

**City Council Building
Chattanooga, Tennessee
March 1, 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. Assistant City Attorney Ken Fritz, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Scott gave the invocation for the evening.

MINUTE APPROVAL

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

FRANCHISE

Councilwoman Scott made the motion to approve with the deletion of the line on page 6 which begins, “. . . Such sums shall be in accordance with prevailing state law and Company’s rate tariffs, be approved by Tennessee Regulatory Authority . . . ” and deleting the portion that says, “. . . directly added to the gas bills of, and collected from those customers of the Company located within the city”; Councilman Benson seconded the motion.

Attorney Fritz stated that language, as part of the negotiated agreement between the City and Chattanooga Gas Company, is in the State Statute, so it may not have an effect to eliminate it from the ordinance as that is part of the agreement between the parties. He stated to change the wording will change the agreement in some manner.

FRANCHISE (Continued)

At this point, **Councilwoman Scott withdrew her amendment and then made the motion to deny the request; Councilman Benson seconded the motion.**

Councilman Murphy stated the Gas Company are doing a lot of preventative maintenance in the city right now; that there have been very serious tragedies nationally in the gas industry and the Gas Company is taking prudent and necessary measures to check and replace lines that have been out for a long time. He stated the method by which they are doing some of this is very efficient and prevents the disruption of traffic; that they are boring under our roads in many cases and that is a wonderful thing to do that and not close a road to do the work. He stated the problem is in doing that, some of the roads are going to be de-compacted and over time the roads will become issues and failures and the Gas Company is not paying us anything close of what we need to have to repair that work four-to-eight years down the road when some of the issues finally migrate to the surface of the pavement. He cautioned his colleagues against turning down this negotiated agreement as there are tremendous costs that taxpayers will have to bear that the franchise fee should cover. He stated the current franchise fee is inadequate to cover the costs which were negotiated 30 years ago. He respectfully asked them not to deny this contract.

Councilman Benson stated if there is a justification for the franchise fee it could be spelled out on the billing. He stated to just put it down as a franchise fee to the city and go up on the 27,000 people using it in this city and industry without an explanation is something he cannot vote for it, which is why he supports the amendment.

Councilwoman Scott stated she understands a motion and vote to deny would mean there would be no new contract tonight or when it goes into effect, but does not mean there would be no contract going forward. She stated another contract could be negotiated and in reality it is her thought that is what happens typically in business if there is a decision not to do the contract as the two parties get together and they work if they so desire to come to a conclusion that can be approved and expressed hope that perhaps that could happen in this case. She stated the idea any contract has been negotiated does not fiat it into action, if it did there would be no reason to vote on it.

Councilwoman Berz expressed respect for the time spent in negotiating the contract and the wording, however, there was one piece of input that was left out and that was having to do with the people that were going to approve it and make it happen, which is a bit cavalier.

FRANCHISE (Continued)

Councilwoman Berz stated she is for the contract and spirit, however, she suggested the matter be deferred a week so that there would be input from the people or some discussion from those who will have to approve it; that to do otherwise and have it be a fait accompli or already negotiated thing is a bit cavalier.

Councilman McGary stated should the ordinance not pass tonight and the Council re-introduces it at another point, would there be a subsequent hearing or has it already taken place.

Dan Johnson responded "yes" any new ordinance would have to have a public hearing on it; however, he pointed out it has been negotiated for over a year with staff, our attorneys and the parties of interest. He stated being cavalier about not bringing a member of the Council in on the negotiations is, in his thought, against the law.

Councilwoman Berz immediately stated that was not what she was suggesting.

Mr. Johnson stated that it was done the right way and it would be detrimental for us not to go ahead and take care of it. He stated he does not think there would be a different result; that those agreements have to be in there as that is what they were advised and included it. He stated he does not see that a different result can come out of this.

At this point Councilman Murphy called for the question.

Councilman Benson stated what he takes offense to or cannot vote for is that he does not like it being just spelled out like it is a franchise charge just for Chattanooga that will replace possibly tax increases or whatever. He stated he wants to know what the franchise fee is going for and wants the rate payers to know as they do not understand what franchise fee means.

Mr. Johnson stated the other franchise agreements we have with other parties have it the same way; that he cannot react to Councilman Benson's comment. He stated maybe the attorney can tell him how the wording is arrived at that was put in the Bill; that it is required to be separately stated.

Councilman Benson stated we are doing this in extremely hard times after just raising the property and storm water tax; that he wants the franchise fee spelled out as to what it is going for.

FRANCHISE (Continued)

Councilman Murphy again called for the question.

Chairman Rico confirmed the motion on the floor is for denial.

On roll call vote on the motion and second to deny:

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

The motion failed.

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE GRANTING UNTO CHATTANOOGA GAS COMPANY,
A TENNESSEE CORPORATION, A FRANCHISE FOR THE PURPOSE OF
OPERATING A SYSTEM OF GAS DISTRIBUTION AND SERVICE WITHIN THE
CITY OF CHATTANOOGA SO AS TO FURNISH GAS SERVICE WITHIN THE
CITY TO ITS INHABITANTS FOR DOMESTIC, COMMERCIAL, INDUSTRIAL
AND MUNICIPAL GENERAL USE**

Passed second and final reading and was signed in open meeting; **Councilmen Benson and Scott voted "no"**.

CLOSE AND ABANDON

MR-2010-158: Janet Brooks

On motion of Councilman Murphy, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING THE UNOPENED 1700
BLOCK OF WEST 49TH STREET, MORE PARTICULARLY DESCRIBED HEREIN,
SUBJECT TO CERTAIN CONDITIONS**

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

AMEND CITY CODE

**Councilwoman Scott made the motion to amend by deleting section seven (7)
of Section 18-36; Councilman Gilbert seconded the motion.**

On motion of Councilwoman Scott, seconded by Councilman Gilbert,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 18, ARTICLE VII, SECTION 18-2 RELATIVE TO NONRESIDENTIAL
AND RESIDENTIAL SERVICE AND SECTION 18-86 RELATIVE TO
RESIDENTIAL BULKY TRASH AND RESIDENTIAL YARD TRASH**

Passed first reading.

AMEND CITY CODE

On motion of Councilman McGary, seconded by Councilwoman Scott,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 2, ARTICLE III, SECTION 174, RELATIVE TO PERSONNEL
APPEAL HEARINGS**

Passed first reading.

INTERLOCAL AGREEMENT

Councilwoman Scott made the motion to defer the matter for two weeks.

Chairman Rico stated administration asked that the matter be deferred until it has been taken care of; that it may be a month and would like deferral until they can come up with a solution.

INTERLOCAL AGREEMENT (Continued)

Councilwoman Scott asked why public works gets to defer it until they are finished with it and the City Council has to say exactly when they want it coming back on the again.

Chairman Rico stated it is because they asked.

Councilwoman Scott stated in the future the Council members will ask!

Dan Johnson stated public works did not ask for the deferral, administration did because the CFO and attorneys have not come to a conclusion with the attorneys for Volkswagen on a couple points; that it is outside public works.

Chairman Rico clarified administration asked for deferral until they could come up with a solution.

Councilwoman Scott asked if administration has more different rules than we do.

Chairman Rico suggested that Councilwoman Scott just vote no!

Councilwoman Scott stated that the rules should be the rules. should be the rules!

Chairman Rico stated instead of deferring it every week, why not defer until they get it straightened out.

Councilman Murphy asked for a point of order as there is a motion on the floor and has not heard a second.

Councilwoman Scott's motion "died" for lack of a second.

Councilman Benson then made the motion to defer the matter indefinitely; Councilwoman Ladd seconded the motion.

On motion of Councilman Benson, seconded by Councilwoman Ladd,

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, EDUCATIONAL, AND HOUSING FACILITY BOARD, AND VOLKSWAGEN RELATIVE TO THE VOLKSWAGEN PROJECT

Was deferred indefinitely.

TEMPORARY USE

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING HICKORY CREEK TOWNHOMES ASSOCIATION TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED IN THE 6700 BLOCK OF HICKORY VALLEY ROAD FOR PLACEMENT OF A SIGN AND MESSAGE CENTER, AS WELL AS FOR LANDSCAPING, AS SHOWN ON THE ATTACHED DRAWINGS MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

TEMPORARY USE

On motion of Councilwoman Scott, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING LOOKOUT VALLEY NEIGHBORHOOD ASSOCIATION TO USE TEMPORARILY THE RIGHTS-OF-WAY THROUGHOUT THE LOOKOUT VALLEY NEIGHBORHOOD TO INSTALL COMMUNITY MARKERS TO INDICATE THE ASSOCIATION BOUNDARIES, AS SHOWN ON THE MAPS AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

TEMPORARY USE

On motion of Councilman Murphy, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING BATTERY HEIGHTS NEIGHBORHOOD ASSOCIATION TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT THE NORTHEAST SIDE OF THE ENTRANCE OF BATTERY HEIGHTS NEIGHBORHOOD ASSOCIATION WHERE PARKWAY DRIVE INTERSECTS WITH BONNY OAKS DRIVE TO ENHANCE THE COMMUNITY LANDSCAPING, AS SHOWN IN THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

TEMPORARY USE

On motion of Councilwoman Berz, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING VADEN VILLAGE NEIGHBORHOOD ASSOCIATION TO USE TEMPORARILY THE RIGHT-OF-WAY LOCATED AT THE NORTH AND SOUTH ENTRANCES TO THE SUBDIVISION TO BEAUTIFY THE ENTRANCE WITH NEW PLANTS, AS SHOWN IN THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

Was adopted.

AGREEMENT

On motion of Councilwoman Ladd, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH S&ME, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. E-10-010-303, FOR GEOENVIRONMENTAL AND CONSTRUCTION MATERIAL CONSULTING REQUIREMENT CONTRATS, IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

Was adopted.

AGREEMENT

On motion of Councilwoman Ladd, seconded by Councilman Gilbert,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH TERRACON CONSULTANTS, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. E-10-010-301, FOR GEOENVIRONMENTAL AND CONSTRUCTION MATERIALS CONSULTING REQUIREMENTS CONTRACTS, IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

Was adopted.

AGREEMENT

On motion of Councilman McGary, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH THOMPSON ENGINEERING, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. E-10-010-302, FOR GEOENVIRONMENTAL AND CONSTRUCTION MATERIALS CONSULTING REQUIREMENT CONTRACTS, IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

Was adopted.

AGREEMENT

On motion of Councilman Murphy, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH LITTLEJOHN ENGINEERING ASSOCIATES, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-10-006-101, FOR PINEVILLE ROAD SEWER BASIN PROJECT, IN AN AMOUNT NOT TO EXCEED TWO HUNDRED THIRTY-NINE THOUSAND SEVEN HUNDRED SEVEN DOLLARS (\$239,707.00)

Was adopted.

MEMBERSHIP DUES

On motion of Councilman McGary, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE PAYMENT OF 2011 MEMBERSHIP DUES FOR THE U. S. CONFERENCE OF MAYORS IN AN AMOUNT NOT TO EXCEED TWELVE THOUSAND TWO HUNDRED FORTY-TWO DOLLARS (\$12,242.00)

Was adopted.

AGREEMENT

On motion of Councilman Benson, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH JACOBS ENGINEERING GROUP, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. W-10-004-101, EAST BRAINERD PUMP STATION UPGRADE AND COLLECTION SYSTEM REHAB, IN AN AMOUNT NOT TO EXCEED TWO MILLION THREE HUNDRED SIXTY-TWO THOUSAND FOUR HUNDRED TEN DOLLARS (\$2,362,410.00)

Was adopted.

AGREEMENT

On motion of Councilwoman Berz, seconded by Councilwoman Ladd,
A RESOLUTION AUTHORIZING THE DIRECTOR OF PERSONNEL TO EXECUTE A HEALTH SERVICES AGREEMENT BETWEEN THE CITY OF CHATTANOOGA AND MARATHON HEALTH, INC. TO PROVIDE CITY EMPLOYEES CERTAIN PREVENTIVE, WELLNESS, AND DISEASE MANAGEMENT, HEALTH CONSULTATION, AND PRIMARY CARE SERVICES FOR A TERM OF THREE (3) YEARS IN THE AMOUNT OF TWO MILLION TWO HUNDRED NINETY-TWO THOUSAND THREE HUNDRED NINETY DOLLARS (\$2,292,390.00)

Was adopted.

AMEND RESOLUTION NOS. 21194 AND 22112

On motion of Councilwoman Ladd, seconded by Councilman Murphy,
A RESOLUTION TO AMEND RESOLUTION NOS. 21194 AND 22112 AND ADOPTING ADMINISTRATIVE REGULATIONS FOR CONDUCT OF EMPLOYEE DISCIPLINARY HEARINGS

Was adopted.

COUNCIL SUPPORT

Councilman McGary asked how citizens become aware of where particular items are on the city's website and how do we propose to solve that problem.

Dan Johnson stated Richard Beeland deals with this more than he; that they are going through a process now of choosing a new website engine as they found the website was established in 2001 and are using what is considered today antiquated engines. He stated they are going through a process of modernizing and all departments are involved in the process of putting all the business of the city on the website. He stated how to do that in the future will be done by whatever means they can and probably will not take out an ad in the paper but it will be broadcasted. He stated most of the bids will get reacted to by direct communications from the purchasing department, anyway; that they will probably go on Councilman McGary's show once or twice!

Councilman McGary quipped, "If I invite you"! He asked if it will be a matter of an individual putting in key words on the city's website and it directs them to that appropriate page.

COUNCIL SUPPORT (Continued)

Richard Beeland stated on the city's website under "Work" and "Doing Business with the City" the bid notices can be found right now. He stated there will be an icon from the home page that can be clicked on to take the person directly to any public notice as Councilwoman Scott was talking about earlier with the draft of the budget that was done today and will take a person to it with all the notices available there. He stated the legislation in Nashville has specific guidelines about how those will be posted on the website and they will be abiding by that.

Councilman McGary stated in regard to public notices that announce various meetings will that also be in the same place. Mr. Beeland responded "yes".

Councilman Murphy stated that he wanted to address something that has been out there in the public – allegations that a website is not "forever" and it can be changed after the fact; that he wanted to let the Council members know he has friends who are very technical and very into public data and have already talked about having web crawlers that will be looking for every time those pages and notices are updated and grab the data and export it to other third party websites. He stated he would fully expect that the newspaper will probably do that as well as others; that it is going to be out there unalterable outside of our control as soon as we post something on the Internet. He stated this argument that a notice can be changed after the fact really does not "hold any water" in this day and age and also does not speak to people who may cash a website and download it for preservation purposes if they have a particular interest. He stated he heard that and thinks it is kind of a silly argument against doing this.

Councilman McGary asked if the city has explored establishing a RSS fee for that particular page.

Mr. Beeland stated it is his thought everything is open for discussion.

Councilman McGary stated the information Councilman Murphy is referring to is if the city established a syndicated fee, individuals can subscribe and whenever the information changes they will be able to pull it up on whatever reader they are using.

COUNCIL SUPPORT (Continued)

On motion of Councilman Benson, seconded by Councilman Murphy,
**A RESOLUTION EXPRESSING THE CITY COUNCIL'S SUPPORT OF
TENNESSEE GENERAL ASSEMBLY HOUSE BILL 1309/SENATE BILL 1263 AS
WRITTEN, WHICH WILL ALLOW HAMILTON COUNTY AND THE
MUNICIPALITIES THEREIN TO POST PUBLIC NOTICES ON A COUNTY OR
CITY GOVERNMENT WEBSITE**

Was adopted.

REVIEW OF EMPLOYMENT DECISIONS

Councilwoman Scott stated she is curious as to what the deferral would be about.

Councilman Gilbert stated it gives an opportunity for City Attorney McMahan to be present as he put this on the agenda; that is also provides an opportunity in reference to the challenge to public works and to Attorney Benson to come back to us to give us insight as to the ten percent issue.

On motion of Councilman Gilbert, seconded by Councilman McGary,
**A RESOLUTION FOR THE ADMINISTRATOR OF PERSONNEL TO REVIEW
EMPLOYMENT DECISIONS BEFORE FINAL ACTION IS TAKEN**

Was deferred two weeks.

OVERTIME

Overtime for the week ending February 24, 2011 totaled \$27,776.00

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA POLICE DEPARTMENT:

- **MICHAEL LIEDL, RYAN PARKER** – Hire, Police Cadet, Range P1, \$34,118.00 annually, effective February 21, 2011.
- **MICHAEL LIEDL**—Resignation, Police Cadet, effective February 24, 2011.

PERSONNEL (Continued)

PARKS AND RECREATION DEPARTMENT:

JIMMY LONG – Family Medical Leave, Recreation Facility Manager 1, effective February 16, 2011.

CHATTANOOGA FIRE DEPARTMENT:

- **DARREN BOWLES, JAMES HENEGAR, IVAN HICKS, JERRY LEE, JOHN PEMBERTON, ERIC STONE** – Promotion, Fire Lieutenant, Range F3A, \$43,358.00 annually, effective February 25, 2011.
- **EDWARD JACKSON, JAMES SMITH** – Promotion, Fire Captain, Range F4A, \$49,132.00 annually, effective February 25, 2011.

REFUNDS

On motion of Councilman McGary, seconded by Councilman Murphy, the Administrator of Finance was authorized to issue the following refund of 75 property taxes:

INLAND AMERICAN TN DISTRIBUTION LLC -- \$6,317.16

AUTUMN BROOK LP -- \$5,876.19

75 POINTE CENTRE PARTNERS LLC -- \$3,521.78

REJECT ALL BIDS

On motion of Councilwoman Berz, seconded by Councilwoman Robinson, all bids were rejected on R37823 for General Services for Hook Hoist Trucks. Specifications will be revised and re-advertised.

PURCHASES

On motion of Councilwoman Berz, seconded by Councilwoman Robinson, the following purchases were approved for use for the following departments:

PURCHASES (Continued)

GENERAL SERVICES:

WALKER CHEVROLET (Lowest and best bid)
R38470/300839

Four (4) Chevy Tahoe PPV

\$103,992.00

CHATTANOOGA POLICE DEPARTMENT:

3D FORENSIC MAPPING AND RECONSTRUCTION SERVICES (Sole source)
R39029

Forensic Mapping System per TCA 6-56-304.2

\$10,000.00

MORPHO TRAK (SOLE SOURCE)
R39770

Software Maintenance and Support per TCA 6-56-304.2

\$22,039.60

CHATTANOOGA FIRE DEPARTMENT:

THERMO KING OF CHATTANOOGA (Lower and better bid)
R38202/300847

Refrigeration System

\$34,792.00

BOARD APPOINTMENTS

On motion of Councilwoman Berz, seconded by Councilwoman Robinson, the following Board appointments/re-appointments were approved:

TRANSPORTATION BOARD

- Re-appointment of **TIMOTHY DUCKETT** for a one year term expiring March 1, 2012.
- Re-appointment of **GEORGE FLETCHER** for a two year term expiring March 1, 2013.
- Appointment of **BRENT MATTHEWS** for a two year term expiring March 1, 2013 (replacing Jill Veron).
- Re-appointment of **ANDREA ANDERSON** for a two year term expiring March 1, 2013.

CHATTANOOGA HOUSING AUTHORITY:

- Re-appointment of **EDDIE HOLMES** for a five year term expiring March 1, 2016.

COMMITTEES

Councilwoman Scott scheduled a meeting of the **Economic Development Committee for Tuesday, March 8** noting that one item will be a Council person's request regarding PILOTs and the second issue will be a discussion of funding sprinklers for nightclubs using taxpayer dollars as requested by Councilmen McGary and Murphy.

Councilwoman Robinson stated the **Health, Human Services and Housing Opportunities Committee will meet on Tuesday, March 8 immediately following Legal and Legislative** for a report regarding the CDBG Block Grant allocation recommendations.

Councilman Murphy announced that the **Legal and Legislative Committee would meet on next week, Tuesday, March 8.**

COMMITTEES (Continued)

Councilman Gilbert stated the **Parks and Recreation Committee will meet on Tuesday, March 8** for a review from Friends of the Zoo.

Councilwoman Berz stated with regard to the **Budget and Finance Committee**, the Council voted to do something a little different this year and will be having night time hearings. She stated the Committee **will meet March 3 from 6 p.m. – 8 p.m.** for a work session in the Assembly Room to hear the first segment of the non-profit agencies. She stated the Committee will meet on **Tuesday, March 8 from 10 a.m. - noon** to hear presentations during the work session by quasi-governmental agencies **and on March 10** there will be another night time work session **from 6 p.m. – 8 p.m.** for presentations from administrative departments. She stated we are making public hearings in the Assembly Room available both at night and during the day so the public can be fully aware and dealing in a totally transparent environment. She expressed hope this will make the press and people will come and participate. She explained that these are work sessions and not public hearings meaning the public is welcome to come and listen and welcome to talk to their representative afterward. She reiterated they are not public hearings and for the public not to be offended if their input is not taken; that it is merely for the agencies and administrative departments to present their budget requests and the reasoning behind it.

AGENDA: TUESDAY, MARCH 8, 2011

Chairman Rico stated the agenda for the following week was discussed earlier this afternoon during the agenda session.

CYNTHIA STANLEY-CASH

Cynthia Stanley-Cash, President of the North Brainerd Neighborhood Association, stated she was happy to hear of Councilman Gilbert's neighborhood meeting scheduled for March 17 concerning the Wilcox Tunnel and expressed hope that Councilman Murphy would also be in attendance. In addressing Councilman McGary, she stated that she listens to his radio station and asked for clarification regarding his plans to change political parties. Councilman McGary responded that Ms. Stanley-Cash heard correctly, that he is considering that.

CYNTHIA STANLEY-CASH (Continued)

Ms. Stanley-Cash stated she was present along with Ms. Lane, President of the Foxwood Heights Neighborhood Association and Jessie Phillips, Vice President of the Menlo Neighborhood Association. At this point she introduced Gwendolyn Blackman, a business owner of two businesses, who will be heard before the Beer Board on Thursday.

At this point Chairman Rico handed the gavel to Vice Chairman Ladd to conduct the meeting.

GWENDOLYN BLACKMAN

Gwendolyn Blackman stated that she is owner of River City Restaurant and Events Center, River City Mart in the Wilcox Shopping Center and was former owner of River City Grill and River City Dollar Plus store in Warehouse Row. She stated she has an events center in the Wilcox shopping center and spoke with Councilman Gilbert; that she is trying to get this cleared prior to going before the Beer Board on Thursday. She stated she e-mailed Councilman Murphy but received no response and decided to come before the Council to address this matter; that she has been a business owner for the last seven years. She stated she has an events center along with the restaurant in the hope of bringing business to the community for church receptions and different events. She stated her facility is not a nightclub and does not want the nightclub name attached to her events center as she wants it to be what it is, an events center. She stated one of the issues is the problem with zoning, that it is River City Events Center Buffet, a restaurant and events center.

Councilman Gilbert stated he has not been in the restaurant as yet, however it does have a sprinkler system already there, so that will not be a problem! He stated Ms. Blackmans does not want to be labeled as a nightclub as she will be doing about 90 percent of food sales only and occasionally will have someone that might rent the facility after hours and have an activity wherein alcohol would be sold or distributed. He stated for that reason Mr. Hutsell wants to put her into the nightclub situation; that it comes before the Council to consider the definition of the nightclub or not. He stated the percentage will be very high on food and asked the City Attorney if that would steer her away from being considered a nightclub and occasionally will have other groups rent the facility. He stated the community is in favor of this, especially if she is serving a large percentage of food.

GWENDOLYN BLACKMAN (Continued)

Assistant City Attorney Fritz stated he is not aware that the new ordinance allows that exemption based on the percentage of sales; that he is only aware that it comes up whether or not persons under 21 can be in the restaurant or some place that serves alcoholic beverages after 11 p.m. He stated that is the only exception he is aware of for age.

Councilman Gilbert remembered a conversation he had where some of the decisions were based on whether it was as nightclub or not and gave the example of Chili's serving alcohol, noting is also a restaurant. He stated Ms. Blackman would be 95 percent serving food all the time and it is only when the building is rented to different well known groups and asked would that make her business a nightclub. He stated it is up to the Council, according to Mr. Hutsell, to make the decision whether it is a nightclub or not. He stated a meeting is planned with the community, if it has not already been held.

Attorney Fritz stated if she gets the special permit she can call herself whatever she wants.

Councilman Gilbert stated Ms. Blackman is here for a reason; that they are still trying to say her business is classified as a nightclub and if that is done it will come to the Council for a discussion of that definition for her facility. He stated she will be serving church people the majority of the time and it is hard for some of the "reverend pastors" to go into a nightclub even though it is not a nightclub.

Attorney Fritz stated the permit is for the use of the land and has nothing to do with the name.

Councilman Gilbert stated when someone from out of the city books the facility and is a minister with a church coming to town and if they look it up and it says "nightclub", then it might deter someone from coming to town to that facility.

Attorney Fritz stated the only action would be the action of the City Council and no one searches for the names of the businesses; that typically, unless someone looks through the ordinances or resolutions that information will not be found.

Councilman Gilbert asked for clarification that nowhere on the website can it be looked up as being a nightclub.

GWENDOLYN BLACKMAN (Continued)

Attorney Fritz stated a resolution would be passed to approve the special exceptions permit.

Councilman Gilbert stated it is still up to the Council that it can be determined by the definition if it as a nightclub.

Attorney Fritz stated the resolution will state what it states; that the permit will be granted based on the use of the premises.

Councilman Gilbert stated according to other attorneys it is said the Council can determine if it is or is not based upon whatever Mr. Hutsell told him not too long ago; that she can appeal it.

Atty. Fritz stated it is a land use classification and that is all he can say.

Councilman Murphy stated he received Ms. Blackman's e-mail, as well as one from Ms. Lane and related his non-response to an issue with staffing at his business; that he for her request. He stated the nightclub definition looks at several main things, but one of them is going to be if there is regular entertainment and an amplified DJ; that he is certain if wedding receptions will be held that will happen and will have some people who will want to have beer or wine after 11 p.m. He stated it looks to things like if there is festival seating and explained its definition; that it is his understanding her place is a big open space.

Ms. Blackman stated she has tables and chairs and is not just a big open space; that it is a restaurant with tables and chairs. She stated if there is an event the tables are moved out and the equipment for the restaurant are moved behind the curtain.

Councilman Murphy stated that is technically what the planners and people call festival seating; that the tables and chairs are not fixed booths as seen in diners. He stated they are mobile and as a nightclub or not that is fine; that she has community support and if the Council was to vote to give her a special exceptions permit we have within our authority the ability to reduce the 750 feet which is the maximum distance. He stated the Council can reduce the distance from a residential neighborhood because she is much closer than that to a residential area behind her.

Ms. Lane indicated the residential neighborhood is not that close.

GWENDOLYN BLACKMAN (Continued)

Councilman Murphy stated 750 feet is a long way and is not a "show stopper"; that the footage goes in all directions. He stated the only thing remaining is if it is buried in some record her business is classified this way; that she can put a sign out that says "restaurant" and does not have to hold out as a nightclub, but may have to go through the permit process. He stated we are getting a little ahead of ourselves in worrying about things and mentioned the bowling alley matter that was before the Council that was labeled as a nightclub because it had a bar. He stated the Council does not want to look at subjective things such as percentage of food sales versus alcohol sales.

Ms. Blackman stated she is not trying to sell alcohol. She stated it is her understanding a fountain cannot be bought in for a wedding reception and it is stopping her from having events and that is what this is all about. She stated not being able to have a wedding reception, not being able to bring alcohol in the building, not selling it – people providing their own alcohol. She stated she does have a lot of church groups and wants to respect them and does not want the label "club" put on the building.

Councilman Murphy stated it will not be put on the building; that his larger point is when we get into the subjective things about who she is serving in terms of church groups it gets very subjective very quickly and those things for some businesses change over time and can change radically. He stated she is in business and wants to make a good living and may find that all of a sudden she will become a very popular college graduation locale and that is where the "bread and butter" is.

Ms. Blackman stated she has her own clientele and has built it for that reason; that if she just wanted to make money she could rent it to half the kids in Chattanooga but does not want to do that.

Councilman Murphy expressed appreciation for Ms. Blackman being responsible. He stated the time to raise the issue of not being a nightclub is when her special permit comes before the Council and not tonight. He stated the Council should not be pre-empting the zoning board and officials as they may rule in her favor in all accounts; that it is not for the Council to step ahead of the established procedures; that if we did there would be no end of it as there would a parade of people before us prior to going to the Planning Commission to tell them what to do! He again expressed appreciation to Ms. Blackman for "making a go of it" at her location as the location needs more tenants and businesses.

GWENDOLYN BLACKMAN (Continued)

Ms. Blackman stated the age limit is 35 and up to rent her facility.

Councilwoman Berz stated this is premature and needs to go before the zoning board to see what they come up with and then it comes up and then to us, which is when the in-depth discussion should take place. She stated the ordinance is called the "nightclub ordinance" however maybe we can come up with another word; that it does not label Ms. Blackman and she does not have to put nightclub in front (of her facility). She stated as the attorney says it is the use and it is not saying she is using it as a nightclub, it is that she has a certain number of people, stays open certain hours, all the things she wants to do. She asked that she not be afraid of this; that she will come back to the Council and we might need to make some exceptions because of the 750 feet.

TOBIAH TOMIN

Tobiah Tomin who lives on the north shore invited Council members to the homeless march on March 4 and noted that he has seen Councilman McGary there on previous occasions. He stated union troops would be coming into the city; that there is a monument in Renaissance Park and has a lot of activists coming in from Portland, Oregon.

ADJOURNMENT

Chairman Rico adjourned the meeting of the Chattanooga Council until Tuesday, March 8, 2011 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

**(A LIST OF NAMES OF PERSONS IN ATTENDANCE
IS FILED WITH MINUTE MATERIAL OF THIS DATE)**