

**City Council Building
Chattanooga, Tennessee
November 22, 2011**

Chairman Ladd called the meeting of the Chattanooga City Council to order with Councilmen Benson, Gilbert, McGary, Murphy, Rico, Robinson and Scott present. Councilwoman Berz was absent due to prior commitment. City Attorney Michael McMahan and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE/
INVOCATION**

The Pledge of Allegiance was led by Councilman Murphy, followed by invocation.

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.

**SPECIAL PRESENTATION/
HEAD START PROGRAM**

Before commencing the Special Presentation, Chairman Ladd explained that all the Ordinances and Resolutions that would be read had been discussed at length, researched and questions had been asked; that it would seem that we were going through these rather quickly but conversation had been completed regarding these matters. She called on Mayor Littlefield and Ron Swafford.

Mayor Littlefield stated that he was proud to be joined by Ron Swafford; that Mr. Swafford had once sat where the Council was sitting tonight and had worked tirelessly and was now working with Chattanooga Human Services, which is a county-wide organization and excellent in many ways and very special; that the Chattanooga Human Services Head Start Program had been selected as a "Center of Excellence"; that our program had been nominated out of 100 and only ten had been selected. He read a letter than had been received by Mr. Swafford outlining how special this Award was, adding that the most precious commodity that we deal with is our children. He stated that in addition to this award, Human Services would also receive a collection of children's books.

CENTER OF EXCELLENCE AWARD
(CONT'D)

At this time, Mayor Littlefield recognized several individuals who had been a part of this Award. The first person was **Joey James**, who had devoted more than 25 years of service and was presented a Certificate of Appreciation, which was to be amended. **Geneva Stubbs** was not present, but her Certificate will be delivered to her. **Sarah Thompson** was also thanked for her service and presented a Certificate of Appreciation. Mayor Littlefield stated that the director, **Sherrie Hutsell**, had been a great help in making this happen, adding that the sum is greater than the parts. He again stated that this was a very special designation. A Certificate of Appreciation was also presented to Mr. Swafford on behalf of the entire Department of Human Services Head Start Program. He asked Mr. Swafford to say a few words.

Mr. Swafford stated that he was honored to be a part of this organization; that Early Childhood was a great program, and this Award was a notch ahead of any that had been received before. He stated that he was glad to be a part of this fine group and was honored and appreciated the Council's support and also Administration's support.

Sherrie Hutsell echoed the comments made by Mr. Swafford, stating that she also appreciated the Council's support and thanked all of the Staff of Head Start, the bus drivers, and the cooks, stating that everyone was hard working.

Chairman Ladd thanked Mr. Swafford, Ms. Hutsell, and the Staff, adding that if Mr. Swafford missed "his chair on the Council", she would be glad to "swap out".

**AMEND CITY CODE/
SPECIAL EXCEPTIONS PERMIT**

Chairman Ladd asked Attorney McMahan to address the Council concerning this matter.

Attorney McMahan stated that the purpose of this Ordinance is to follow up on a request by "Occupy Chattanooga" to be able to occupy a City park. He noted that there are various park regulations that would be violated by passing of this Ordinance and went through the various sections outlined. Section 26-12 has to do with signs; Section 26-13 requires permit fees with some restrictions; Section 26-14 deals with the procedure rule stating that those applying for a

SPECIAL EXCEPT.PERMIT(CONT'D):

Special Permit must ask the Parks and Recreation Administrator for permission and Permits are allowed with conditions; Section 26-19 is the most problematic and deals with the curfew and parks closing at 10:30 p.m.; Section 26-22 deals with rental rates that are charged per hour, per day, which could amount to some serious fees; and Section 26-23 is in relation to Recreation Centers.

Councilman Rico made the motion to deny this Ordinance. This was seconded by Councilwoman Robinson.

Councilman Benson stated that he would have to speak in favor of this motion but was not speaking against the substance of “Occupy Chattanooga”; that a Special Exceptions Permit is a slippery slope, and he would like for the Council to do all they could to eliminate these permits completely; that once you allow a Special Exceptions Permit, they have to be for everyone. He reiterated that he supported what “Occupy Chattanooga” was trying to do; that a member of his family was part of this, and he admired their tenacity and their standing out in the rain and cold; that we would not mistreat them until they broke the law. He explained that there is a reason why we have this code and once a Special Exceptions Permit is granted, it will be subjective—that he might agree that this group is worthy of a Special Exceptions Permit but there might be some who are diametrically opposed that this would be a worthy endeavor, mentioning the pepper spray in California. He stated that there was no end to this and also Zoning Special Exception Permits are a real problem; that this would be precedent setting, and he agreed with the motion to deny.

At this point, Chairman Ladd agreed to three speakers for “Occupy Chattanooga”, with three minutes each.

The first speaker was **Hedi Lee-Hesse** who lives at 919 Wellington Lane. She stated that she had a Masters Degree in Educational Psychology/Community Counseling and for the past 12 years had been employed full-time as an Office Manager and Human Resources Director with the same company; that she owned a home, paid taxes and voted here. She stated that she was a mother and grandmother, and she wanted her children and grandchildren to have a future. She stated that bravery is not the absence of fear; but the knowledge that there is something more important; that she was terrified of public speaking, but she knew that this is more important, and she literally felt compelled to address this Council. She quoted the American inventor and engineer, James Bryce who said *“Our country is not the only thing to which we owe our allegiance. It is also owed to justice and to humanity. Patriotism*

SPECIAL EXCEP.PERMIT(CONT'D):

consists not in waving the flag, but in striving that our country shall be righteous as well as strong."

Ms. Lee-Hesse went on to say that she was standing here because she was appalled by what has happened and is continuing to happen to our nation; that no longer does government represent the majority of our people; it doesn't even represent a large percentage of our people. This once-great Republic is on a downward spiral into plutocracy, which is a government owned and directed by the minority wealthy. She stated that she would not stand idly by and watch this happen.

She went on to say that this Council has a remarkable opportunity to show the citizens of our city, our country, our state and even the entire world that the members of this Council support the Constitutional Rights of its citizenry; that they had an opportunity to set an example for other cities across the nation. She went on to say that it was their right to peaceably assemble and exercise free speech under the First Amendments; that as citizens of this nation it was not just their right but their duty. She stated that most of them worked during the day, and it was particularly important that they have an over-night space; that they were not a bunch of vagrants just hanging out and making a mess of the land they worked and lived on; that she had the great gift of being a part of a community of millions of people to gather together and with one collective voice say NO to plutocracy—to say "Of the People, By the People, FOR the People.

The next speaker was **Rachel Bazemore** of 512 E. 5th Ave. She stated that she was speaking for herself, as well as the whole 99%; that she was a homeowner and paid taxes, that paid the salary of the Council, and voted, and she was here to ask the Council to support her rights; that she worked all day, and it was sad to see how this movement is being portrayed and her heart cried out to set the record straight. She urged the Council to pass this Ordinance. She stated that "Occupy Chattanooga" was not just here to camp out but were fighting for rights at every level; that she was saddened by corporate, banking and political corruption; that the voters should be the only authority that government officials answer to; that she approached the Council with respect and that they were fulfilling their duty for future generations to be able to stand up for democracy; that Chattanooga had the opportunity to say that they stood on the side of the people, and this Council could amend the Chattanooga City Code and allow this Special Exceptions Permit.

SPECIAL EXCEPT.PERMIT(CONT'D):

The third speaker was a young lady named **Maria Gibbons** of E. 5th St. Her presentation was made utilizing both English and Spanish and she provided the following copy of her remarks:

"My name is Maria Lupin de Gibbons. I speak to you today as a member of Occupy Chattanooga, a local movement in support of Occupy Wall Street. We are a leaderless organization dedicated to opposing economic injustice and the corrupting influence of money at all levels of government.

Yo les hablare en Español, para demostrar, que nuestro mensaje trasciende lenguas, raza, edades, genero, religion e incluso ideologias. Todos nosotros estamos afectados por la injusticia de un sistema que esta corrupto ya que sirve a intereses individuales vinculados a las grandes empresas y su dinero, en vez de mantener el deseo de los votantes y del pueblo que los ha elegido.

I am speaking to you in Spanish to demonstrate that our message transcends language, race, age, gender, religion, or ideology. All of us are affected by the injustice of a corrupt system that serves big money and special interests, instead of upholding the will of the voters.

Hay aproximadamente 15.000 (15.000!) hispano-hablantes en el Condado de Hamilton, segun el ultimo censo del gobierno de US, sin embargo el servicio de agencias locales estima que en realidad la cantidad asciende a 20.000.

Son tambien parte del 99%, ellos tambien conocen y sufren el problema de la falta de oportunidades laborales y el empeoramiento de los salarios estancados, dia tras dia.

Ellos han visto crecer la economia de una manera desigual entre ricos y el resto de la poblacion.

Han visto a las grandes corporaciones que logran exorbitantes sumas de dinero, las han visto no pagar impuestos o pagar muy poco, y ademas, recibir subvenciones y subsidios a expensas del ciudadano comun, que regularmente y con esfuerzo paga sus impuestos.

Ellos han visto como la riqueza de nuestra Nacion ha sido

SPECIAL EXCEPT.PERMIT(CONT'D):

desviada a las arcas de los muy ricos y como los puestos de trabajo que una vez fueron empleos en Estados Unidos fueron subcontratados a países con pocas o nulas leyes de protección laboral y sin necesidad de pagar los seguros de atención de la salud de los empleados, creando también así una imagen

exterior de explotación del ser humano. Y que han visto la selección de votantes y la ampliación de más rigurosas leyes de inmigración para restringir que las minorías inmigrantes con papeles no puedan tener siquiera el lujo de participar en nuestro sistema de gobierno, que como residentes con papeles, trabajadores, y pagadores de impuestos e integrantes activos de la comunidad, también es SU sistema de Gobierno. Sin ninguna representación electoral

There are about 15,000 Hispanics in Hamilton County, according to the U.S. census, although local service agencies estimate there are more than 20,000. Like the rest of the ninety-nine percent, they have seen the problem of limited job opportunities and stagnant wages worsen. They have seen growing economic disparity between the rich and everyone else. They have seen large corporations that make huge profits, pay little or no taxes, and receive subsidies at tax payers' expense. They have watched as the wealth of our nation is siphoned into the coffers of the extremely rich, and as the jobs that once were American jobs were outsourced to countries with few labor laws and no requirement for health care. And they have seen voter id and immigration laws expanded so that even fewer minorities can afford to participate in our system of government.

Sería extremadamente triste, penoso, decir estas cosas sin ninguna esperanza de cambio. Pero nosotros, el movimiento Occupy Chattanooga, tenemos la esperanza en la creencia de que teniendo asambleas locales populares, discutiendo los problemas juntos, y hablando de los conflictos y sus soluciones, una verdadera revolución democrática puede ser posible y tendrá lugar en Estados Unidos de América.

Es una revolución nacida de la idea de que una persona equivale un voto. Es la revolución de las ideas de justicia social, justicia económica, una revolución que dice no más transferencia de la riqueza del país de la media clase y del pobre hacia el rico y muy rico.

SPECIAL EXCEPT.PERMIT(CONT'D):

No mas permisiones hacia nuestros gobiernos y representantes de ser comprados, de venderse al mejor postor.

It would be very sad to say these things without hope. But we have found hope in the belief that by assembling together, discussing these issues, and talking about problems and solutions, a true revolution can take hold in America. It is a revolution born of the idea that one person equals one vote. It is a revolution born of the idea of economic justice; a revolution that says no more transfer of wealth from the middle class and poor to the very rich.

No queremos mirar mas a nuestro país correr, alejarse de las raices democraticas que lo sustentan.

Nuestro pais fue creado, construido y hecho fuerte gracias a los inmigrantes. Nuestras nuevas ideas y pasiones por lograr rejuvenecer nuestra sociedad y enriquecer nuestra cultura han sido sus aportes.

No more allowing our government to be sold to the highest bidder. No more watching our country wander away from its democratic roots.

Our country has always been made stronger by its immigrants. Our new ideas and passion for achievement rejuvenate our society and enrich our culture.

Occupy Chattanooga, invita a todas las minorías y a toda persona quien quiera que sea a venir a conocernos y a ser parte de un real cambio del sistema democratico en Estados Unidos de America.

Occupy Chattanooga invites all minorities and every person everywhere to come meet with us and be a part of real system change in America.

Por todo lo anteriormente dicho, pedimos respetuosamente al Consejo de la Ciudad, que apoye esta ordenanza de reforma del Codigo de la Ciudad de Chattanooga y que autorice las Excepciones Especiales para permitir Asambleas como las nuestras.

Somos el 99%, por favor, escuchennos.

Respetuosa y agradecidamente, Occupy Chattanooga.

SPECIAL EXCEPT.PERMIT(CONT'D):

We respectfully ask that you support this ordinance to amend Chattanooga City Code to authorize a Special Exceptions Permits for assemblies such as ours.

You are the 99%. We are the 99%.

Thank you ladies and gentleman, Occupy Chattanooga."

The fourth speaker was **Charles Wysong**. He stated that he had done a lot of activist endeavors and had served his time; that he knew what this City was fighting for, and there should be **no** exceptions for anyone; that the group here tonight should set a reasonable time to "occupy"; that what they are asking for is not a reasonable time nor place nor do they do this in a reasonable manner. He went on to talk about "Occupy Wall Street", mentioning rapes and thefts,

which drew an outcry from the audience. (Chairman Ladd stated that there would be no outbursts and asked that the speaker be allowed to continue). Mr. Wysong stated that there should be oversight by the City; that he appreciated the Council's role of oversight and was asking them to maintain the Ordinance as written; that a large amount of people do not agree with this movement, and he urged the Council to stay true to what they had voted on and to deny exceptions.

Councilman Murphy stated that he agreed with what the Occupiers were saying, mentioning the amendment of the Senate that says corporations are not people for the purpose of free speech. He stated that being said, the Occupiers needed to understand that this Council cannot discriminate between points of view; that the Occupiers were now ready to shout Mr. Wysong down for his opinions.

(Some in the audience shouted that what Mr. Wysong was saying was "lies" and not "an opinion".) This prompted Councilman Murphy to note that they were now trying to shout him down. He continued, stating that this Council cannot discriminate between points of view; that this could take one-third of our Police Department to keep the community safe because some would be spurred to violence. He went on to say that millions of dollars had been used for recreation; that as taxpayers, the Occupiers had paid for these recreational facilities, and they were free to everyone—that the Council has to balance the rights of people to use these facilities.

SPECIAL EXCEPT.PERMIT(CONT'D):

Chairman Ladd stated that this is City Council business and that the Council would conduct business and allow fair representation but would not have outbursts and yelling people down and speaking over speakers; that everyone would conduct themselves in a professional manner as has been the case in the last few weeks, and we would abide by this.

Councilman Gilbert stated that Councilman Murphy had said it all; that we can't make a change to allow others to come in such as the Nazi and Ku Klux Klan; that we would not want them camping out.

Councilman McGary noted that when this conversation was started, this group wanted the opportunity to occupy a park—that this was about three weeks ago; that they wanted a particular location to fulfill their demand; that we know differently now—that the lawns of City Hall and the Court House are appropriate, and he believed that they were the most appropriate places, to be honest. He mentioned two realities—this group's rights and freedoms to do what they wanted and also his own rights—that we all equally pay for these rights. He again stated that City Hall was an appropriate place; that when the

Council seeks to establish legislation we have to be able to peacefully protect, and he thought where they were now was the best place to be. He stated that this was not about their rights, but it is a safety issue for the citizens of Chattanooga, and the reality of this is that a Special Exceptions Permit may endanger certain people; that what we are witnessing tonight is democracy that is alive and well; that this group's concerns were being heard; that they had been promised an opportunity for this to be voted up or down, which will happen tonight; that there are different points of view, but the City comes first and is at the fore front, and he could not vote for something that might be a safety violation.

Councilman Benson stated that it was real important that they understood when Mr. Wysong spoke that he believed what he was saying was true; that when this group left the front yard of City Hall, he would commend them; that their horticulturist raked the yard, and it looked great; that he disagreed with Mr. Wysong—that this group had proved by their actions that this is just what he thinks and not what he (Councilman Benson) had seen; that he appreciated how they had put Chattanooga on the map, and this was the way it should be done; that he complimented them for working within the law, stating their great cause needed to be accomplished.

SPECIAL EXCEPT.PERMIT(CONT'D):

Chairman Ladd stated that this had been very emotional and passionate, and she asked that after the Council had taken their vote that this group leave quietly, stating, however, that they were welcome to stay. She asked that there be no outbursts and that this group accept the decision of the Council.

On motion of Councilman Rico, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 26 TO ADD A NEW SECTION 26-35, TO AUTHORIZE A SPECIAL EXCEPTIONS PERMIT FOR CERTAIN ACTIVITIES THAT WOULD OTHERWISE BE PROHIBITED OR REGULATED BY SECTIONS 26-12, 26-13, 26-14, 26-19, 26-22, AND 26-23
was denied on roll call vote as follows:

COUNCILMAN MCGARY	“YES”
COUNCILMAN MURPHY	“YES”
COUNCILWOMAN SCOTT	“YES”
COUNCILWOMAN ROBINSON	“YES”
COUNCILMAN BENSON	“YES”
COUNCILMAN GILBERT	“YES”
COUNCILMAN RICO	“YES”
CHAIRMAN LADD	“YES”

AGREEMENT

On motion of Councilman Gilbert, seconded by Councilman McGary,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE CHATTANOOGA AREA REGIONAL TRANSPORTATION AUTHORITY (CARTA) TO ACCEPT FUNDS IN THE AMOUNT OF ONE HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$155,000.00) FOR MANAGEMENT OF THE CITY’S BICYCLE PROGRAM FOR THREE (3) YEARS; TO ACCEPT TRANSFER OF BICYCLE SHARE HARDWARE AND RELATED EQUIPMENT VALUED AT NINE HUNDRED NINETY-TWO

SPECIAL EXCEPT.PERMIT(CONT'D):

THOUSAND NINE HUNDRED SIXTY-ONE AND 56/100 DOLLARS (\$992,961.56); AND TO ENTER INTO A SECOND AGREEMENT WITH ALTA BICYCLE SHARE, LLC TO ACCEPT THREE HUNDRED (300) BIKE SHARE SYSTEM BICYCLES VALUED AT THREE HUNDRED FIFTY THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$350,850.00) AND FOR CONTINUED OPERATION OF THE PUBLIC BICYCLE SHARE SYSTEM ON BEHALF OF THE CITY

was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Scott,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO AWARD CONTRACT NO. E-07-001-202, RIVER STREET EXTENSION, PHASE 2, TO DILLARD CONSTRUCTION, INC. IN THE AMOUNT OF EIGHT HUNDRED SEVEN THOUSAND SEVEN HUNDRED TWENTY-FIVE AND 19/100 DOLLARS (\$807,725.19), WITH A CONTINGENCY AMOUNT OF FORTY THOUSAND DOLLARS (\$40,000.00), FOR AN AMOUNT NOT TO EXCEED EIGHT HUNDRED FORTY-SEVEN THOUSAND SEVEN HUNDRED TWENTY-FIVE AND 19/100 DOLLARS (\$847,725.19)

was adopted.

AGREEMENT

On motion of Councilman Murphy, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO AN AGREEMENT WITH MODERN TURF, INC. TO PROVIDE SPRIG MINIVERDE BERMUDA ON NINETEEN (19) GREENS AT BRAINERD GOLF COURSE FOR CONSIDERATION OF SIXTY-NINE THOUSAND SIX HUNDRED DOLLARS (\$69,600.00).

was adopted.

AGREEMENT(CONT'D):

Councilman McGary inquired if all costs were not paid for by user fees? Councilman Murphy explained that we have to approve expenditures; that they should be recompensed by user fees.

Adm. Zehnder explained that this was a capital improvement; that the proceeds will go back to the City to pay the overhead costs associated with the city; that it is not a direct payment back but a contract between the City.

Councilman McGary asked what we were likely to recoup? Adm. Zehnder responded “essentially all will be recouped”; that it is against the net revenue that comes in and some years are lean years and we only break even; that it is the net revenue from the golf courses. Councilman McGary asked if the golf courses are not kept up, would it affect the users. Adm. Zehnder agreed that this would affect the users.

Chairman Ladd noted that she thought we were trading this out for lower maintenance. Adm. Zehnder agreed—that it was because of our climate situation, and the heat takes its toll; that Bermuda will cut down on the maintenance and golf courses take a lot of maintenance. Councilman Benson added that the maintenance savings is a fair item.

GRANT CONTRACT

On motion of Councilman McGary, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A
GRANT CONTRACT BETWEEN THE STATE OF TENNESSEE, THE
DEPARTMENT OF MILITARY, THE TENNESSEE EMERGENCY
MANAGEMENT AGENCY, AND THE CITY OF CHATTANOOGA, FOR
THE PROVISION OF PUBLIC ASSISTANCE PURSUANT TO
PRESIDENTIAL DISASTER DECLARATION NUMBER FEMA-1965-
DR-TN, FOR SEVERE STORMS, TORNADOES, AND FLOODING IN
FEBRUARY, 2011**

was adopted.

LEASE AGREEMENT

On motion of Councilwoman Scott, seconded by Councilwoman Robinson,

LEASE AGREEMENT(CONT'D)

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT) FOR THE LEASE OF STATE-OWNED PROPERTY RELATIVE TO THE AREA UNDER THE MARKET STREET BRIDGE ON THE NORTH SHORE OF THE TENNESSEE RIVER, IN CONJUNCTION WITH THE RIVER STREET EXTENSION PROJECT, PHASE 2, FOR A NO COST LEASE

was adopted.

SPECIAL EXCEPTIONS PERMIT

Chairman Ladd called on Bryan Shults of RPA to make the presentation.

Mr. Shults explained that this was for a Late Night Entertainment Center Permit to proceed again; that the Chief Zoning Officer had determined that this meets the definition of Late Night Entertainment; that the owner or operator submits an application to RPA; that the applicant displays signs; that the RPA Staff coordinates comments from various sources and incorporates these comments into a Staff Report that is sent to the City Council to be placed on the agenda. He stated that the Council could act on the location, accept the location with conditions, modify the conditions, remove conditions, or deny the permit; that this permit is revocable. He next went over the definition of a Late Night Entertainment Center—*a commercial establishment with the capacity of 100 or more people which serves alcohol or allows alcohol on the premises and which is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment and is characterized by festival seating, music or video or live entertainment, dance floor, operating hours after midnight, low lighting levels, and stage/platform.* He went on to say that any doorway should be located 750 ft. away from the nearest boundary.

Mr. Shults went on to identify previous Special Exception Permit Requests: Pinstrikes on Perimeter Driver, buffer from 750' to 700' and was approved; Fanatics on Highway 153 with a reduction from 750' to 200', which was approved; Skyzoo on Lee Highway with a reduction from 750' to 700' which was approved; Mocha on Brainerd Rd. from 750' to 100', which was denied; and Meo Mio's on Cummings Highway from 750' to 75', which was denied. He stated that this applicant appeared before the Council in March of this year, saying that they were not a nightclub, and the definition of Nightclub was changed to Late Night Entertainment.

SPECIAL EXCEPT.PERMIT(CONT'D):

Mr. Shults stated that as required, they have to send out letters; that they sent out 52 letters November 1st and received one letter from a citizen that was opposed to this but could not be here tonight. He read the letter in opposition that was from Lynn Pomeroy.

He next went over an overview of the zoning map and also an aerial view. He stated that the applicant was leasing this space, and they received a letter on the 15th from Walldorf stating that they approved the application for this Special Exceptions Permit. He went over the site characteristics, noting that the land use is commercial, and the proposed use is in a Shopping Center along Wilcox Blvd. and the reduction in buffer is from 750' to 235'.

Mr. Shults then went over the conditions—(1) A fully operational fire suppression system shall be installed prior to opening; (2) Patron access shall be from the front door only; (3) All exterior doors shall remain closed at all times, except for normal ingress/egress; (4) No outdoor gathering places such as a deck or patio shall be permitted; (5) No amplified noise, speakers, entertainment or lighting and the sale of food or beverage shall not be permitted outside of the establishment; and (6) A minimum of two (2) security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to 30 minutes past the closing time of the event/entertainment facility.

The applicant, **Ms. Gwen Blackmon**, was asked to speak. Her address is 3015 St. Paul St. She stated that she was **not** a nightclub; that she had hosted several events that were alcohol-free and had operated one year with no incidents; that she had five security officers and that she did not stay open until 3:00 a.m. but it was 2:00 a.m. She stated that the security officers could not leave until everyone was off the lot; that she had obeyed all rules and that her rules were set the same way—that she was an Event Center—not a nightclub; that if something was on her premises, she wanted it to be legal; that she was respectable and had done the right thing.

Councilman Gilbert stated that he did go to the North Brainerd Council recently and that Ms. Blackmon was there, and the majority said that they were fine with this; that the problem he had was the definition that was in front of us—that reality is reality; that if the facility has a party after 11:00 p.m. and they serve alcohol—that it could be a wedding or just a get-together, and he questioned calling this a nightclub. Mr. Shults again read the definition. Councilman

SPECIAL EXCEPT.PERMIT(CONT'D):

Gilbert stated that this could “fit” a church, also—after 11:00 p.m. with some alcohol and maybe a dance and should this still be a nightclub, by definition?

Richard Hutsell stated that in a C-2 Zone the answer would be “yes”.

Councilman Gilbert stated that there was a perception about a nightclub; that in this particular area it is a restaurant, and she is doing a good job; that she wants to make sure that if someone wants an alcoholic party or gathering after 11:00 p.m. that she would be in legal standing with a permit; that it is not to be called a club and there would not be beer all the time; that she had also said she would not rent to a lot of kids, but mature adults; that he thought the perception of this definition—a club—that you would find a lot of facilities that would fit when it comes to the sprinkling system. He stated that he felt we needed to look closer at this and to tweak it so that one would not have to have a Special Permit—that a club is a club and a restaurant is a restaurant—that she serves more food than alcohol.

Councilwoman Scott asked her if she was going to apply for a Beer Permit? She wanted to know if she wanted to be allowed to sell or provide a facility to sell? She asked if it could be a “Bring Your Own Bottle”?

Ms. Blackmon responded “yes”—she would be applying for a Beer Permit—that she had operated at Warehouse Row for six years and had a Beer Permit but did not sell any beer—that she wanted the same right—that on her premises, she wanted it to be legal.

Councilwoman Scott stated that one of the issues in the neighborhood is the noise and another issue can occur if the noise is in the parking lot. She asked Ms. Blackmon how she would handle this and also about the lighting?

Ms. Blackmon responded that she had had the lighting re-done, and it was the best in Chattanooga and this was in the parking lot; that people had to either go in or leave—they could not sit on the premises; that there would be no alcohol on the premises with five security officers.

Councilman McGary asked about the letter that was received from the citizen that was in opposition. He wanted to know where she lived. Mr. Shults stated that she lived on Milton Drive—that she was “just” in the boundary to get a letter.

Councilman Murphy asked Ms. Blackmon if she was good with the conditions, and she said “yes”. He stated that she ran a fine restaurant and that they were

SPECIAL EXCEPT.PERMIT(CONT'D):

neighbors; that we were not setting any precedent with distance; that he had pulled up the objecting party, and they are within 200 ft. of the boundary.

Councilman Benson asked Councilman Gilbert if he was recommending this, and he said "yes". Councilman Benson asked if the Security Guards were accredited? Officer Collins agreed that this had been a problem. Councilman Benson asked him what he would suggest? Officer Collins responded that Capt. Dunn is against a Beer Permit if the Security Guards are not licensed through the State. Mr. Shults noted that it was one of the conditions that they be licensed through the State. Councilman Benson noted that also, the Special Exceptions Permit is revocable.

Councilwoman Robinson stated that in looking back over time, we should not hold this applicant to a standard where others had made mistakes; however, this is a rental facility and could fall into other hands where there would be more people than are allowed and events that rent for the night could cause situations that Ms. Blackmon did not have control over; that there could be concerts with overflow crowds, and they would be selling beer and breaking rules; that these are problems we have always had with Special Exception Permits and just as we told the Occupy Group, a Special Exception Permit is a slippery slope.

Ms. Blackmon stated that she understood but that **her** rules were **her** rules.

On motion of Councilman Murphy, seconded by Councilman Gilbert,
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR
USE OF A LATE NIGHT ENTERTAINMENT CENTER LOCATED AT
3201 WILCOX BOULEVARD, AS MORE PARTICULARLY DESCRIBED
IN THE ATTACHED REPORT AND MAP, SUBJECT TO CERTAIN
CONDITIONS (2011-126 GWEN BLACKMON)**

was approved on roll call vote as follows:

COUNCILMAN MURPHY	"YES"
COUNCILWOMAN SCOTT	"YES"
COUNCILWOMAN ROBINSON	"NO"
CHAIRMAN LADD	"NO"
COUNCILMAN BENSON	"YES"

COUNCILMAN GILBERT	“YES”
COUNCILMAN MCGARY	“YES”
COUNCILMAN RICO	“YES”

OVERTIME

Overtime for the week ending November 17, 2011, totaled \$33,465.69.

PERSONNEL

The following personnel matters were reported for the various departments:

CITY ATTORNEY’S OFFICE

- **KEITH REISMAN**—Hire as Staff Attorney, Range 25, \$80,000, effective 11/18/11.

PUBLIC WORKS DEPARTMENT

- **ALETHIA SMITH**—Three Days Suspension without pay for Equipment Operator 4, effective 11/7—9/2011.

CHATTANOOGA POLICE DEPT.

- **REGINA GREER**—Promotion to Adm. Support Assistant 2, Range 7, \$36,237.16 annually, effective 11/11/2011.
- **MARIO CUNNINGHAM**—Five Day Suspension without pay for Police Officer I, effective 11/10-14/2011.

DONATION

Adm. Zehnder reported the following donation for the Department of Parks and Recreation: **Dick's Sporting Goods Foundation for \$500.00.**

DONATIONS

Chief Parker reported the following donations for the Fire Department: **Walmarts for \$2,000; Memorial Hospital for \$2,500; and McKee Foods—Little Debbie Cakes.**

He also extended an invitation to the Council from "The Forgotten Child Fund" at 1715 E. Main St. on Tuesday from 12:00 noon to 2:00 P.M. He stated that they would put the Council to work stuffing toy boxes; that they would be open from 10:00 a.m. to 2:00 p.m. for applications; that they serve 6500 children each year.

MAYOR'S RECALL

Councilwoman Scott made the motion to hire an independent attorney for the matter of the Recall. This failed for lack of a second.

"GRATEFUL GOBBLER"

Councilman Benson asked for participation in the "Grateful Gobbler" Walk on thanksgiving Day at 8:00 a.m. at Coolidge Park. He explained that this was a Walk for the Homeless and was started 8-9 years ago; that Senator Corker would be there; that someone had called him today and asked that he invite Councilmembers and each of them would be recognized.

URBAN LEAGUE REQUEST

Councilman McGary stated that he would bring this up in the absence of Councilwoman Berz; that two to three weeks ago the County Commission allocated dollars that had formerly gone to the Multi-Cultural Chamber to the Downtown Chamber of Commerce; that the Urban League had asked to make a presentation to this body for this allocation from the current year; that normally the time for this presentation would be set by the Chairman of the Budget Committee. **He stated that in Councilwoman Berz' absence, he would like to**

URBAN LEAGUE REQUEST
(CONT'D):

make a motion that the Urban League be allowed to make a presentation for the \$75,000 funding.

Councilwoman Scott asked if the Downtown Chamber would be asking for the same thing? If so, she felt that the Council could hear both at the same time.

Chairman Ladd stated that Councilwoman Berz needed to consider this in her committee.

Councilman Gilbert stated that he was hoping to wait until after the Christmas holidays.

Councilman McGary stated that he would include in his motion Councilwoman Scott's comments concerning the Downtown Chamber being able to present at the same time; that he was not trying to establish a timeframe; that he just wanted the Council to consider whether we wanted to hear this prior to the next budget cycle. This motion failed for lack of a second.

Councilman Murphy stated that as a point of order, if Councilwoman Berz did not want to take this up in her committee, we as a body should not be telling her what to do.

Councilman McGary stated that it had been two weeks and the Urban League had gotten no response, either way.

Councilman Rico noted that the Urban League had talked to all of the Council—that they had lobbied all of us.

COMMITTEES

Councilman Rico reminded everyone of the **Public Works Committee** scheduled for **Tuesday, November 29th to immediately follow the Agenda Session.**

Councilman Murphy stated that the **Legal, Legislative and Safety Committee would meet next Tuesday, immediately following the Parks and Recreation/Education, Arts and Culture Committee.** We will review the Redistricting Plan. If anyone wishes to get a copy of the version or variances in the version, an e-mail can be sent to Redistricting; there have been slight alterations. He stated that the Council was committed to keeping the process

COMMITTEES (CONT'D):

public and the media and citizens can send an e-mail requesting the changes. He stated that he did not think there was anything more to be done, and we would try to culminate this matter next week.

Councilman Gilbert scheduled a **Parks and Recreation/Education, Arts and Culture Committee for Tuesday, November 29th to immediately follow the Public Works Committee** for a presentation regarding a three story high mural to be located in the downtown area and boarded walkways and also “No Smoking” areas are to be considered.

**RULES OF PROCEDURE FOR
ADDRESSING THE COUNCIL**

At this time, City Attorney McMahan read from the Council’s Rules of Procedure with reference to persons wishing to address the Council on non-agenda matters.

**KELLEY GILLIAN &
ARIA TAIBI**

Ms. Gillian stated that she wished to give her minutes to Ms. Taibi. Chairman Ladd explained that this could not be done.

Ms. Aria Taibi stated that she resided on Colville St. and had some materials to pass out to the Council. She stated that they were there representing a group of concerned citizens that have been meeting regularly since the Paul Page harassment debacle, brainstorming on how best to take action to prevent predation within city government; that as everyone knew, Paul Page is a friend of Mayor Littlefield’s who was appointed to a position created for him by the Mayor. He was found by an EEOC investigation to have sexually harassed multiple women who were then retaliated against for reporting it. She stated that this demonstrates not just that Paul Page is abusive, but a distinct culture within city government that protects abusers and harms victims. She went on to say that the EEOC found that there were people up to the mayoral office aware of the harassment that didn’t take proper action on it—that those people are as complicit as Page himself in creating a tolerance for harassment and a culture of fear that makes the workplace unsafe for vulnerable groups of people.

ARIA TAIBI (CONT'D):

She went on to say that in light of the recall situation, the City Council had unprecedented power in taking action in this situation, and with that power comes the responsibility to do so. She stated that the timing was sensitive, because the time to restructure the culture of harassment demonstrated within city government is now, while the mayorship is in flux. She stated that they had

questions for the Council and were calling on them to conduct a third party investigation to find the answers.

Ms. Taibi stated since Mayor Littlefield was Mr. Page's direct supervisor and Mr. Page reported to him that the Mayor is responsible and accountable for Paul Page's actions; that they wanted to know exactly what the Mayor knew about the harassment and retaliation and how much he was directly complicit in allowing for it to happen. She wanted to know how they could ensure oversight in the hiring and appointment of high ranking positions to prevent people with a history of harassment or abuse of power from attaining power.

She stated that Chattanooga deserves an administration that protects people rather than retaliating against victims; that Chattanooga can do better, and the Council could make the change.

Attorney McMahan stated that he would give a little background on this case; that two ladies filed complaints with the EEOC; that the EEOC came to Chattanooga and investigated and then filed a report; that the City had been in the process a number of weeks, and he could not divulge the talks under Federal law; that the City had done its best to conciliate, and this should be wrapped up within the next couple of weeks; that the ball is in EEOC's court now; that Mr. Page is no longer an employee of the City of Chattanooga; that he resigned under pressure.

He went on to say that the City has a very active program concerning inappropriate behavior in the workplace; that many of the Council and himself had attended this two and one-half hour educational session; that all city employees will be required to go through this educational session; that it is explained that anyone who has been abused can report; that the Personnel Director, Donna Kelley, was not present tonight but that she had informed him that they were getting feedback from these sessions.

Councilwoman Scott stated that Attorney McMahan had explained the educational course; that the City of Chattanooga's Administration the City Council are very, very, very strongly against any type of harassment—sexual or

ARIA TAIBI (CONT'D):

otherwise, and we are seeing the results of this. She thanked Ms. Taibi for bringing this up and stated that we are well on our way to arriving at a goal.

Councilman McGary stated that all of the details were wrapped up but one. He wanted to know if there was any punitive action against a certain employee of the City; that this was the only detail outstanding; that all details of the Paul

Page case had been addressed except the third party—that this gentleman failed to look into the complaint submitted by the EEOC.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, November 29, 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)**