

**City Council Building  
Chattanooga, Tennessee  
March 7, 2006  
6:00 p.m.**

Vice Chairman Pierce called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Powers, Rico and Rutherford present; Councilmen Page and Robinson were absent due to personal commitment. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

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

Following the Pledge of Allegiance by Councilwoman Rutherford, City Attorney Nelson gave invocation.

#### **MINUTE APPROVAL**

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

#### **CLOSE AND ABANDON**

**MR-2005-184: Ben Frizzell**

On motion of Councilman Benson, seconded by Councilman Franklin,  
**AN ORDINANCE CLOSING AND ABANDONING THE UNOPENED 5800  
BLOCK OF SNOW HILL ROAD FROM LEE HIGHWAY TO I-75, MORE  
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE,  
SUBJECT TO CERTAIN CONDITIONS**  
passed second and final reading and was signed in open meeting.

**CLOSE AND ABANDON**

**MR-2005-225: The Krystal Company c/o Roger Rendin**

**Councilmen Rico and Franklin made the initial motion and second to approve this request on first reading.**

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated the request is to withdraw this matter as Public Works' recommendation is for a temporary use permit Resolution on tonight's agenda.

**At this point Councilmen Rico and Franklin withdrew their motion and second to approve this request.**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,  
**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY  
LOCATED ON THE SOUTH LINE OF THE 1600 BLOCK OF EAST 37<sup>TH</sup> STREET,  
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP  
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT  
TO CERTAIN CONDITIONS**

was withdrawn.

**AGREEMENT**

On motion of Councilwoman Rutherford, seconded by Councilman Powers,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE  
DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH  
CONSOLIDATED TEHCNOLOGIES, INC. RELATIVE TO CONTRACT NO.  
W-05-003-101 (3B), EASTGATE PUMP STATION NO. 2, GRAVITY  
CONNECTOR SEWER AND FORCE MAIN, IN AN AMOUNT NOT TO  
EXCEED FORTY-NINE THOUSAND FIVE HUNDRED FIFTY DOLLARS  
(\$49,550.00), INCLUDING A CONTINGENCY AMOUNT OF FIVE  
THOUSAND DOLLARS (\$5,000.00)**

was adopted.

## CONTRACT

On motion of Councilman Benson, seconded by Councilman Rico,  
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. E-03-011-201, IGOU GAP ROAD IMPROVEMENTS (PH I) FROM GUNBARREL ROAD TO GRAY ROAD, TO HIGHWAYS, INC. FOR AN AMOUNT NOT TO EXCEED TWO MILLION FOUR HUNDRED EIGHTY-ONE THOUSAND EIGHT HUNDRED SIXTY-ONE AND 60/100 DOLLARS (\$2,481,861.60), PLUS A CONTINGENCY AMOUNT OF TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00), FOR A TOTAL AMOUNT NOT TO EXCEED TWO MILLION SEVEN HUNDRED THIRTY-ONE THOUSAND EIGHT HUNDRED SIXTY-ONE AND 60/100 DOLLARS (\$2,731,861.60)**

was adopted.

Councilman Benson inquired as to whether this would enable construction of Igou Gap Road.

Adm. Leach stated that the award of that contract will happen as soon as all the "I's are dotted" and all the "T's are crossed". He stated they are very close and are out there mobilizing; that this is Phase I of two phases of Igou Gap.

Councilman Benson asked if it could be perceived this would occur before summer.

Adm. Leach responded "absolutely"; that they are trying to beat the widening of Shallowford Road.

Councilman Benson stated it could be a year or two off with the widening of Shallowford! Adm. Leach clarified that they are anticipating this immediately.

## CHANGE ORDER

On motion of Councilman Rico, seconded by Councilman Powers,  
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. (3B), EASTGATE PUMP STATION NO. 2 GRAVITY CONNECTOR SEWER AND FORCE MAIN, WITH CONSOLIDATED TECHNOLOGIES, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY TWENTY-NINE THOUSAND NINE HUNDRED NINETY-NINE (\$29,999.00) DOLLARS, FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED THIRTY-ONE THOUSAND THREE HUNDRED SIXTY (\$31,360.00) DOLLARS**

was adopted.

**CHANGE ORDER**

On motion of Councilman Powers, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. S-02-001, WATER ABATEMENT IMPROVEMENTS CONTRACT, WITH STEPHENS CONSTRUCTION, WHICH CHANGE ORDER DECREASED THE CONTRACT AMOUNT BY SEVENTY THOUSAND FIVE HUNDRED SEVENTY FIVE AND 17/100 (\$70,575.17) DOLLARS, FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED FOUR HUNDRED NINE THOUSAND TWO HUNDRED EIGHTY NINE AND 83/100 (\$409,289.83) DOLLARS**  
was adopted.

**AMEND CONTRACT**

On motion of Councilman Rico, seconded by Councilwoman Bennett,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AMENDMENT NO. 1 WITH CONSOLIDATED TECHNOLOGIES, INC., FOR ADDITIONAL ENGINEERING SERVICES, RELATIVE TO CONTRACT NO. W-05-002-101, CSO CONTROL FACILITIES ENHANCEMENT PROGRAM, WHICH AMENDMENT INCREASES THE CONTRACT AMOUNT BY SIXTEEN THOUSAND SEVEN HUNDRED DOLLARS (\$16,700.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED FIFTY-FIVE THOUSAND SEVEN HUNDRED DOLLARS (\$55,700.00)**  
was adopted.

**EMINENT DOMAIN**

On motion of Councilman Benson, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST JOSE I. HERRERA FOR RIGHT-OF-WAY, SLOPE AND TEMPORARY CONSTRUCTION EASEMENTS LOCATED AT 7503 IGOU GAP ROAD, PARCEL NO. 159A-B-002, TRACT NO. 21A, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT**  
was adopted.

**TEMPORARY USE**

On motion of Councilman Benson, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING MILLER INDUSTRIES C/O JEFF BADGLEY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY ALONG 8501 AND 8503 HILLTOP DRIVE TO INSTALL A FENCE AND A PARKING LOT THAT WILL ENCROACH INTO THE CITY RIGHT-OF-WAY, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**TEMPORARY USE**

On motion of Councilman Rico, seconded by Councilman Powers,  
**A RESOLUTION AUTHORIZING THE KRYSTAL COMPANY TO USE TEMPORARILY AN UNNAMED ALLEY LOCATED ON THE SOUTH LINE OF THE 1600 BLOCK OF EAST 37<sup>TH</sup> STREET, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**TEMPORARY USE**

On motion of Councilman Rico, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING DUKE STONE TO USE TEMPORARILY 2201 HICKORY VALLEY ROAD TO ENCROACH AND GRADE WITHIN IN THE RIGHT-OF-WAY OF BOTSFORD DRIVE FOR THE PROPOSED SOCCER FIELD FOR HICKORY VALLEY COMMUNITY CHURCH, AS SHOWN ON THE DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**GRANT**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO APPLY FOR, AND IF GRANTED, ACCEPT A GRANT FROM THE KRESGE FOUNDATION IN THE AMOUNT OF FIVE HUNDRED FIFTY THOUSAND DOLLARS (\$550,000.00), RELATIVE TO CONSTRUCTION OF THE NEW FRONT AND PARK ENTRANCES FOR THE CHATTANOOGA ZOO**  
was adopted.

**MASTER PLAN FOR ZOO**

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,  
**A RESOLUTION APPROVING THE MASTER PLAN FOR THE  
CHATTANOOGA ZOO AND THE MANAGEMENT OF THE PROJECT BY  
FRIENDS OF THE ZOO**  
was adopted.

**AGREEMENT**

Councilman Benson stated this matter was discussed in the Legal and Legislative  
Committee and approval is recommended.

On motion of Councilman Benson, seconded by Councilman Powers,  
**A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN  
AGREEMENT BETWEEN THE CITY OF CHATTANOOGA AND WENDELL  
ROWE FOR HIS SERVICES AS FIRE CHIEF**  
was adopted.

**DIGITAL CAMERAS**

On motion of Councilman Rico, seconded by Councilwoman Rutherford,  
**A RESOLUTION TO DECLARE THE CITY OF CHATTANOOGA'S SUPPORT  
FOR THE DIGITAL CAMERAS FOR CHATTANOOGA POLICE DEPARTMENT  
VEHICLES PROJECT AND AGREEING TO MEET ANY REQUIRED FUNDING  
MATCH**  
was adopted.

**WORKFORCE DEVELOPMENT CENTER PROJECT**

On motion of Councilwoman Rutherford, seconded by Councilman Rico,  
**A RESOLUTION TO DELARE THE CITY OF CHATTANOOGA'S SUPPORT  
FOR THE ENTERPRISE SOUTH WORKFORCE DEVELOPMENT CENTER  
PROJECT AND AGREEING TO MEET ANY REQUIRED FUNDING MATCH  
EQUALING THE FUNDING MATCH OF HAMILTON COUNTY**  
was adopted.

**DOBBS BRANCH SUBWATERSHED PROJECT**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,  
**A RESOLUTION TO DECLARE THE CITY OF CHATTANOOGA'S SUPPORT FOR THE DOBBS BRANCH SUBWATERSHED PROJECT AND AGREEING TO PROVIDE UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) IN ANY REQUIRED FUNDING MATCH**  
was adopted.

**BRAINERD MISSION PARK**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,  
**A RESOLUTION TO DECLARE THE CITY OF CHATTANOOGA'S SUPPORT FOR THE BRAINERD MISSION PARK – INTERPRETIVE CENTER PROJECT AND AGREEING TO PROVIDE UP TO TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00) IN ANY REQUIRED FUNDING MATCH**  
was adopted.

**GREENWAYS**

On motion of Councilman Rico, seconded by Councilman Franklin,  
**A RESOLUTION TO DECLARE THE CITY OF CHATTANOOGA'S SUPPORT FOR THE GREATER CHATTANOOGA GREENWAYS – NORTH CHICKAMAUGA CREEK GREENWAY PROJECT AND AGREEING TO PROVIDE UP TO TWO HUNDRED FIFTY-FOUR THOUSAND DOLLARS (\$254,000.00) IN ANY REQUIRED FUNDING MATCH**  
was adopted.

**AGREEMENT**

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A LEASE AGREEMENT WITH CHATTANOOGA WATER TAXI, LLC FOR OPERATION OF A WATER TAXI AND MARINE OPERATIONS IN THE BERTHING FACILITY LOCATED IN COOLIDGE PARK AND ON THE COMMERCIAL FLOATING DOCK LOCATED IN ROSS' LANDING PARK**  
was adopted.

## TOBACCO FREE TENNESSEE

On motion of Councilman Powers, seconded by Councilman Rico,  
**A RESOLUTION JOINING TOBACCO FREE TENNESSEE IN URGING THE  
TENNESSEE GENERAL ASSEMBLY TO REPEAL T.C.A. SECTION 39-17-  
1551 SO THAT LOCAL GOVERNMENTS IN TENNESSEE WILL ONCE  
AGAIN HAVE THE RIGHT TO PROTECT THE HEALTH AND SAFETY OF  
THEIR CITIZENS BY ENACTING SUCH LAWS AND ORDINANCES THAT  
THEY DEEM APPROPRIATE REGARDING TOBACCO PRODUCTS**  
was adopted.

## REFER TO PLANNING

Councilwoman Bennett stated that there was an issue before the Council recently that should be referred back to Planning involving a development on Manufacturer's Road wherein the applicant requested six stories and is now asking for approval for seven (stories).

Mr. Pace stated the request is located at 200 Manufacturer's Road and is a request that was approved by the Council with conditions. He stated that he met with the Design Studio and an agreement was reached that seven stories would fit within the plan for the area. He stated it should be referred back to Planning and then back to the Council for review.

**On motion of Councilman Benson, seconded by Councilwoman Rutherford, approval was given for the request to be referred back to Planning.**

## OVERTIME

Overtime for the week ending March 3, 2006 totaled \$49,607.75.

## PERSONNEL

The following personnel matters were reported for the various departments:

### **PUBLIC WORKS DEPARTMENT:**

- **JASIMINUS A. TAYLOR** – Hire, Crew Worker, City Wide Services, Pay Grade 3/Step 1, \$18,850.00 annually, effective February 28, 2006.

**PERSONNEL (Continued)**

- **ANTHONY D. SPEARS** – Return from Family Medical Leave, Crew Worker Senior, City Wide Services, effective February 21, 2006.
- **EDDIE J. KEITH** – Family Medical Leave, Crew Worker Senior, City Wide Services, effective February 24 – May 19, 2006.
- **KIM I. KINAMORE** – Suspension (4 days without pay), Crew Worker Senior, City Wide Services, effective February 28 – March 3, 2006.
- **JOHN O. LYONS** – Hire, Landfill Superintendent, Waste, Pay Grade 25/Step 6, \$53,773.00 annually, effective February 27, 2006.
- **RICHELLE L. WHITE** – Hire, Office Assistant Senior, Waste, Pay Grade 5/Step 1, \$19,234.00 annually, effective February 27, 2006.
- **NATHANIEL R. JOHNSON** – Termination, Heavy Equipment Operator, Waste, effective March 1, 2006.

CHATTANOOGA POLICE DEPARTMENT:

- **JAMES D. AVERY, BRIAN S. MILLER** – Resignation, Police Officer, effective March 5, 2005.

**PURCHASE**

On motion of Councilman Franklin, seconded by Councilman Rico, the following purchase was approved for use by the Chattanooga Human Services Department:

**ATLANTIC DISTRIBUTORS, INC. (Single Source)**  
**R0056889**

Cold and Dry Storage and Delivery Services (per TCA 6-56-301)

\$2.00 per case

**PURCHASE**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the following purchase was approved for use by the Public Works Department:

**Pozzolanic Contracting & Supply Company, Inc. (Lowest bid)**  
**R0087903/B0002922**

Bulk Lime Kiln Dust

\$33.50 per ton

**UNIVAR, USA and SPECIALTY CHEMICAL COMPANY (Lower bids)**  
**R0087937/B0002920**

Sodium Hydroxide and Sodium Hypochlorite

Univar	\$1.55 per gallon, Sodium Hydroxide
Specialty	\$ .79 per gallon, Sodium Hypochlorite

**PYCOSA CHEMICAL, INC. (Best bid)**  
**R0087159/B0002857**

Sewer Line Grouting Chemicals

\$152,640.00

**S&S WHOLESALE SUPPLY, LOWE'S OF CHATTANOOGA, WOOD SUPPLY COMPANY**  
**AND RAM TOOL & SUPPLY COMPANY (Best bids)**  
**R0086346/B0002740**

Small Hand Tools

S&S	\$12,327.43
Lowe's	7,611.61
W. Wood	6,479.09
Ram Tool	6,335.16

(Information attached and filed with minute material of this date)

## PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the following purchase was approved for use by the Chattanooga Fire Department:

### TENNESSEE FIRE EQUIPMENT (Lowest and best bid) R0085974

Self-Contained Breathing Apparatus

\$549,807.20

## COMMITTEES

Councilwoman Bennett scheduled a meeting of the **Economic Development Committee for Tuesday, March 14 at 3:30 p.m.**

## EDUCATION INITIATIVE

Councilwoman Bennett stated that the Chattanooga Chamber of Commerce is asking the Council for input on education and economic development. She stated the request is to visit the Chamber's website as they are gathering information for a new education initiative.

## CHANCERY COURT ISSUE

Councilwoman Rutherford stated that Chancery Court ruled some months ago that a construction pad at 4512 South Mayfair Avenue be removed and it has not been (removed). She stated this is something she and the Mayor have discussed and whatever legal action needs to be taken, she would appreciate the Council supporting it so it could move forward.

**Councilwoman Rutherford made the motion soliciting the Council's support of the matter; Councilman Benson seconded the motion.**

Vice Chairman Pierce asked for clarification that Chancery Court ruled it was to be removed.

### CHANCERY COURT ISSUE (Continued)

Councilwoman Rutherford stated that it has not been removed and the owner of the property is in contempt of court. She stated this has been going on for months if not over a year.

Vice Chairman Pierce asked the City Attorney if the matter should be referred back to Chancery Court since the property owner is in contempt.

City Attorney Nelson stated it would have to go back to Chancery Court for an injunction.

Councilman Benson stated it has been going on two-or-three years.

City Attorney Nelson responded "yes"; that the matter has been to court and it depends on what order the Chancellor said. He stated we have over 150 cases now; that it depends upon what is said on the Order of Contempt or a Mandatory Injunction could be sought.

Councilman Benson stated if the motion goes through does that mean the city would move it.

City Attorney Nelson stated that the matter would go back to Chancery Court.

Councilman Benson stated that his second to the motion was to move it and build a building.

Councilwoman Rutherford stated that she would hope the city could remove it and put a lien on the property, which is one of the alternatives she and the Mayor discussed.

City Attorney Nelson stated he would look at this over the next week and report on next Tuesday.

Vice Chairman Pierce stated if the Council takes this back the Council would be taking the law into their hands; that it will have to be ordered by Chancery Court.

Councilwoman Rutherford stated that it was ordered by Chancery Court for this pad to be removed. She stated the property owner has not obeyed the ruling of the court and he has had plenty of time to do so.

**CHANCERY COURT ISSUE (Continued)**

An attempt was made to carry the vote through on the motion by Councilmen Rutherford and Benson to turn the matter back over to the City Attorney to properly pursue the matter with Chancery Court, however, Councilman Benson withdrew his second to the motion stating that he wanted the city to take it up and, if the court rules, the property owner would be responsible for the building.

Vice Chairman Pierce stated that the city could not go out and do that as there has to be a ruling from the Court.

Councilwoman Rutherford reiterated that the Court has ruled. City Attorney Nelson stated that the Court can not ignore its own rule.

Councilwoman Rutherford stated that she was tired of this and wants action taken. She wanted to know why the city's crews could not be sent out to break it up and put a lien on the property. City Attorney Nelson stated it is not our property to dig up.

Councilwoman Rutherford stated this man is in contempt! City Attorney Nelson stated the proper alternative is to go back and seek an Order of Contempt.

**Councilwoman Rutherford stated that her motion is to give Mr. Nelson authority to pursue the best and fastest course to get this problem resolved.**

**Councilman Benson** stated there is trouble in Councilwoman Rutherford's and his district with this same type of issue and it is the same person. **He seconded the motion at this time in the hope there would be help so the property owner could do what he is responsible for; the motion carried.**

**ADJOURNMENT**

Vice Chairman Pierce adjourned the meeting of the Chattanooga Council until Tuesday, March 14, 2006 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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