called for the question.

On motion of Councilwoman Berz, seconded by Councilwoman Ladd,  
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 17, ARTICLE I, SECTION 17-1, RELATIVE TO THE ADOPTION OF THE INTERNATIONAL FIRE CODE, 2006 EDITION, INCLUDING ALL REFERENCED STANDARDS AND PUBLICATIONS SPECIFIED THEREIN, AND THE 2006 NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) 101 LIFE SAFETY CODE IN ITS ENTIRETY FOR CERTAIN SPECIFIED OCCUPANCIES, INCLUDING EXISTING BUILDINGS, AS DEFINED BY THE 2006 NFPA 101 LIFE SAFETY CODE, AS THE OFFICIAL FIRE CODE OF THE CITY OF CHATTANOOGA; AND TO AMEND SECTIONS 17-2, AS TO APPENDICES, AND 17-3 AS AMENDMENTS TO THE CODE**

Passed first reading; **on roll call vote:**

AMEND CITY CODE (Continued)

ROBINSON	"YES"
LADD	"YES"
BENSON	"NO"
GILBERT	"NO"
BERZ	"YES"
MCGARY	"YES"
MURPHY	"NO"
SCOTT	"YES"
RICO	"YES"

CLOSE AND ABANDON

**MR-2010-161: Memorial Health Care System**

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**AN ORDINANCE CLOSING AND ABANDONING TWO UNOPENED RIGHTS OF WAY BEGINNING AT THE INTERSECTION WITH THE EAST LINE OF THE 800 BLOCK OF NORTH CHAMBERLAIN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading.

AMEND INTERLOCAL AGREEMENT

On motion of Councilwoman Scott, seconded by Councilman Gilbert,  
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY, HAMILTON COUNTY, THE INDUSTRIAL DEVELOPMENT BOARD, THE HEALTH, EDUCATION, AND HOUSING FACILITY BOARD, AND VOLKSWAGEN RELATIVE TO THE VOLKSWAGEN PROJECT**

Was deferred one week; Councilman Murphy voted "no".

## CONTRACT

On motion of Councilwoman Ladd, seconded by Councilwoman Berz,

**A RESOLUTION AUTHORIZING THE DIRECTOR OF THE OFFICE OF SUSTAINABILITY OUTREACH COORDINATOR TO CONTRACT WITH HDR, INC., IN AN AMOUNT NOT TO EXCEED EIGHTY-EIGHT THOUSAND DOLLARS (\$88,000.00), TO REVIEW ENERGY AND UTILITY USE IN THE CITY OF CHATTANOOGA BUILDINGS; TO OUTLINE GOALS AND INITIATIVES FOR REDUCING ENERGY AND UTILITY USE WITHIN CHATTANOOGA OPERATIONS; TO PRODUCE AN ENERGY/UTILITY POLICY, PROCEDURE, AND UNIFORM FORMS FOR LOCAL CONTRACTORS TO COLLECT DATA TO BE USED IN COMPARATIVE ANALYSIS; TO DRAFT A CITY SUSTAINABILITY POLICY FOR PRELIMINARY ANALYSIS OF EXISTING BUILDING INVENTORY AND RECOMMENDATIONS; AND FOR ANALYSIS OF AN ALTERNATIVE ENERGY/WATER CONSERVATIONS PROJECT FOR FINANCING AND DELIVERY METHODS**

Was deferred until March 1.

## ACCEPT GRANT

Councilwoman Ladd stated she continues to get feedback from her district concerned and asking that we again spend another year not applying money to the arts program to give the economy an additional opportunity to catch up. She stated she will have to vote against this.

Councilman Murphy stated he read a letter to the *Chattanooga* from an individual who writes frequently bringing the city to task greatly over spending \$40,000 on public art and how dare we and how could we, and we are horrible people for doing this. He stated if we do not accept the grant from the Lyndhurst Foundation to pay for it, it does not get done and it is not our money. He stated if the Lyndhurst Foundation likes to see public art on our sidewalks they are free to spend their money anywhere; that they can find their alma mater in New England and spend it on a college campus. He stated if they want to spend their money here, have at it! He expressed his appreciation and noted he would be voting "yes".

Councilwoman Scott stated it was her understanding last year even though we were accepting a grant it also obligated us to a matching part of that which was a three way 40/40/40.

### ACCEPT GRANT (Continued)

City Attorney McMahan stated it is 20/20/20; that this \$40,000 is from two different foundations. Dan Johnson confirmed this is correct.

Councilwoman Scott stated like Councilwoman Ladd, her district has also voiced opposition to this. She stated she loves art, enjoys it and donates to it but the people who are actually in her district paying the taxes resent this especially at this time.

Councilwoman Ladd stated Councilwoman Scott made her point; that this is matching and the city does have to contribute to this also.

Councilman McGary stated as the representative for the downtown district where most of the public art is located he certainly understands why there is a great resentment toward public art and the idea of paying for it. He reminded the Council they pay for more than just a piece of metal that sits erect on a particular parcel of land; that they are actually paying for the piece of art and the artist who is a business man/woman who pays into our economy by buying homes, renting, paying for food and all the other "stuff" we pay for; that they are individuals who pay and we are supporting that profession. He stated we have to remember we also have the quality of life issues that come with public art, meaning Volkswagen who said clearly and plainly that it is the quality of life in Chattanooga. He asked what is quality of life and stated that it is the Aquarium, everything that makes Chattanooga what it is -- the Incline, the River, all the things that attract people to this area, and asked what price tag would be put to them! He stated we have a great benefit as two foundations have "ponied up money" and they ask us for a third, a small meager amount that continues the great thing that has already started in our community. He stated we are getting a steal and what a great return; that he cannot see why we would not support it.

Councilman Benson stated that he has the same kind of district and one of the reasons is they never see any of that art in his district like Hixson does not and others. He stated we have a populace out there that is very much adversarial to spending money for art during these hard times. He stated he would not feel comfortable voting for it today and would like to see our budget worked over and see what our needs are for the coming year; that we are starting on the budget. He stated he would like to defer it until we get our budget and look at the total budget.

### ACCEPT GRANT (Continued)

At this point Councilman Murphy called for the question. Chairman Rico stated the motion and second has been called for approval of this. Councilman McGary clarified "for approval"; Chairman Rico responded "yes".

On motion of Councilman McGary, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE DEPARTMENT OF PARKS AND RECREATION TO ACCEPT A GRANT FROM THE LYNDHURST FOUNDATION THROUGH THE COMMUNITY FOUNDATION OF GREATER CHATTANOOGA IN THE AMOUNT OF FORTY THOUSAND DOLLARS (\$40,000.00) TO SUPPORT THE ADMINISTRATIVE COSTS OF THE PUBLIC ART PROGRAM**

Was adopted; Councilwoman Ladd and Scott voted "no".

### INTERLOCAL AGREEMENT

On motion of Councilman McGary, seconded by Councilman Murphy,  
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE HAMILTON COUNTY TRUSTEE WHEREBY THE TRUSTEE WILL COLLECT CITY HOTEL MOTEL TAXES AT AN ANNUAL COST OF THIRTY THOUSAND DOLLARS (\$30,000.00)**

Was adopted.

### AMEND RESOLUTION 26436

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,  
**A RESOLUTION AMENDING RESOLUTION NO. 26436 ADOPTED SEPTEMBER 21, 2010, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE NORTH HAWTHORNE/WOOD RECYCLING SOLID WASTE PROCESSING UNIT, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "AN AMOUNT NOT TO EXCEED THIRTY-TWO THOUSAND SEVEN HUNDRED FIFTY-NINE DOLLARS (\$32,759.00)," AND SUBSTITUTING IN LIEU THEREOF "AN AMOUNT NOT TO EXCEED THIRTY-THREE THOUSAND EIGHTY-SEVEN DOLLARS (\$33,087.00)**

Was adopted.

**AMEND RESOLUTION 26437**

On motion of Councilwoman Scott, seconded by Councilman Murphy,  
A RESOLUTION AMENDING RESOLUTION NO. 26437, ADOPTED SEPTEMBER 21, 2010, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE CITY LANDFILL, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "AN AMOUNT NOT TO EXCEED SIX MILLION THREE HUNDRED EIGHTY-THREE THOUSAND EIGHT HUNDRED TWO DOLLARS (\$6,383,802.00)," AND SUBSTITUTING IN LIEU THEREOF "AN AMOUNT NOT TO EXCEED SIX MILLION FOUR HUNDRED FORTY-FOUR THOUSAND FOUR HUNDRED THIRTY-SEVEN DOLLARS (\$6,444,437.00)"

Was adopted.

**AMEND RESOLUTION 26438**

On motion of Councilwoman Scott, seconded by Councilwoman Ladd,  
A RESOLUTION AMENDING RESOLUTION NO. 26438, ADOPTED SEPTEMBER 21, 2010, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE CITY LANDFILL, LATERAL EXPANSION AREA 3, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "AN AMOUNT NOT TO EXCEED SIX MILLION SEVEN HUNDRED NINETY-THREE THOUSAND THREE HUNDRED SIXTY-FOUR DOLLARS (\$6,793,364.00)," AND SUBSTITUTING IN LIEU THEREOF "AN AMOUNT NOT TO EXCEED SIX MILLION EIGHT HUNDRED SIXTY-EIGHT THOUSAND NINETY-ONE DOLLARS (\$6,868,091.00)."

Was adopted.

**AMEND RESOLUTION 26439**

On motion of Councilwoman Scott, seconded by Councilwoman Ladd,  
A RESOLUTION AMENDING RESOLUTION NO. 26439, ADOPTED SEPTEMBER 21, 2010, RELATIVE TO THE AGREEMENT FOR THE CLOSURE/POST CLOSURE PLAN FOR THE SUMMIT SANITARY LANDFILL, WITH THE STATE OF TENNESSEE, DIVISION OF SOLID WASTE MANAGEMENT, BY DELETING "AN AMOUNT NOT TO EXCEED TWO MILLION SEVEN HUNDRED FIFTEEN THOUSAND SEVEN HUNDRED SEVENTY-THREE DOLLARS (\$2,715,773.00)," AND SUBSTITUTING IN LIEU THEREOF "AN AMOUNT NOT TO EXCEED TWO MILLION FIVE HUNDRED NINETY THOUSAND FIVE HUNDRED FORTY-SIX DOLLARS (\$2,590,546.00)."

Was adopted.

## PAYMENT AUTHORIZATION

On motion of Councilman Murphy, seconded by Councilwoman Ladd,  
**A RESOLUTION AUTHORIZING PAYMENT TO PARK MILLS PROPERTIES 2,  
LLC FOR EMERGENCY STORMWATER REPAIRS FOR A TOTAL AMOUNT  
NOT TO EXCEED TWENTY-SEVEN THOUSAND NINE HUNDRED EIGHTY-  
ONE DOLLARS (\$27,981.00)**

Was adopted.

## SPECIAL EXCEPTIONS PERMIT

**Misty Dawn Powell**

**Bryan Shults**, Senior Planner with the Regional Planning Agency (RPA) presented a brief PowerPoint regarding this request. He stated he wanted to make sure it is clear even though the report in the packets reflect RPA, the recommendation comes from RPA, the Land Development Office, Codes Enforcement Office, the Fire Marshall and the Regulatory Bureau of the Police Department – that all the comments were put together in a report to come up with a recommendation. In going through the PowerPoint, he stated this is a special exceptions permit located on Lee High in front of the former Target. An aerial view was shown of the Skyzoo nightclub beside Nancy's; that the building shown to the rear is the former Target building and a zoning map of the area was shown showing a mixture of different zones, primarily C-2 along Lee Highway and Brainerd Road, with O-1 along East Brainerd and R-4 and R-1. The site plan submitted with the application was shown, reflecting 750 feet from the nearest residential boundary; that the deck is behind the property that abuts Herb Adcox Chevrolet; that part of the deck is also located not more than 750 feet away from an R-1 zone. He stated the recommendation on the special exceptions permit is for approval with a reduced buffer distance from 750 feet to 700 with the following conditions:

**1. Outdoor lighting to the rear of the site shall be provided; (Per the Police Department)**

**2. No off-site or shared parking shall be permitted; (Per the Land Development Office)**

**3. A minimum of two (2) outdoor security officers licensed by the State of Tennessee shall be provided during the hours of 11:00 p.m. to 3:00 a.m. when the nightclub is open for business; (Per Police Department)**

**4. Outdoor security officers shall be easily and appropriately identified as security officers; (Per Police Department)**

## SPECIAL EXCEPTIONS PERMIT (Continued)

5. *Fencing, including the fencing of existing curb-cuts shall be provided along the property lines, with the exception of the front property line along Lee Highway. The fencing may include gates if reviewed and approved by the Chattanooga Fire Department; (Per Land Development Office)*

6. *Outdoor gathering places such as decks, balconies, covered areas and patios shall have no amplified noise, no entertainment or theatrical lighting, and no outside sale of food or beverages. (Already in nightclub regulations)*

7. *The Applicant shall provide the Land Development Office or Codes Enforcement Office with a site plan layout of the interior showing the location of tables, chairs, kitchen, and live entertainment stage, etc. This site plan of the interior shall be provided prior to Special Exceptions Permit going into effect; (Per Land Development Office)*

8. *After the City Council approves the Special Exceptions Permit all conditions of this Special Exceptions Permit need to be completed prior to opening. Before the Land Development Office will issue any permit, all conditions of this Special Exceptions Permit must be completed. Departments involved in the Special Exceptions Permit review will monitor for compliance with these conditions; and*

9. *The Applicant applying for a beer permit for this location shall file a written acknowledgement with the Clerk of the City Council that they have reviewed and agree to comply with these conditions prior to issuance of any beer permit.*

Councilwoman Robinson stated with regard to provision that there is "no outside sale of food or beverage", is that the same as no outside service of food or beverage.

Richard Hutsell responded "we do not think so"; that basically they did not want them setting up a separate bar outside providing entertainment. He stated if they have a deck or balcony area it is understood why a lot of decks being built with the new State law regarding smoking in these establishments as it gives them a place to go to take their food or drink and possibly do that. He stated we think as long as they do not have an exterior bar serving alcohol and selling outside is the intent of that language.

Councilwoman Robinson stated they can buy the food inside and have it brought to them outside; that an order can be placed to be served outside. Mr. Hutsell stated that would be his interpretation of the intent of the language.

Councilwoman Berz stated when talking about the fencing are we talking about a certain height fence to keep people from going over there.



### SPECIAL EXCEPTIONS PERMIT (Continued)

Mr. Hutsell responded "that is correct" and informed the Council he and the Fire Marshall went out to the site yesterday and went through the club for one last look and met with the club's manager. He stated the lights to the rear have been installed and are operational; that it was during the day light hours when they were there however if the police department deems it insufficient they may have to add more. He stated the purpose of the fence is so people would not park offsite and walk to this site; it will go along the western edge of the property which adjoins the Airport Authority's property which is already fenced at the rear. He stated the fence shall be no less than six feet in height and there shall be a gate provided for emergency services to have additional access to the site; that the traffic engineer has reviewed this and agreed to it. He stated he received a quote from the applicant's attorney tonight on the fence from Barnes Fence Company, so it will be six feet in height and will run the entire length of the property out to Lee Highway's right-of-way.

Councilwoman Berz stated Nancy's was not mentioned and asked if it will run between Nancy's and the club's property. Mr. Hutsell responded "that is correct".

Councilwoman Berz referred to condition 6 of the ordinance regarding decks and covered areas and amplified noise and stated she wanted the words "***the parking lot itself***" included; that they will have control of the parking lot, it will be fenced and they will have security. She stated the concerns of the neighbors are not so much what goes on inside the club, it is the noise and nuisance on the outside; that she would like the word "***parking lot***" included in that which would include boom boxes, the loud yelling, all of that.

Mr. Hutsell stated in our discussion with Mr. Cox (who represents the business owner) and Staff, part of the reasons for the outdoor security is to monitor the exterior of that property; that the activity on that property is to prevent loitering, loud music, and nuisances to adjoining property -- that was the intent of that requirement. He stated understanding the potential and past history with this location was why that recommendation came in as one the conditions.

**Councilwoman Berz** expressed her thought that is right; that she would like to have added "***covered areas and patios and parking lot shall have no amplified noise***" and **made the motion to amend; Councilwoman Robinson seconded the motion; the motion carried.**

**At this point Councilmen McGary and Murphy made the motion to approve the Resolution.**

### SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated there is opposition present and she will speak to other opposition that has to do with the conditions.

**Nancy Bennett** of Nancy's Home Fashions, 5707 Lee Highway, stated she has owned the building next to this property for the past 16 years and has experienced everything known to man with this property. She presented a petition with 65 signatures from Herb Adcox Chevrolet, one of the other car dealers and other businesses in the area.

Councilman McGary asked Ms. Bennett when she was circulating the petition if she heard some of the reasons individuals were against it and to please share what they were.

Ms. Bennett stated she realizes this is not the same bar, but they have experienced from one bar to another to another bar the same problems over and over and over. She stated the business owners feel it could damage their property, too, as it has damaged her property; that her building has been run into and one of the columns that holds up her front porch was nearly knocked off its foundation and she paid for it to be fixed. She stated it is a nuisance to the community and has heard individuals complain about the noise level; that the Intown Suites representative was present last week and noted that the cars go there and go around with all the noise; that there are people who live there permanently who do not want all that noise, either.

Councilman McGary stated with all fairness the Resolution tonight is for the property in question; that he is sympathetic to the fact Ms. Bennett has had problems for years and applauded her for continuing to have her business there and being an upstanding member of the community; however, he personally noted he cannot refuse to vote on a property or business that came before this business; that it is unfair if not illegal. He stated his job is to vote on the business in question and sees a business that the police department, fire department and Planning agency have set conditions here that clearly state what they envision would help the problem. He stated the only fair thing to do is judge this particular business not the ones that came before.

Ms. Bennett stated when that does not happen and these things don't happen, who is she to call?

In addressing Councilman McGary, Councilwoman Berz stated a lot of the complaints received were from this business that has been open since October, so they are from this business.

### SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated a lot of people that spoke up were tired of the history; that she heard that last week, as well. She stated this is an area that carries noise and apparently since October the people who have been in that parking lot have not respected other people, so he (McGary) is not voting on anything from the past.

Ms. Bennett stated she has already been picking up trash off the lot, whiskey bottles or whatever they are and has thrown them back over on their property!

Councilman Murphy stated he is very sensitive to Ms. Bennett's concerns; that the new law regulating nightclub has never been stronger. He stated the Council has the ability to pull back a non-performing permittee and revoke their permit; that we did not have that tool in the past. He stated this is the third one before the Council if they get out of line obviously she should address her concerns with the Council and they understand that. He stated to the extent they want to run a business they run a "tight ship" and trusts they will; that the conditions they have been placed under are stringent compared to what we used to have; that the regime before was much, much more lax. He asked that it be understood that in the future this permit is revocable by this body.

Councilwoman Scott stated what Councilman Murphy stated is essential to what she was going to say; that this City Council is very cued up as a result of the history not only in this area, but in several other areas of what has gone on in the past that has impacted neighborhoods. She stated she can speak just for herself and there are many on the Council who feel the same way, that they are tired of businesses that have responsibilities they are not fulfilling and not being good neighbors. She stated Councilman Murphy is right, this has never, in the history she knows of, been as strict as it is now; that she does not know who Misty Powell is, but assumes that those before her (Scott) represent her.

Atty. Cox stated Mr. Cummings is the General Manager of Skyzoo.

Councilwoman Scott stated if there are any violations in this and there are borne out to be true, she assured them she will be voting to revoke this permit.

Councilman Benson stated he does not want to prejudge someone before they ever had any actions and asked if this group has been in business there for awhile.

Att. Cox stated they have been opened since October and licensed since May.

### SPECIAL EXCEPTIONS PERMIT (Continued)

Councilman Benson stated he wants to judge from what happened from October to now. She stated Mr. Cox has been around a long time and the petition distributed shows people from Edgeman Forest Lane and Hunter Road in Ooltewah; that he has to discount some of that and wish people would guide petitioners to be within the district and proximity.

Atty. Cox stated if they were that interested they would be present today.

Councilman Benson stated they have been operating since October and wanted to know what kind of environment has been out there that is conducive or non-conducive during that time and the Beer Board officer is present.

Officer John Collins stated that he went to Hamilton County 911 and asked that they pull every call from that address starting back to March of last year. He stated using that exact address he came up with fourteen calls for everything from burglar alarms, to traffic stops, to bar checks that he and other officers conducted. He stated there have been a couple of assaults and fights but nothing major; that the amounts of calls are very small for that business. He stated he also had crime statistics pull a map of every call in a quarter of a mile for the last six months and most of them are from the title loan, shoplifters from the grocery store and not a whole lot going on at the bar. He stated the bar has not been serving after 11 p.m. at night and is probably why there have not been that many calls there.

Councilman Benson stated they are serving until 3 a.m. in the morning now if we issue this permit. Officer Collins responded if they get their full permits they will be open until 3 a.m.

Councilman Benson stated we are giving a permit to extend from 11 p.m. to 3 a.m. Officer Collins responded "yes".

Councilwoman Ladd stated it was her thought there may be some neighbors present to speak on this.

Councilwoman Berz stated she can speak to that; that the neighborhood got together and was going to come. She stated she spoke to the people that put these fine recommendations together and if everyone of the conditions were met, really met so that the noise level, the bad "stuff" that has been going on were met they were satisfied.

### SPECIAL EXCEPTIONS PERMIT (Continued)

Councilwoman Berz stated “yes” there has been noise, “yes” there has been “stuff” going through the neighborhood, however, the people with RPA, the police, the fire department all of these people sat down and came up with conditions that would ameliorate that situation with the understanding that should any one of the conditions be broken and the neighbors are watching. She stated should any of this be broken the permit would be revoked. She stated the two questions they had were about the high fence and particularly about no noise and all that being in the parking lot, which is why she brought it up. She stated the neighborhood all around and these people are business owners, notice had to be given to people within 200 feet; that apparently the place has been a “pain in the neck” to business owners who do not necessarily live there. She stated in meetings with the neighborhood she told them if every one of the conditions are approved and if they will be part of strictly enforcing, meaning calling the police, will they give it a chance and they said “yes”. She stated that is why they trust this will be passed with the conditions.

At this point Councilman McGary called for the question.

Councilwoman Berz asked the Clerk of Council if the conditions are in the record, to which the response was “yes”. She stated every one of the conditions has to be implemented before they get a permit and asked how we have evidence of that.

Mr. Hutsell stated they will contact him and he will issue the certificate when everything is in place; that he has the floor plan, lighting is in place, the fence will be in place; that he will go out with the Fire Marshall, if needed, to approve the gate. He stated he will not issue the certificate to be open until the conditions are met.

Councilwoman Berz asked if the Council will know when they get their certificate. Mr. Hutsell stated he would let her know.

On motion of Councilman McGary, seconded by Councilman Murphy,  
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR USE  
OF A NIGHTCLUB LOCATED AT 5709 LEE HIGHWAY, AS MORE  
PARTICULARLY DESCRIBED IN THE ATTACHED ANALYSIS AND MAPS,  
SUBJECT TO CERTAIN CONDITIONS**

Was adopted.

## OVERTIME

Overtime for the week ending February 10, 2011 totaled \$30,894.80.

## PERSONNEL

The following personnel matters were reported for the various departments:

### PERSONNEL:

- **EMILY SEWELL** – Return to duty from Family Medical Leave, Executive Assistant, effective February 11, 2011.
- **JAMES PIERCY** – Transfer, Compliance Officer, Range 18, \$54,000.00 annually, effective February 3, 2011.

### CHATTANOOGA POLICE DEPARTMENT:

- **JOSHUA TURNER** – Return to duty from Military Leave, Police Officer, effective February 5, 2011.
- **CECIL HAMPTON, LAURA MACERA, DWAIN MCCLINTOCK, BRANDI SCHRIMPSHER, STEPHEN STRONG** – Hire, School Patrol Officer, \$15.08 hourly, effective February 7, 2011.
- **MIRANDA GOINS** – Hire, Police Services Technician 1, Range 4, \$22,050.00 annually, effective February 9, 2011.
- **JASON DITMAR** – Resignation, Police Cadet, effective February 11, 2011.

### PUBLIC WORKS DEPARTMENT:

- **CURTIS COLE, III** – Hire, Water Quality Specialist 1, Range 14, \$34,201.17 annually, effective January 14, 2011.
- **LOIS FRADY** – Suspension (2 days without pay), Crew Worker 1, City Wide Services, effective February 1-2, 2011.

### PERSONNEL (Continued)

- **GEORGE STUART, JR.** – Retirement, Equipment Operator 5, City Wide Services, effective December 30, 2010.
- **NATHANIEL HOWARD** – Return to duty from Family Medical Leave, Equipment Operator 5, City Wide Services, effective January 3, 2011.

#### INFORMATION SYSTEMS:

- **DIEDRA SMITH** – Demotion, Programmer 2, Range 20, \$65,600.00 annually, effective January 31, 2011.
- **CHAD ROWLEE** – New Hire, Network Analyst, Range 22, \$59,000.00 annually, effective February 11, 2011.
- **MIKE ROSE** – Promotion, Network Engineer, Range 20, \$47,000.00 annually, effective February 15, 2011.
- **BART BEVERING** – Resignation, Network Analyst, effective February 18, 2011.

#### CHATTANOOGA FIRE DEPARTMENT:

- **ABDUL SWAFFORD** – Return to duty from Family Medical Leave, Firefighter Senior, effective February 4, 2011.
- **FREDRICK BLAKE, PHILLIP HYMAN, JR., CHARLES PATTON, STEPHEN SWANSON** – Promotion, Fire Battalion Chief, Range F5A, \$60,756.00 annually, effective February 11, 2011.
- **TIMOTHY GREER, JOHN MEADOWS, MICHAEL MOSES, CHARLES THOMPSON, JAMIE WILKEY** – Promotion, Fire Lieutenant, Range F3A, \$43,358.00 annually, effective February 11, 2011.

**REFUND**

On motion of Councilman McGary, seconded by Councilwoman Ladd, the Administrator of Finance was authorized to issue the following refund due to an overpayment on property taxes:

**NORTH RIVER GROUP INC.**            \$1,289.81

**PURCHASES**

On motion of Councilman McGary, seconded by Councilwoman Ladd, the following purchases were approved for use by the Public Works Department:

**ROLL-AID INDUSTRIAL SUPPLY (Best bid)**  
**R38693**

Blanket Contract for the Purchase of Chain Saw Parts:

\$12,500.00 – Annual Approximation

**CBR PROPERTY MAINTENANCE (Location Group 1); GRASSCAPES (Location Group 2); TENNESSEE ELITE LAWS (Location Groups 3-8); GRASS BUSTERS LAWN MAINTENANCE (Location Group 9) (Lowest and best bids)**  
**R38015**

Blanket Contract for the Purchase of Grounds Maintenance

\$50,000.00 each – Annual approximation

**BOARD APPOINTMENT**

On motion of Councilwoman Ladd, seconded by Councilwoman Berz, the following Board appointment was approved:

**STORM WATER BOARD:**

- Appointment of **MARK SCHORR** for a four year tem expiring February 15, 2015, filling the educational vacancy.



**HEARING: MARK MESSER**

City Attorney McMahan noted that the hearing for Mr. Messer needs to be rescheduled from April 18 to May 9 due to the unavailability of the primary witness, Mr. Sewell.

**The hearing for Mr. Messer was rescheduled for Monday, May 9 with the same panel – Councilmen Ladd (as Chair), Murphy and Scott, beginning at 9 a.m.**

**HEARING: MICHAEL DOUGLAS**

City Attorney McMahan stated the hearing for Michael Douglas scheduled for Monday, February 21 at 4 p.m. needs to be rescheduled; that Mr. Douglas has hired an attorney and we have not been able to get a new date. He stated he would bring the matter back to the Council next week.

**TEMPLETON ISSUE**

City Attorney McMahan stated he hoped to finish the report on Mr. Templeton today but with all the other work he did not but would deliver it to Council members on tomorrow.

**COMMUNICATION FROM CHIEF ADMINISTRATIVE  
LAW JUDGE**

City Attorney McMahan reported he received a letter from the Chief Administrative Law Judge of the State of Tennessee; that he will be sending a draft ordinance in the packet this week to consider with respect to hiring the State Administrative Law Judge to hear these appeals.

Councilman Benson stated that would be great and asked if the Council is obligated for any contract period time

City Attorney McMahan stated the way they recommended it to us was a very informal letter agreement; that it is his thought the rate is \$100 an hour plus expenses.

**COMMUNICATION FROM CHIEF ADMINISTRATIVE  
LAW JUDGE (Continued)**

Councilman Benson stated if we do not like... Atty. McMahan stated if the Council does not like it they can change it as that is the way the *Charter* was rewritten to allow by ordinance to set up an alternative procedure to the one followed now.

Councilman Benson stated that is good as many on the Council are finding themselves in conflicts of interest on various things.

**WAIVER OF FEES**

Councilman McGary stated there are individuals present to address the Council and encouraged them (Council) to reconsider the current policy on fee waivers; that he has mentioned this once before and is prepared to mention it as many times as necessary. He stated currently the Council has stated they would not waive the facility use fee for the Tivoli or Memorial Auditorium under any circumstances. He asked if that is too stringent, particularly when there are groups in town who want to perform services or have events that benefit the city, not for their personal gain; that it is his thought that groups that want to have events for personal gain should be a separate category. He stated he wanted to prepare the Council as there are individuals present and to hear them out. He asked that the Council have a more lengthy conversation about making a greater distinction between groups asking to have a fee waived to do a service for the city versus groups only asking a fee to be waived to personally benefit.

Councilman Benson stated we have been through that; that the last time we had a different Chief of Staff when that came up. He stated it is his thought the cost at one time was figured and we could not find any way as the cost is astronomical of what that would run into; that we need some data on it as there is maintenance, utilities, supervision and conflicts with other promotional events. He stated that was a mess and knows the school system has asked that it be free and others; that if we could get the data it would be very helpful.

Councilwoman Ladd stated that she asked and Councilman Gilbert has agreed to schedule a Parks and Recreation Committee meeting to discuss our various venues and what groups we are charging fees and what groups are using the facilities free; that there are differences between recreation centers and differences between things that fall under Arts, Education and Culture. She stated she read in the paper last week we were having some concerns with waiving fees for some of the Outdoor Chattanooga activities.

## WAIVER OF FEES (Continued)

Councilwoman Ladd stated perhaps we need to have a discussion and have a policy that is more clearly developed that says the types of organizations and how we can support them, one that says these venues will not be available for certain things or whatever we come up with. She stated we will have that discussion coming before us in Councilman Gilbert's Parks and Recreation Committee next week.

Chairman Rico stated we have been over this time and time again in staff meeting, in Committee and we have indicated we will not waive any fees. He stated he does not know what Parks and Recreation has been hearing or listening to, but we have said time and time again if we start doing this we "open a can of worms"; if we let one do it we have to let all do this. He stated we have discussed this over and over again; that there is no waiving of fees period!

Councilman Gilbert stated this will be brought up next week and will show we did vote on the exceptions last year and that is the reason why the meeting will be held for an explanation of the differences. He stated there are communities and neighborhood associations that go into the centers and have meetings; that all of that will be addressed.

Councilman Benson reminded Council members that the schools pay quite a bit of money to graduate at both the Auditorium and Tivoli and it is his thought there was a charge when Muskie came and several others, when Vice Presidents and Presidents come; that everybody pays the way it is right now.

## COMMITTEES

Councilwoman Scott stated the Economic Development Committee met today to get a year-end report on PILOT performance.

Councilman Gilbert scheduled a meeting of the **Parks and Recreation Committee for Tuesday, February 22** for a discussion regarding fees.

Councilwoman Berz announced that the **Budget and Finance Committee will begin meeting in work sessions on March 1**, noting each received copies of the schedule and who would be presenting. She stated there have been some additions which she will be distributing; that we cannot hear from all the non-profits in one night. She stated she has heard nothing back from the Council and assumes the schedule so far is alright.

### COMMITTEES (Continued)

Councilwoman Berz stated we will use the month of March for our work because we begin the sales tax discussions and other considerations in April.

Councilwoman Scott stated in reference to Councilwoman Berz' comment about the non-profit agencies doing their reports, it occurred to her in looking back at the sales tax issue that we have agencies which fall under the contract/agreement and then those agencies that fall out. She stated it is possible that we may need to add some more agencies to do reporting because with the discussions that would be going on it is possible the Council will need to hear from some agencies that might have been funded under a different way just to be knowledgeable about whether to fund again and if so how.

Councilwoman Berz stated she has talked with Mrs. O'Neal and will be extending that particular portion of hearing; that if Councilwoman Scott has a particular grouping other than the ones we have to let her know.

Councilwoman Scott stated it is the same one.

### NEXT WEEK'S AGENDA: FEBRUARY 22, 2011

Chairman Rico stated the agenda for next week was discussed earlier today during the Agenda Session.

### JAMES MORELAND

**James Moreland** stated he is associated with the East Chattanooga Weed and Seed organization located at 1502 McCallie Avenue. He stated discussion just took place about the waiving of fees; that he is not asking to have them waived but to think about something. He stated if the Council goes back four years, East Chattanooga was on the news every night for some type of crime; that they were the highest in crime in Hamilton County every month as there was a rash of shootings around gangs and crime. He stated the thing that is disheartening is when they would hear from government and other agencies when crime took place they would hear comments that the community and churches need to get involved and it is his thought that is right. He stated that needs to happen as he has been retired from DuPont Company for 19 years and has dedicated himself to the community, trying to do what everybody would like to have – a safe, healthy, viable community; a community where businesses would want to come in.

### JAMES MORELAND (Continued)

Mr. Moreland stated we all agree crime is one of the worst elements that prevent businesses from coming into the city; that they partnered with 25+ youth groups and the question was asked "what is the one thing that we can do to try to rid ourselves of gun violence with gangs coming up this summer?" He stated that group of people agreed wholeheartedly that anything we can do around gangs and gang activity would be in our behalf as a city. He stated about three weeks ago they were able to get a small grant from the Justice Department to have education sessions around gang violence with the Chattanooga Police Department and other law enforcement agencies. He stated there were 60 officers that attended that session and they were overwhelmed with the information that was shared around gang violence. He stated he parked on Tenth Street prior to coming in and there was an 80 year old lady with two young men with her who had on jackets with a five point star and letters that said "KC" and was sure she did not know what that was, noting that is gang activity. He asked the Council to think about what community groups are going to do to try to bring parents and teacher together to educate them about what to look for with grandkids and kids when they come home.

### TOBIAH TILLMAN

**Tobiah Tillman**, a citizen living on the north shore, stated he is trying to put together a gang taskforce of citizens and pastors who will be walking around the Westside Neighborhood; that he is from the projects in Portland, Oregon when Mayor Vera Katz put together a nice gang task force and was at every meeting and eradicated gangs in the nineties. He stated he has come in peace and begged the Council, noting that the Council has been changing and impressing him, including Chairman Rico whom he plans to run against in the next election! He stated he has a prepared speech, something he calls "Nowhere to Go". He invited the Council to a march on March 4 to honor the homeless dead who died on the streets this winter; that it is rumored there are more than 30 who died this winter and there is no permanent shelter in Chattanooga as they have now been shut down; that we need to "step up our game". He stated his speech is for them that talks about the three weeks he spent in Eugene, Oregon trying to help the poor and homeless as a street preacher there. At this point, he read the poem he wrote entitled "Nowhere to Go" which has been spread upon the minutes:

### TOBIAH TILLMAN (Continued)

Everything else is working out great  
But I got no money, and  
The rent is late, but  
I got my honey  
And a nice clean slate  
All my troubles come and go  
Swept away nice and slow.

Something happens from time to time  
That sends you to the curb of grime  
All that work and nothing to show  
Now I'm stuck outside with nowhere to go  
Nothing to show, nowhere to go, but up from here  
On my way to the top I have no fear  
From the gutter to the stars, I'm in the clear.

Sometimes when life kicks you down  
You can't smear off your broken frown  
Right now I may have nowhere to go  
But I'll find a way and let you know.  
Nowhere to go but I'm here for you  
Nowhere to go but I'll pull on through.

Mr. Tillman stated he wrote this for his mother and recited it to a cop when he was trying to arrest him on a Eugene, Oregon campus. He again invited the Council to the march scheduled for March 4 to honor the homeless dead in Chattanooga, an event sponsored by Brother Ron; that it will be one of the biggest marches since 1985. He stated Cynthia McKinney, who ran against Obama, might show up; that the shelter Mayor Littlefield promised across from the Community Kitchen has not been built and it has been four years.

Councilman Benson stated we have honored the homeless dead each year and it is in the 30 or 40 numbers that die on the streets; that it is a luncheon with the homeless on Eleventh Street and asked Mr. Tillman if he is aware of that. Mr. Tillman responded "yes".

Councilman Benson asked if this is a part of that annual service. Mr. Tillman stated it is an honor, "yes".

**TOBIAH TILLMAN (Continued)**

Councilman Benson stated this Council, the Mayor and Dan Johnson attended; that they always attend and all it takes is notice of when the luncheon or meeting is.

**ROXANNE LARSON**

**Roxanne Larson** stated she is running for President of the residents council at Dogwood Manor and an issue has come to their attention that there are going to be cuts in HUD of 21.2 percent and would like for all on the Council to be involved with them as they write to their Congressmen and Senators. She stated people she lives with at Dogwood Manor are senior citizens, have raised their families, worked their lives and have come to a point they need a little help. She expressed hope Council members would take one of the valentines and sign it and send them on to our Congressman. She stated according to the statistics, potential cuts to project-based units in Section 8 indicate 33,899 units will be cut; that 28,264 units will be subject to annual appropriations and there will be 7,236 units subject to termination based on fiscal year '08 funding levels. She stated this is an issue very close to her heart because she lives in Dogwood Manor in one of the towers and expressed appreciation if each would sign letters and send them to their Congressmen and Senators.

**ADJOURNMENT**

Chairman Rico adjourned the meeting of the Chattanooga Council until Tuesday, February 22, 2011 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)**