

Municipal Building  
Chattanooga, Tennessee  
May 26, 1998

The meeting of the Chattanooga Council was called to order by Councilman Hakeem, Chairman Pro Tem, with Councilmen Eaves, Hurley, Pierce, Swafford, and Taylor present. Chairman Crockett and Vice-Chairman Lively were out of the City; Councilwoman Rutherford was absent due to a business engagement. City Attorney Randall Nelson, Management Analyst Randy Burns, and Assistant Council Clerk Shirley Crownover were also present.

INVOCATION

Councilman Ron Swafford delivered the invocation for the evening.

MINUTE APPROVAL

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

SPECIAL PRESENTATION

"RIVERBEND 1998" (RICHARD BREWER)

Mr. Brewer stated this was his annual trip to the Council to talk about the Program Guide for the Riverbend Festival. He stated that this year the annual Riverbend Festival is quite similar to past years, and the street closures are the same; that the stage locations are the same; not a lot of variation; there are no changes, and Mr. Brewer stated they were very excited. He stated that ticket sales were up a little bit and everything was working well. He did mention one major change where Riverbend had traditionally closed down on the waterfront on Thursday night, and this year they would close down on Wednesday night, which is the middle of the week. Mr. Brewer presented the new poster which the Council has honored by hanging in their chambers. This year the poster portrayed boats, and Mr. Brewer noted that last year on the night of the fireworks 350-500 boats were on the Tennessee River.

Councilman Pierce asked the reason for changing the night off from Thursday to Wednesday.

SPECIAL PRESENTATION

Mr. Brewer responded that they were wondering why they had waited so long to do this; that they felt it was helpful for all to have a night's rest; that one reason they were taking off on Wednesday night was because this was church night and another reason was that Birmingham, Alabama has a festival around this same time, and we are working with Birmingham and can actually book the same act at the same money (the Doobie Brothers this year). He stated these were both factors, and he thought this was a change they would stick with.

Councilman Hakeem thanked Mr. Brewer for coming and stated we were all looking forward to a good Riverbend.

INTERIM BUDGET

On motion of Councilman Hurley, seconded by Councilman Pierce,  
AN ORDINANCE PROVIDING FOR AN INTERIM BUDGET AND APPROPRIATING FUNDS FOR THE USUAL AND ORDINARY EXPENSES OF THE CITY GOVERNMENT FOR THE MONTHS OF JULY, AUGUST, AND SEPTEMBER, 1998, PENDING THE ADOPTION OF THE 1998-99 ANNUAL BUDGET passed second reading. On motion of Councilwoman Hurley, seconded by Councilman Taylor, the ordinance passed third and final reading and was signed in open meeting.

AMEND BUDGET ORDINANCE  
(DIRECTOR OF CONTRACT MANAGEMENT)

(This Ordinance was read out of order and on motion of Councilman Taylor, seconded by Councilwoman Hurley, the previous motion on third reading was rescinded.)

On motion of Councilman Taylor, seconded by Councilwoman Hurley,  
AN ORDINANCE TO AMEND ORDINANCE NO. 10589, ENTITLED "AN ORDINANCE TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1997, AND ENDING JUNE 30, 1998, AND APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; AND PROVIDE FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES.", SO AS TO PROVIDE FOR CERTAIN CHANGES IN PERSONNEL SET OUT IN SECTION 8(c) passed first reading.

CLOSE AND ABANDON

#1998-001 (Richard L. Pollard and Randall L. Smith)

Chairman Pro Tem Hakeem stated that the Council would allow the applicant to speak and three persons in opposition. He then called on Mr. Barry Bennett to present the case.

Mr. Bennett stated that this was the abandonment of East 29th St., located northwest from Orchard Knob and southwest of East 28th St.; that this was a dedicated right-of-way and not physically open; that it does provide some limited service. He explained that both the Staff and Planning Commission recommended denial, and there was opposition at the Planning Commission Public Hearing.

**Mr. Danny Brown** spoke for the applicants. He stated that the access was actually their own property, and there were no more lots to be cut off. He showed some pictures of what they had started doing such as planting grass and new evergreens. He stated that he had sent a package to each Council person but did not know if they had had a chance to look at it.

(At this point Acting Chairman Hakeem noted that Chairman Crockett and Vice-Chairman Lively were out of the City. Councilwoman Rutherford was also absent due to a prior commitment).

Mr. Bennett asked Mr. Brown to indicate on the map the property that the applicants owned. Councilman Eaves asked if the alley was now opened and being used. Mr. Brown responded that it was grown up with grass and weeds.

Councilman Pierce stated that the right-of-way was fenced off by the Ware family, and a commercial business behind this used the right-of-way as part of their business; that a business was using the right-of-way. Councilman Eaves asked if it was being used as a street, and the answer was "no".

Councilman Taylor asked the applicants' representative if they wanted access of the whole alley. Mr. Brown stated half would go to them and half to the people on the other side; that they would have a fence and trees. Councilman Taylor verified that they planned to share the alley with the adjacent property owner.

Acting Chairman Hakeem questioned Mr. Bennett about their problem with access. Mr. Bennett responded that the Staff was concerned about the potential need for access with the possibility of opening the street up.

CLOSURE AND ABANDONMENT (CONT'D.)

Councilman Swafford verified that the Staff and Planning Commission were against this.

**Mr. Luel Durand of 2908 Faxon St.** spoke in opposition. He stated he had lived here 38 years; that a fence would close off 10-15 feet of Faxon Street; that he did not see how the applicants could deny them access to that; that the fence would go across a manhole cover; that this would deny them access to something they had had for a long time; that the whole street was opened in 1960. He mentioned the crazy way of numbering the street; that he thought this should have been called E. 30th St.; that there was barely room to turn around, and this was a dead-end street.

**Mrs. Pat Ware of 2906 Faxon St.** spoke next in opposition. She stated she was the lady that owns the house; that this would come through their driveway, and they had cleaned this off; that now they want to take this away from them, and it would go through their driveway, and they would not be able to get their car in the garage. She reiterated that they had kept this clean, and it was their driveway to the garage.

Councilman Swafford asked if there was another way to get out of the driveway, and Mrs. Ware responded "just this way". She again noted they had kept this cleaned off.

**Mrs. Rita Magess of 2910 Faxon Street** was the next to speak. She showed how a car could not get in the garage. She stated they had done all they could to clean this off and make it look decent and had even paid for a security light.

Councilman Taylor asked how wide the alley was. He was told that it was not an alley but a 40 ft. street -- that each party would get 20 ft. a piece -- assuming this is properly marked.

**Mark Magess of 2910 Faxon Street** explained that their vehicle was a 1988 Crown Victoria, and they could not get it in their garage; that if they put the fence any closer, it would be in their back door.

Councilman Taylor asked who legally owns the property. Attorney Nelson explained that if it came equally off both parties' property, they would share the street. He explained that a title search would have to be done to obtain this information.

CLOSURE AND ABANDONMENT (CONT'D.)

Councilman Eaves noted that he had had a problem along these same lines in his area; that people think it comes off 50-50, but this is not always the case; that it depends on the plat and how the lots are laid out -- that one side or the other could get it all.

Councilman Pierce stated that he had gone out to the Wares' house and looked at this; that the only part that is cleared off is part of their yard. He stated he had talked to the applicant also; that there was no reason for them to want access but just to add to their property.

On motion of Councilman Pierce, seconded by Councilwoman Hurley,  
AN ORDINANCE CLOSING AND ABANDONING EAST 29TH STREET  
LOCATED NORTHWEST FROM ORCHARD KNOB AVENUE, SOUTHWEST  
OF EAST 28TH STREET, AS SHOWN ON PLAT ATTACHED HERETO  
AND MADE A PART HEREOF BY REFERENCE  
**was denied with Councilman Eaves abstaining.**

Acting Chairman Hakeem explained that they could reapply in nine months.

AMEND CITY CODE  
FILLING OF PROPERTY

On motion of Councilwoman Hurley, seconded by Councilman Swafford,  
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,  
CHAPTER 31, BY ADDING THERETO A NEW SECTION 31-325  
RELATIVE TO ADDITIONAL REQUIREMENTS AND CONDITIONS  
ON THE FILLING OF PROPERTY IN OR ADJACENT TO CERTAIN  
RESIDENTIAL AREAS  
passed first reading.

AMEND BUDGET ORDINANCE  
CHANGES IN REVENUE AND  
APPROPRIATIONS

On motion of Councilman Pierce, seconded by Councilwoman Hurley,  
AN ORDINANCE TO AMEND ORDINANCE NO. 10589, ENTITLED  
"AN ORDINANCE TO PROVIDE REVENUE FOR THE FISCAL YEAR  
BEGINNING JULY 1, 1997, AND ENDING JUNE 30, 1998, AND  
APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE  
MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL  
TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND  
PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY  
SHALL BECOME DELINQUENT; AND PROVIDE FOR INTEREST AND  
PENALTY ON DELINQUENT TAXES AND PRIVILEGES.", SO AS TO  
PROVIDE FOR CERTAIN CHANGES IN ESTIMATED REVENUE AND  
APPROPRIATION SET OUT IN SECTION 5  
passed first reading.

AGREEMENT

On motion of Councilwoman Hurley, seconded by Councilman Swafford,  
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF PARKS  
AND RECREATION TO ENTER INTO AN AGREEMENT WITH WALLACE  
ROBERTS & TODD, RELATIVE TO A COMPREHENSIVE PARKS AND  
FACILITIES MASTER PLAN  
was adopted.

CONTRACT CHANGE ORDER

Councilman Taylor reported that this had been before committee. He  
asked Adm. Marcellis how many change orders there would be on this  
contract. Adm. Marcellis responded that this was the first and East  
Ridge will pay the difference.

On motion of Councilman Swafford, seconded by Councilman Pierce,  
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER  
NO. 1, CONTRACT NO. 53B-1, SPRING CREEK AND FORT OGLETHORPE  
PUMP STATIONS, WITH JONES ENVIRONMENTAL CONSTRUCTION, INC.,  
WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TWO  
THOUSAND, NINE HUNDRED TWENTY-SIX AND 80/100 DOLLARS  
(\$2,926.80) FOR A REVISED CONTRACT AMOUNT OF SEVEN  
HUNDRED SEVENTY-SEVEN THOUSAND, NINE HUNDRED TWENTY-SIX  
AND 80/100 DOLLARS (\$777,926.80.)  
was adopted.

TEMPORARY USAGE

On motion of Councilman Swafford, seconded by Councilman Taylor,  
A RESOLUTION AUTHORIZING ROTHWELL ENTERPRISES TO USE  
TEMPORARILY THE SECOND STREET SIDEWALK AT 138 MARKET  
STREET, MORE PARTICULARLY DESCRIBED HEREIN, FOR IN-  
STALLING AN AWNING, SUBJECT TO CERTAIN CONDITIONS  
was adopted.

TEMPORARY USAGE

On motion of Councilman Swafford, seconded by Councilman Pierce,  
A RESOLUTION AUTHORIZING STADIUM CORPORATION TO USE  
TEMPORARILY THE WESTERN SIDEWALK OF CARTER STREET  
BETWEEN 18TH AND 19TH STREETS FOR LOCATING EIGHT (8)  
DECORATIVE PIERS, MORE PARTICULARLY DESCRIBED HEREIN,  
SUBJECT TO CERTAIN CONDITIONS  
was adopted.

OVERTIME

Overtime for the week ending May 22, 1998 totaled \$98,162.86.

Councilman Eaves questioned this large amount.

Adm. Boney went over the breakdown, which was as follows: General Government \$100.01; Finance & Administration \$536.29; Police \$62,211.47; Fire \$89.40; Public Works \$19,756.59; Parks and Recreation \$8,383.92; General Services \$1,509.22; EEO \$35.12; and Joint Agencies \$5,540.84. He explained that typically some departments only report biweekly and there was no police overtime in the previous overtime report. He noted that individual departments could explain their overtime when they gave their departmental reports.

ORDINANCE 6(c)

At this point Councilwoman Hurley explained that the reason she paused on **Ordinance 6(c)** relative to additional requirements and conditions on the filling of property adjacent to certain residential areas was because we might want to consider this in the Public Works committee meeting next week. She stated that there might be an amendment, and it may need some refinement.

PERSONNEL

The following personnel matters were reported for the Parks and Recreation Dept.:

JOSE M. ANDINO -- Promotion from Laborer II to Laborer III, Pay Grade 5/8, \$19,684.00 annually, effective 5/27/98.

JAMIE M. WILKEY -- Promotion from Laborer II to Laborer III, Pay Grade 5/3, \$17,160.00 annually, effective 5/27/98.

Adm. McDonald explained that their overtime was due to the Spring Fling; that we would have this through the year 2002 and possibly this would be the permanent home. He noted that it brought in \$4-5 million dollars in revenue.

PERSONNEL

The following personnel matters were reported for the Public Works Dept.:

MELVIN ANDERSON -- Family Medical Leave, effective 4/27/98.

CHESTER HAMILTON -- Resignation of Operator III at the Summit Landfill, effective 5/14/98.

KENNETH FOWLER -- Four-Day Suspension without pay, effective 5/11/98.

JERRY HENLEY -- One-Day Suspension without pay, effective 5/11/98.

ROBERT D. YOUNG -- Return from Family Medical Leave, effective 5/21/98.

ROBBIE K. HENRY, II -- Leave of Absence without pay (Army Reserve Active Duty), effective 4/8/98 through 6/5/98.

PURCHASE

On motion of Councilwoman Hurley, seconded by Councilman Pierce, the following purchase was approved for use by the Public Works Dept.:

PREBUL JEEP (State Contract):  
Requisition Nos. R0029078 and R0027287

One each 4 x 4 Jeep Cherokee for Inspection and Traffic Engineering

\$18,546.38 each  
\$37,092.76 Total

Adm. Marcellis explained that their overtime was involved with brush and trash pick-ups; that they had been working 10 hours a day to keep even and catch up on street maintenance and street construction. Councilman Pierce questioned the overtime for brush and trash. Adm. Marcellis stated this was unusual overtime -- that they have standard overtime for this. Councilman Pierce asked the time element on the Wilcox Project. Adm. Marcellis responded that within the next two weeks it should be partially opened to traffic.

PERSONNEL

The following personnel matter was reported for the Police Dept.:

ICIEPHINE SMITH -- Re-employment as School Patrol Officer, effective May 21, 1998, at a daily rate of \$20.6758.

Chief Dotson explained that approximately \$30,000 of their overtime went for the Air Show; also it involved their on-going crime programs.

PERSONNEL

The following personnel matters were reported for the Fire Department:

LARRY P. GORDON -- Resignation of Firefighter, effective 6/2/98.

WILLIAM A. MELHORN -- One-day suspension without pay, effective 6/2/98.

PURCHASE

On motion of Councilwoman Hurley, seconded by Councilman Swafford, the following purchase was approved for use by the Fire Dept.:

TN FIRE EQUIPMENT (Only bid):  
Requisition No. R0032823

25 complete harnesses

\$ 509.47 each  
\$12,736.75 Total

COMMITTEES

Councilman Pierce reminded everyone of the meeting of the **Legal and Legislative Committee** set for **Tuesday, June 2nd at 4:30 P.M.** to continue discussion regarding the Cellular Tower Ordinance.

In the absence of Councilwoman Rutherford, Assistant Clerk Shirley Crownover scheduled a meeting of the **Parks and Recreation Committee** for **Tuesday, June 9th at 5:00 P.M.** for an update on Summer Programs.

LUNCHEON AT BROWN ACRES

The Council was reminded of the luncheon at Brown Acres on June 2nd at 12:00 p.m.

NON-AGENDA PRESENTATIONS

Acting Chairman Hakeem explained to those in the audience the rule of the Council that a person can only address the Council twice within one month on the same issue.

LORENZO ERVIN

Mr. Ervin addressed the Council and stated that he was here two years ago making an appeal for an Independent Police Control Commission; that he was "lampooned" as a joke. He stated his addressing the Council tonight was most timely with the murder of two men, stating that he held the Council responsible; that if they had listened to him two years ago about an Independent Police Control Board, these murders might have been avoided. He reiterated that he felt the police murders were on the hands of the Council. He stated that City Government had not done anything; that no member of the City Council, Black or White, had done anything about this atrocious situation; that the Council treated him with irreverence and arrogance; that they had refused to hear him because they felt it was beneath their dignity; that they had treated him like a sub-human.

Mr. Ervin stated that within the name of law and order, he was requesting the following: (1) Special Prosecutor, (2) Inquest by the State into the cause of deaths (He did not trust Hamilton County), (3) Independent Police Control Commission or Board, (4) Full restitution to the families of the dead men (money), (5) Suspension without pay of the officers involved, and (6) End to all police brutality.

He urged the Council to do what they were supposed to do and not show favoritism to Whites and rich people.

Mr. Ervin announced that on June 16th there would be a mass demonstration in downtown Chattanooga to protest these deaths -- that if the Government refuses their requests, they would take to the streets.

SISTER BEY

Sister Bey addressed the Council and stated that she had been talking with Mr. Brewer about the Bessie Smith Strut; that she wanted them to take the signs down; that she is not taking this "lying down"; that they are trying to steal her birthright and asked to let "us" run the Bessie Smith Strut and not blend it with Riverbend; that it was an insult to "our" dignity, and she was tired of it.

ADJOURNMENT

Acting Chairman Hakeem adjourned the meeting until Tuesday, June 2nd, 1998 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)