

**City Council Building
Chattanooga, Tennessee
November 1, 2011
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

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

MINUTE APPROVAL

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

MEDIA EQUIPMENT ADVISORY

Chairman Ladd asked those in attendance to place their cell phones on an inaudible mode and requested those with cameras who plan to take photos or video to step up to the media box in the rear of the room. She stated the flashing is very disruptive and hard on the Council and particularly the Clerk of Council.

SPECIAL PRESENTATION: TYNER ACADEMY VOLLEYBALL TEAM

Stephen West expressed thanks to the Council for the invitation tonight and stated they were present to recognize two Council members who have done a lot for Tyner Academy this year. He stated the volleyball team did not do as well as they wanted, however they really competed well with the team consisting of two seniors and ninth, tenth and eleventh graders.

SPECIAL PRESENTATION: TYNER ACADEMY
VOLLEYBALL TEAM (Continued)

Mr. West stated they had the help of one parent who is the “backbone” of the team and helped them do a lot of things they did not know they could do! He stated his daughter has been there three years and they are really trying to get this started.

Deborah Brewster stated her son graduated from Tyner Academy in 2010 and she has always been involved with the football and basketball teams, and this year it was “laid upon her heart” to help with the volleyball team; that she came back to help them make a difference and let them know there is a parent who is and will be there for them. She asked team members to introduce themselves at this time.

Team members included **Gabrielle Ricks, Porchia Turner, Deja Pope, Del-Vay Hines**, a junior who has played for three years and thanked Carol Berz for donating the money to supply them with jerseys noting they had not had them the three years she has been on the team. Also introduced was **Mia Smith, Dasheta Stevens, Brittany McElvain, McKayla Caldwell and Danyell Luster**, the team’s manager for the volleyball and basketball teams who stated the uniforms made them smile a whole bunch!

Mr. West asked Councilmen Berz and Gilbert to come forward for a presentation, noting that he did not know Councilman Gilbert’s shirt size, to which Councilman Gilbert quickly responded, “size small”! He stated Councilwoman Berz has always stated she has a bigger family of more girls, now, to which Councilwoman Berz responded, “more women, strong women”!

Councilwoman Berz stated all the girls look beautiful and thanked them.

Mr. West stated most of the girls have “B” averages and some with an “A” average and noted DanYell, the Manager of the team, has the second highest grade average at Tyner. He expressed thanks to everyone for all they have done and left printed information for each Council member to read and possibly contribute in an effort to help Tyner Academy; that they’re working on getting uniforms for the basketball uniforms. He stated if anyone would like to help they would appreciate it. The young ladies present with him expressed their thanks, as well.

Chairman Ladd expressed thanks to Steve for the great job he has done and his involvement in the community and stated all are very proud of the young ladies!

SETTLEMENT AND AGREEMENT

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO ENTER INTO A SETTLEMENT AND RELEASE AGREEMENT WITH COMCAST OF THE SOUTH IN THE AMOUNT OF FORTY-EIGHT THOUSAND NINE HUNDRED TWELVE DOLLARS (\$48,912.00) FOR PAYMENT OF FRANCHISE FEES FROM DECEMBER, 2007 THROUGH MARCH 31, 2011 AND THAT THE CITY'S AGREEMENT TO WAIVE ITS RIGHT TO COLLECT INTEREST ON THE FRANCHISE FEES SHALL NOT CONSTITUTE A WAIVER OF A FUTURE DEFAULT
was adopted.

DECLARE SURPLUS AND SELL

MR-2011-113: City of Chattanooga c/o Dan Thornton

On motion of Councilman Rico, seconded by Councilman Murphy,
A RESOLUTION DECLARING SURPLUS AND AUTHORIZING THE SALE OF PROPERTY LOCATED AT 501 WEST 12TH STREET FOR HIGHWAY 27 ROAD WIDENING IMPROVEMENT
was adopted.

OVERTIME

Overtime for the week ending October 24, 2011 totaled \$4,382.31.

PERSONNEL

The following personnel matters were reported for the various departments:

EDUCATION, ARTS AND CULTURE:

- **ROBERT WILLS** – Resignation, Supervisor Civic Facilities Operations, effective November 1, 2011.

CHATTANOOGA HUMAN SERVICES:

- **SANDRA BULLOCH** – Promotion, Dietary Assistant, Head Start, \$11,477.70 Annually, effective October 21, 2011.

PERSONNEL (Continued)

- **ANGELA DANIELS** – Hire, Case Manager Coordinator, \$32,500.00 annually, effective September 23, 2011.
- **APRIL DANIELS** – Promotion, Social Services Coordinator, \$42,000.00 annually, effective September 23, 2011.
- **SHELAH GRIGGS** – Hire, Service Delivery Worker II, \$25,000.00 annually, effective August 12, 2011.
- **ERICKA HILL** – Promotion, Dietary Assistant, Head Start, \$11,477.70 annually, effective October 21, 2011.
- **RACHEL HOWARD** – Hire, LIHEAP Coordinator, \$32,500.00 annually, effective September 23, 2011.
- **PEARL SHELTON** – Hire, Family Services Advocate, Head Start, \$15,533.70 annually, effective October 28, 2011.
- **DONNA STONE** – Promotion, Deputy Administrator Human Services, Range 29, \$71,102.00 annually, effective July 1, 2011.
- **TESHA WARD** – Promotion, Family Services Supervisor, Head Start, \$26,695.20 annually, effective October 7, 2011.

PARKS AND RECREATION:

- **PERRY MCALLISTER** – Hire, Building Maintenance Mechanic, Range 9, \$26,798.00 annually, effective October 28, 2011.

TREASURER'S OFFICE:

- **STACY STOUDEMIRE** -- Hire, Tax Specialist, Range 7, \$24,306.00 annually, effective October 26, 2011.

CHATTANOOGA POLICE DEPARTMENT:

- **KRISTINA SALTER, KRISTINA HOPKINSON, REGINALD JORDAN, SUSAN ELLIOTT** – Hire, School Patrol Officer, \$15.08 Hourly, effective October 24, 2011.

PERSONNEL (Continued)

- **JOSHUA TURNER** – Military Leave (Approximately 400 days), Police Officer 1, effective November 16, 2011

- **AMY WILLIAMS** – Appointment, Executive Assistant, \$38,200.00 annually, effective November 1, 2011.

REFUNDS

On motion of Councilman Rico, seconded by Councilman Gilbert, the Administrator of Finance was authorized to issue the following refunds for property taxes:

MTN. VIEW FORD	\$1,190.40
MTN. VIEW FORD	\$1,190.40

PURCHASES

On motion of Councilman Rico, seconded by Councilman Murphy, the following purchases were approved for use by the Public Works Department:

SAFETY COATINGS, INC. (Lowest and best bid)
R49815

Blanket contract for Traffic Paint for Traffic Operations Division

\$45,000.00 – Annual estimation

TENNESSEE WASTE HAULERS (Lowest bid)
R49341

Blanket Contract for Refuse Transport

\$240,000.00 – Annual estimation

PURCHASES (Continued)

SHERMAN DIXIE CONCRETE (Lower bid)

R48947

Purchase of a Box Culvert

\$24,640.00

VENTURE TECHNOLOGY GROUPS (Lower and better bid)

R48813/301411

Purchase Two (2) Cryogenic Wafer Valves

\$24,354.00

SIEMENS ENERGY INC. (Lowest and best bid)

R48630/301398

Purchase Two (2) SF6 Power Circuit Breakers

\$73,000.00

CORRECTION: BOARD EXPIRATION DATES

Dan Johnson reported that the expiration dates of reappointed members to the Hospital Authority Board were incorrect as reported for approval last week. The expiration dates for the Hospital Authority Board reappointments were duly reported and corrected:

HOSPITAL AUTHORITY BOARD:

- ***JAMES A. WORTHINGTON*** for a term expiring November 1, 2013.
- ***RONALD A. LOVING*** for a term expiring November 1, 2014.

COMMITTEES

Councilwoman Scott announced that the **Personnel, Performance and Audit Review Committee would meet in an educational session on Tuesday, November 8 at 2 p.m.** to discuss a draft ordinance relative to progressive discipline.

Councilwoman Robinson announced there would be a **joint meeting of the Housing and Neighborhood Services and Legal and Legislative and Safety Committees on Tuesday, November 8 immediately following the Agenda Session** for a continuation of discussion regarding changing housing needs and redistricting, as well as ordinances and resolutions within the Committee's jurisdiction.

Councilwoman Berz reported that she has received comments regarding the agency letters and will have a revised letter ready for next week and would try to get it out as soon as possible for any further comments as she would like to get the letter out to agencies before the end of the year. She expressed thanks to all Council members for their input.

CANCELLATION OF COUNCIL MEETING

Chairman Ladd stated a calendar for Council meetings for December and January is included in the Council members' packet this evening for planning as department heads need to look at scheduling around holiday time; that the Council needs to make a decision so department heads will know when to proceed with contracts that need to come for approval. She reminded Council members that they voted to take a week in July for the July 4 holiday which had not been done since she has been in her term; that we need to make an adjustment in the meeting schedule for the end of December or the first of January.

Councilman Murphy made the motion to cancel the meeting of December 27; Councilman Gilbert seconded the motion.

Councilman Benson inquired as to the rationale for cancelling the meeting after Christmas.

Councilman Rico explained people take off during the week; that he knows he and Councilman Benson will be here, but we have to think about everyone else. He stated it is a good time to take off Saturday and Sunday and have the week for vacation to see friends and family.

CANCELLATION OF COUNCIL MEETING
(Continued)

Councilman Benson stated he cannot support this, to which Councilman Rico responded, "I did not think you would"!

Councilman McGary stated with reference to December 27 or January 3 he asked if department heads had a preference one way or another. He acknowledged the nodding of heads for the December 27 date.

Councilman Rico stated just because the Council will not have a meeting does not mean Council members will not come to work.

Councilman Benson stated we have to think of the citizens having a place to address their needs; that Council members will not be present to answer their needs.

Councilman Rico stated the two for them will be present to answer their needs!

On motion of Councilman Murphy, seconded by Councilman Gilbert, the Council meeting of December 27, 2011 was cancelled; on roll call vote:

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

AGENDA: NOVEMBER 8, 2011

Chairman Ladd stated the agenda for next week was discussed earlier during the Agenda session.

GUIDELINES FOR NON-AGENDA SPEAKERS

Chairman Ladd stated it is her thought a large number of people are present on the same issue and stated three separate speakers will be allowed for Occupy Chattanooga with a time frame of three minutes each to talk with the Council. She asked the Council members to allow the three speakers to flow through before asking questions or making comments; that we have some real passionate ideas and emotions invested and asked that the audience remain quiet during anyone's speech with no clapping or outbursts.

Councilwoman Robinson thanked the people in the audience for coming and stated a lot of us old timers look back and we know the right of assembly is certainly one of the foundations upon which our country was founded. She asked that they think of what she is going to say in the spirit she is suggesting it. She asked that they please not ask the City Council to allow them to violate an ordinance that we passed in 2007 to close our parks; that it was an evening curfew that was passed so that parks would be closed at 10:30 at night. She stated there are some old timers on the Council who were around when that ordinance was passed and she hates to have to say it but we had good reason to pass it; that we had violence in the parks at night, some gang activity, guns, bad stuff happening. She stated there were a lot of us on the Council at the time that did not want to limit access but we had to because of the greater good of all of the people in this city as there are thousands and thousands who use the park all the time and we do believe it is safe and we are grateful we do have a good safe place to go now for everyone and our kids and grandkids. She stated that is the reason that law was passed and again asked that they not ask the Council to allow them to break that law to violate it. She stated we have wonderful group here who has great energy, focused, finding their voice and it is a great thing in the United States to see so many people that are willing to stand up, so please do occupy but please come in the morning, stay all day long and protest, make your points known, take ownership of that place but by 10:30 at night please uphold the law we have on our. She stated they can come every single day, all day long and make your points, but do it during those times and please do not ask the city to give them special permission to violate an ordinance the Council passed in 2007 for very, very good reasons.

GUIDELINES FOR NON-AGENDA SPEAKERS
(Continued)

At this point, Chairman Ladd recognized City Attorney McMahan and stated he will present a short presentation and then three speakers from the Occupy Chattanooga group can come forward; that following that any other person from the public who would like to address the Council on any other issue would be allowed to do so.

City Attorney McMahan read from the general Rules of Procedure of the Council for those wishing to address the Council, not only for the Occupy group but others who want to address, as well.

City Attorney stated we know a lot are here tonight under the Occupy Chattanooga or Occupy Wall Street, noting he was not sure what they call themselves, but we understand they are present to exercise their First Amendment rights under the Constitution and they plan to peacefully assemble as is recognized by the First Amendment of the Constitution of the United States, which is what our forefathers fought for back in the 1700's. He stated we in Chattanooga have adopted an ordinance to regulate the use of our parks and a major portion of the ordinance is based upon a U. S. Supreme Court Case called *Thomas vs. Chicago Parks District*. He stated they are not the first people who have thought it is useful to use the parks to express their First Amend rights; that the Court in that case gave guidance to cities around the country about what proper regulations would be for parks. He stated we recognize our parks are public forums for people who should be allowed to gather and express their First Amendment rights; however, as approved in that Chicago case we have adopted certain restrictions to protect other members of the public to ensure that other members of the public who are not associated with your group have a right also to equal access to that park, to ensure they do not go someplace that has already been reserved by another group and that may be a case this weekend.

City Attorney McMahan stated we have adopted regulations consistent with that United States Supreme Court case which we believe are entirely lawful; that one of the rules of the First Amendment is cities are not allowed to regulate what they say; that they could be for, or against, could advocate a change in the whole form of government of the United States and they have a right to do that, but the courts do allow us to do what is called "time, manner and place restrictions". He stated Councilwoman Robinson mentioned one of the restrictions, the time restriction, and we have very valid reasons for closing our parks at 10:30 p.m.; that some are closed at dusk but the main downtown parks are closed at 10:30 p.m.

GUIDELINES FOR NON-AGENDA SPEAKERS
(Continued)

City Attorney McMahan stated some have indicated they plan to camp out on our parks and implored them not to do so. At this point a copy of the United States Supreme Court decision in the case of Clark vs. The Community for Creative Non-Violence was shown on the screen; that the case was cited in 1984 involving the use of one of the parks near the White House. As shown on the screen on page 2 that sleeping is not really considered expressive conduct and if it is there can be valid regulations to keep people from sleeping in the parks. Further down on the screen, it was shown that the National Parks Service, like Chattanooga, adopted reasonable time, manner and place restrictions to prevent people from sleeping in certain areas of the parks. Further down the same page as reflected on the screen City Attorney McMahan stated we are not trying to regulate what is said in the park, but when it is said and in that regard to say it between daylight and 10:30 p.m., and please do not try to sleep in our parks.

City Attorney McMahan stated he has had conversation with the police department today and they are intending to enforce the 10:30 p.m. restriction about leaving the parks, so please follow us along with that regard. He stated he is not trying to be threatening and clarified that it is his responsibility as city attorney to file a lawsuit if that restriction is violated because there is a duty for a government in the event they are suppressing someone else's speech to go to a court and say, "Dear Mr. Judge/Court or Mrs. Judge/Miss Judge are we properly applying the law under these circumstances". He stated we would ask the court "are we, the city of Chattanooga doing this the way we are supposed to; are we following the Constitution of the United States and if not please tell us so". He stated if we are please tell the other folks to do what they are supposed to and follow the law. He reiterated that is not at threat as it is our duty and our responsibility. At this point he asked Chairman Ladd to recognize the people wishing to speak on this issue.

MYLES DOHERTY

Myles Doherty of 809 Central Avenue stated ever since September when the Occupy Wall Street Movement began in Lower Manhattan to express their outrage at the injustices perpetrated by what they saw as persistent favoritism on behalf of government toward corporate banking and finance, citizens across the country of the United States have assembled in their own communities and public spaces to express their dissent and solidarity.

MYLES DOHERTY (Continued)

Mr. Doherty stated in doing so they have been exercising their First Amendment right to peaceably assemble and petition government for a redress of grievances which cannot be superseded by any federal, state or local law or statute. He stated recognizing this, last month the City Council of Los Angeles passed a resolution supporting the protesters and condemning irresponsible banking practices, and likely the City Council and Mayor of Irvine, California passed a resolution supporting Occupation in their community. He stated here in Tennessee there has also been support of public officials; that in Nashville, Night Court Magistrate Thomas Nelson has repeatedly refused to hold arrest warrants against Occupiers there under a curfew instituted by the governor and is pleased to suggest yesterday the State Attorney General declined to defend that curfew in state court. He stated Rep. Mike Stewart has spoken out about the injustices of opposing these assemblies and their freedom of speech; that all the public officials in communities who have supported the Occupiers have received widespread support and praise across the country from those who support people's freedom of speech and civic rights. He stated every community has not been so supportive; that in Oakland, California police attacks using tear gas and flash grenades left Veteran Scott Olson in a coma and brain damaged and unable to speak; that in Denver police dispersed rioters with tear gas and pepper spray, as well as pepper balls and shot gun propelled bean bag rounds in order to intimidate and disperse them. He stated these communities have conversely received widespread condemnation for their decisions. He stated on behalf of the members of Occupy Chattanooga and its supporters, who stood at this time (a huge number stood!), he informed the Council of their intention to peaceably assemble and occupy the green space adjacent to Ross' Landing to erect tents and temporary shelters and to remain there as long as is necessary to fully express their discontent at the government's involvement in corporate politics and the police repression which has followed it against their other protests across the country. He stated they are asking the City Council to give their consent to this occupation although it is their fixed intent to do so at the conclusion of this meeting; that in doing so they know Chattanooga will be enrolled on the list of all the other communities previously mentioned who are at the forefront of defending their citizens' civic rights and freedom of speech and will receive widespread praise for doing so.

Chairman Ladd expressed appreciation to Mr. Doherty for acknowledging the group that is present. She then asked a lady in the fourth row taking pictures to go to the media box and cautioned that she not take another photo from her seat as she asked persons in attendance not to do so at the front of the meeting.

TELETHA MCJUNKIN

Teletha McJunkin of 220 Elder Street stated she is a 42 year old mother of two boys, 17 and 23. She stated she knows many on the Council and has a Bachelor's Degree in Social Work and a Master's Degree in Public Administration; that she has worked in the local non-profit sector for 20 years but has never been too "plugged into politics" because her participation did not seem to matter. She stated she would receive form letters from anyone she tried to write with the exception of Peter Murphy. She stated tears fell from her eyes when she researched the extent to which corporations run this country through legalized bribery of publicly elected officials; that about that time Occupy Wall Street began and it turns out the rage she felt at this injustice is shared by hundreds of thousands of other people around the globe. She stated now that it has been several weeks and Occupiers around the country are organizing, another more pressing issue has risen to the top and that is the act of suppression of our First Amendment rights. She stated a few communities that get way too much press are trying to silence their voices by force and intimidation; that many other communities are choosing to uphold the First Amendment rights of their citizens through cooperation with Occupiers. She stated cities across the nation are opening their eyes to the unusual circumstances and nature of this movement. She stated it is not your normal run-of-the-mill protest, it is much, much different; that it is nothing they or we have ever seen before and it has literally spread around the globe in less than two months and continues to grow each and every day. She stated the First Amendment rights of our people trump any law as mundane as a curfew; that these are exceptional times that truly call for exceptional, "out of the box", "not what you're used to" solutions. She asked why can't we protest between the hours of 8 a.m. and 6 p.m. and responded this is what is in the hearts and minds of Occupiers across the globe, before demands come and protracted struggles and campaigns over specific political economic or environmental policies begin, before the Occupy Movement succeeds in turning the tide of the corporate state back toward communities and the common good, it needs a home, a place to put down roots and grow the Movement – a place to reclaim the commons and not just in theory but in actual, physically manifested ways that say . . .

At this point, Chairman Ladd made Ms. McJunkin aware that her time had expired.

Ms. McJunkin stated that is truly astounding! Chairman Ladd responded "that is what the clock is telling us".

TELETHA MCJUNKIN (Continued)

At this time Councilman McGary made the motion to allow Ms. McJunkin to speak an additional two minutes; Councilman Benson seconded the motion. On roll call vote:

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

The motion carried. Ms. McJunkin was allowed to speak an additional two minutes. The timer (clock) was reset for two minutes and Chairman Ladd informed Ms. McJunkin the yellow light will flash when the speaker has a few seconds left to speak.

Ms. McJunkin continued by stating . . . a place to reclaim the commons and not just in theory but in actual, physically manifested ways that say we are here to stay, there is no more business and politics as usual, now it is our turn to have self-determination and self-governments. She then asked about public and sanitation issues noting these are the details, things that are actually negotiable; that an agreeable solution that is beneficial to all can easily be achieved if all parties are invested. She stated they are not a social group that wants to camp out for free on public land; that most of them work every single day, first and/or second shift and it would be a serious limit on their First Amendment rights because they could not be there during the hours of operation. She stated they are a group of total strangers that have found each other through a common passion for true, lasting justice and equality in this country and for them to begin having that conversation they need a physical space as they do not live together.

TELETHA MCJUNKIN (Continued)

Ms. McJunkin asked how cool would it be if Chattanooga became the model city for cooperation with citizen Occupiers, how cool would it be to put the vast amount of local knowledge we have about sustainable practices to work solving the very real problems Occupiers are facing. She stated solutions sought together could minimize costs to taxpayers, ensure the safety of the Occupiers and citizens and provide the opportunity to develop innovative "green" solutions for sustainable practices that do not use public resources. She stated they are deeply passionate and committed to this and are analysts, sales people, lawyers, students, the unemployed, factory workers, police officers, firefighters and teachers. She stated we are actually you!

PATRICIA BAZEMORE

Patricia Bazemore of 5003 Fourth Avenue stated she does not represent the Occupy Chattanooga group but is involved with them; that they are a loosely organized group of individuals and very many people came tonight just as citizens, as members of this community to speak. She stated they are done a disservice by being limited to three people; that they did not support her speech and (she) did not have it approved by anybody. She stated they all represent their own individual feelings and a lot of people came tonight to express their support of it. She stated she wanted to voice that and noted the stuff on the screen by the City Attorney are guidelines; that as Myles said at the beginning the Council has a choice as there has been a precedent set, judges who have been supported this as their First Amendment rights, as the tool of redressing their grievances. She stated right now this is an unprecedented time and is front page news all over the country, the world. She stated this is a huge movement that is happening and the reason why it is required right now is they have taken every other means; that they have done daily protests, done marches, done petitions and have tried to organize online and they have done those things. She stated they have been absolutely ineffective at mounting any real change because right now 70 percent of the financial assets in this country are held by one percent of the people; that we do not have power unless we are given the ability to organize, to redress, demand a redress of those grievances. She stated right now this is how they are able to demand a redress of their grievances; that if they do not have the power to do that the Council is stepping on their First Amendment rights; that this is the Council's choice as they are not bound by that the information on the screen and have a choice to protect their rights as this is more important than a curfew.

PATRICIA BAZEMORE (Continued)

Ms. Bazemore continued by stating the Council had very, very good reasons for setting that curfew for the greater good of the community; that they have a very good reason to support them now and support the rights that they are putting into place; that the First Amendment was put into place before that curfew went into place. She stated these things are much more important; that the Council does not have to allow anybody to be violent in the park because they are there protesting and demanding a redress of their grievances and they have to be given the tools to organize and do not need a place to camp as they need a place to organize. She stated she works every day and they need to be able to set up communication tents, have people come and go as they are able to and they need to have that set up; that they cannot just assemble every night and reassemble every day and really be able to demand a redress of their grievances. She stated they do not have the power unless the Council supports them; that they need the Council now. She stated when this started in New York she wanted to pack up her children and drive there; that she works 50-60 hours a week and this is very important to a lot of them present tonight, way more than what is represented here. She stated when they were on the street protesting there were people driving by honking horns all day long because they know how important this is to our country and they are depending on the Council. She stated they need the Council's support and will not give up; that they can be arrested tonight and will come back tomorrow; that the whole country will hear about this; that they need their support!

Chairman Ladd thanked those in attendance, noting that they have been extremely polite. At this time she asked others to come forward who wished to speak on matters not related to this.

COUNCIL DISCUSSION

City Attorney McMahan stated he heard someone say they are planning on using what we generally call "the green" on Ross' Landing; that one of the rules adopted is that other people have a right and that space has already been reserved. He stated if they go down there they are impinging on someone else's right and suggested a more appropriate forum, which is very much public, would be Coolidge Park and that is not reserved; that they need to call 311 tomorrow and they will give them a permit to use Coolidge Park but they are not going to be able to give them a permit to use "the green" because that park is already reserved starting tomorrow. He stated for those who might be willing to follow our park regulations, a set of the regulations will be placed outside for them to take and read. He asked that they follow the law, noting that is what they said they would do and wants them to do so.

COUNCIL DISCUSSION (Continued)

Councilman Benson stated he wanted to "amen" what the City Attorney and Chairman Ladd said; that all on this Council is very sympathetic with those in attendance. He stated he has a grandson who is not present tonight as he is taking a class at the University who has been with them in this; that as he explained to him you have to obey the law and if not they will be counter productive, more harmful to their cause and they have a great cause. He stated he has been around here longer than others on the Council and has seen government change from "power from the people" to "power to the money" and that is what it is coming down to. He stated campaign contributions take a tremendous amount to run even for a local office and it is hard for those people who give so much money and time to a campaign to not listen and he knows the federal government is really caught up in this. He stated maybe they will get attention and get this back out of the hands of "power of the money" and "power to the people", but they will not succeed by breaking any laws in Chattanooga. He asked that they set a good example; that our police officers are with you until you break the law and then they will have to step in; so the law is: you cannot camp out overnight on public property. He asked if they have property they can use that is privately owned which is what they are doing in New York, and urged that they not attempt to do it where all the public owns it; that we have to have laws and ordinances to protect all the public, those that even disagree need to be protected as they do, too. He stated the Council will be with them as long as they obey the law otherwise they will force the Council to have to do things they do not want to do. He stated those were not smart people in Oakland if they pushed it to that point and they were not very smart policemen. He stated we have smart policeman here and those in attendance have judgment and intelligence to know they have to obey the law which will keep all on the Council with them.

Councilman McGary expressed thanks to all who have come tonight noting this is one of the most difficult decisions he has faced as a Councilperson; that he appreciates their candor, honesty and sincerity; that we are all upset for various reasons and disappointed whether in office or in the audience and want more from our government. He stated he is willing to do what is necessary, whether an elected officer or otherwise to see that come about; however, he stated a brief course through history will prove that every single protest movement that has existed in the world that was serious -- meaning individuals who had claims that were larger than life and willing to give their lives for their cause -- always exhausted every legal option first. He stated only when every legal option was exhausted did they take matters into their own hands.

COUNCIL DISCUSSION (Continued)

Councilman McGary stated Dr. Martin Luther King and others gladly broke the law and were guilty of civil disobedience but paid the consequences for it; that if he were here today he would say he and the Southern Leadership Movement and all those affiliated with them exhausted every legal option. He suggested out of sincerity and love, to be in the position they have exhausted every legal option and if they have done that and find on any given level that some administrator or person with authority denied them via the permit process then and only then would he be able to say there is something amiss here and we need to supersede what has been written. He stated he cannot say that knowing there is already an effort to say regardless of what is written they are going to do otherwise; that unfortunately he did not think that is an approach their protesting forefathers would smile on if they were here today and would expect more of them; that we all expect more of them. He stated their protest in and of itself does not lack credential or substance; that what it is saying is lacking is going through the proper legal channels first. He stated after they do so please let us continue to have a conversation; that he is willing to continue as this is not the end of their conversation and hope it is only the first and we will continue together, as the Council is not against them any more than they are against the Council. He stated we are in this together and expressed hope together we can foresee and we can work together to see a conclusion.

HENRY JONES

Henry Jones of 407 Dodds Avenue in the Ridgedale community stated Gary Ball was not able to be here tonight. He expressed thanks the police department for their cooperation recently. He stated Gary was hit head on by a DUI and is in Erlanger Hospital and asked for everyone's prayers for Gary.

Chairman Ladd thanked Mr. Jones and asked that he give Gary the Council's best.

JOEL STIVENS

Joel Stivens of 1818 Old Wauhatchie Pike stated he wanted to address the Council on limiting to three speakers on any matter before the Council and asked that it be waived tonight and give an open mic to anyone who wants to speak on any issue, including the matters concerning Occupy Chattanooga; that limiting that subject or any subject to any three speakers at three minutes at a time seems unfair.

JOEL STIVENS (Continued)

Councilman McGary stated he knows there have been similar requests made in the past and we can officially adjourn, table or put the meeting in recess where individuals and Council persons who wish to stay can and those who wish to go can; that he is willing to stay all night and listen if necessary. He stated in regard to the rule as stated, he asked the City Attorney to briefly explain why it is we limit individuals in regard to three minutes or a number of speakers in regard to any speech.

City Attorney McMahan stated in any deliberative society in order to control its proceedings must adopt official rules and regulations so they can properly handle the peoples' business. He stated they often do meet following the regular meeting agenda with people who have particular grievances and that is another reason why we try to close our meetings at a reasonable hour.

Chairman Ladd stated she asked for the limit of three minutes because it has been her experience that when it gets beyond that we get redundant information and it does not serve to give us any additional information to consider; that it is appropriate as that is how we handle our zoning cases and that is how she as Chair has decided to handle large groups as they come in to keep it within reason and keep the information fresh and non-redundant. She expressed thanks to Mr. Stivens for his concern.

JOHN ESSEX

John Essex stated he wears a hearing aid and is disabled and may not have heard everything that was said tonight; that he heard Councilwoman Robinson early on request that the people here to discuss the Occupy Movement to not ask the city to allow or make any kind of request for any illegal action; that he thought he heard that correctly. He stated he is a citizen of the United States and born in Vermont and has been enjoying his residency here in the city of Chattanooga since 1992 and feels comfortable calling Chattanooga home. He stated his understanding is that the Constitution of the United States is the supreme law of the land and the government of the people has been formulated through the Constitution and expressed through the executive and legislative offices, as well as the judicial offices. He stated our fine city attorney, Mr. McMahan, has explained the law and we have had the legislative body request a request on the legislative point of view.

JOHN ESSEX (Continued)

Mr. Essex that there is no executive officer present he knows of; that his point would be in terms of the separation of powers, is it possible under the Constitution for a legislative body to assert that a judicial basis for restricting citizen participation in a public forum can those conditions be set out prior to anybody having anything to say about it. He stated that is the question he is presenting to the Council tonight and to answer from a citizen's perspective, the main thing he would like to ask: is the city of Chattanooga through its legislative body willing to endorse through its own activity an endeavor to support the Constitution of the United States.

ABDULLAH HAKEEM

Abdullah Hakeem of We the People stated he is from Cleveland, Ohio and gave his address as 6658 Balsam, Bedford Heights, Ohio. He stated his group is in Tennessee to try to qualify an issue for the ballot entitled Americans Elect; that they are trying to educate the community and need 80,000 signatures to qualify the issue for the ballot. He stated they are having problems with law enforcement here not trumping over their fundamental rights to petition the government; that it is a Constitutional right and are having problems having access to the public. He stated certain organizations like Wal-Mart and other places that are sitting on properties owned by other establishments are using the trespass law against them; that they are federally mandated through the Pruneyard Ruling to allow them to have access to private property whenever they are doing something dealing with the election process. He stated registering people to vote is imperative for the 2012 Presidential Election that we get a chance to make sure anyone who has a name change, has moved, all the different restrictions and things that have been put in the law in Tennessee with the ID's is imperative for them to be able to speak to the community but are being denied that. He stated he came to speak because he has called different organizations through city hall trying to be able to report on officers who use bully tactics on them with big businesses like Wal-Mart, billion dollar entities who are using the police to intimidate them. He stated he is intimidated by a person with a gun an Taser telling him if he does not leave the property from registering people to vote this is how sad it has come. He stated he heard Councilman McGary speak about what he wants us to do, but the law of the land has said what it would allow them to do but then there are small government agencies within the United States making their own interpretation of the Constitution.

ABDULLAH HAKEEM (Continued)

Mr. Hakeem displayed a copy of the Constitution and stated he is very cognizant, can read and knows he has the right to assemble; that his tax dollars paid for the sidewalk and knows he does not have a curfew because he is not a kid; that if he wants to stand on the sidewalk because his tax dollars allowed him to pay for it he can stand as long as he wants! He asked what law he is breaking; that these are the questions he is asking city hall and would like for the Council to engage them and would love to speak with the City Attorney after the meeting.

CICELY M. ROMAN

Cicely M. Roman of 718 East 27th Street stated she was present from CNAC to thank the police department and request the cooperation of Councilmen McGary and Rico and several others. She stated the problem is what they are hearing from the police department with reference to prostitution in the Foust area; that they have gone to Councilmen McGary's area and left hers; that she is a member of Court Watch and it is like a revolving door from what they are hearing from the police department. She stated the prostitutes are getting arrested and the recent "stings" have been wonderful; that Councilman McGary's neighborhood is really suffering and she is "on her toes" all the time; that she had a massive operation two months ago, was hit by the tornado and is now back in her home. She stated they need the Judges to make more sentencing because what is the use of them being picked up and then the courts lets them go with a little "slap on the hand", some dental work, maybe some vitamins. She asked if there is a way the Council can talk and reorganize and the Judges respect them as Court Watch partners. She asked the Council to take a drive around Councilman McGary's neighborhood on a week night; that she goes with her dog, her iPad and it is sad what he is living through.

Councilman McGary stated it is no secret that it is public knowledge he and his wife and five children live in "the hood"; that they actually chose to live there; that of the various places they could have lived they chose to live there and have been there five years, now. He stated they are well aware of the challenges they face in their neighborhood; that his wife is at home with their babies and would tell you every night at 8 p.m. he walks the neighborhood with his dog and is well aware of the problems they face.

CICELY M. ROMAN (Continued)

Councilman McGary stated the problems are bigger than one man or one woman, but continually working together with our neighborhood association, CNAC and others we will remain vigilant and do all we can.

Ms. Roman inquired as to what to do about the Judges. Councilman McGary referred the question to the City Attorney as he is curious as to what pressure we can have on local Judges, what we can do. He asked if we can write a letter expressing our dissatisfaction and is curious what we as a legislative body has toward our local judges.

City Attorney McMahan stated the first thing is Judges do not allow anyone to contact them with respect to pending matters before them, specific cases; that people wanting to express their general attitudes about a class of crimes can certainly feel free to exercise their First Amendment rights to contact the Judge as long as it is not about a specific case. Ms. Roman said they have done that.

City Attorney McMahan stated Judges are under constraints by the fact the jails are too full and under constraints of trying to have some people rehabilitated so that they go back into society and not locked away somewhere. He stated he knows Judges by large measure are trying to do the best they can for the population.

Councilman Murphy stated he would be happy to go communicate in a general sense the urgency of the community's feelings about that particular crime; that he would like to point out one other that really has been weighing heavily on his mind as he looks at the publicly available criminal history of individuals arrested for shootings in our community. He stated he will not say always, but virtually always, they have a prior arrest for illegal weapons possession. He stated in our state and system the most serious penalty for illegal weapons possession if you are not already a convicted felon, if just "rolling around" with a gun with no permit with it loaded "at the ready" that is an illegal weapon, the most serious penalty that is faced right is that the person will lose the gun, and if it is an \$800 gun it is a bigger sanction than what you get under the law. He stated there have been homicides in his neighborhood and our city because someone lost their temper and there was a gun nearby, just "rolling around" with it. He stated not playing premeditated homicides somebody clearly with anger management issues and does not know how to settle conflict, but if the gun was not there we have killings that would not have happened in this community and we have killings of people who were just in the wrong place at the wrong time.

CICELY M. ROMAN (Continued)

Councilman Murphy stated he is not asking for a new law so much; that he remembers in the 70's growing up in upstate New York you are more likely to get a ride home if pulled over driving drunk than go to jail, and that changed and it changed because people told their legislators and judges that this is a serious issue. He stated he is not asking for a new law on illegal weapons possession or prostitution but asking if we could consider it a little bit more seriously that it has been to date. He stated there ought to be a penalty other than losing a gun if you are "rolling around" with a gun that you have no right to have; that he is happy to make an appropriate meeting with our courts and by that meaning not discussing individual cases but problems generally. He stated it is his thought we need to look at what the penalty is for the offense. He stated he gets the vice squad reports and both issues are extremely important to our community and neighborhood, but also to the entire state as there are neighborhoods all over this state plagued with some of the problems we are talking about. He stated not all the solutions may lie here locally; some may lie at the state level.

Councilman Benson stated it is his thought to do something about the sentencing situation that some of it is the State Constitution; that the City Court has a \$50 limitation and that is all they can do and we are trying to do some changing on that. He stated the other thing he would urge them to do is get court observers to sit in the City Courts and any court where they have someone that is going and let the Judge know who they are by wearing shirts that say "Court Observer". Ms. Roman stated they have that.

Councilman Benson suggested they continue to do what they are doing; that every one of them has to run for reelection and the police are frustrated with this as they work hard and capture somebody and they are turned loose or "slapped on the hand". He stated what Ms. Roman needs to do with the court observers is to begin to let them know they will find someone to run against them and will campaign against them; that he guarantees they will get tougher!

Ms. Roman inquired as to the courts giving them the documents; that they used to be able to get them and now they are having a problem getting the documents.

Chairman Ladd intervened and stated Councilman Murphy has indicated he would be happy to meet with Ms. Roman following the Council meeting for additional information he can assist with.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga Council until Tuesday, November 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)**