

CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
MAY 1, 2012

Chairman Ladd called the meeting of the Chattanooga City Council to order with Councilmen Benson, Berz, Gilbert, McGary, Murphy, Rico, Robinson, and Scott present. City Attorney Michael McMahan, Management Analyst Randy Burns and Shirley Crownover, Assistant Clerk to the Council, were also present.

PLEDGE OF ALLEGIANCE/
INVOCATION

The Pledge of Allegiance was led by Councilwoman Scott. She then introduced **Ben Brychta**, who is the Chaplain of the Fire Department, a Board member of CNE, a hard worker, and a good man. He gave the invocation.

MINUTE APPROVAL

Before the minutes of the last meeting were approved, Councilman Benson wanted to make an editorial change, stating that he received an e-mail from **Randy Glaze**, who had apparently read the minutes better than he had. Councilman Benson stated that he wanted to change a statement where perhaps he had been mis-quoted as it pertained to one of his questions to Mr. Glaze. Mr. Glaze reported that Councilman Benson asked him what was said during his job performance reviews, and Mr. Glaze had responded that he had never received a job performance review and that the copy of his personnel file did not show one either. Councilman Benson noted that this particular statement was left out and was worded "evaluation" instead. He asked that Ms. Crownover work this out so that it reflects "job performance review" rather than "evaluation". **Councilman Benson made this in the form of a motion, which was seconded by Councilman Murphy.**

On motion of Councilman Rico, seconded by Councilman Gilbert, the minutes of the previous meeting were approved, with the above editorial change, and signed in open meeting.

On motion of Councilman Murphy, seconded by Councilman McGary, Ordinances (a) through (d) were all considered in one reading.

AMEND CITY CODE
BD. OF MECHANICAL EXAMINERS

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 22.5, BY AMENDING SECTIONS 22.5-35(b), 22.5-37, 22.5-39, 22.5-52, 22.5-55, 22.5-60 AND 22.5-62(h), RELATIVE TO THE BOARD OF MECHANICAL EXAMINERS
passed second and final reading and was signed in open meeting.

AMEND CITY CODE
BD. OF GAS EXAMINERS

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 19, SECTION 19-67, 19-69, 19-70, 19-72, 19-73, 19-75, 19-88, 19-91, 19-92, 19-93, 19-101, RELATIVE TO THE BOARD OF GAS EXAMINERS
passed second and final reading and was signed in open meeting.

AMEND CITY CODE
BD. OF PLUMBING EXAMINERS

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 27, BY AMENDING SECTIONS 27-36, 27-38, 27-39, 27-43, 27-59, 27-61, 27-62, 27-63, 27-64, 27-66(f) AND 27-71, RELATIVE TO THE BOARD OF PLUMBING EXAMINERS
passed second and final reading and was signed in open meeting.

AMEND CITY CODE
BD. OF ELECTRICAL EXAM.

On motion of Councilman Murphy, seconded by Councilman Rico,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 14, SECTIONS 14-51, 14-53, 14-54, 14-56, 14-75(b), 14-78, 14-79, 14-82(a) AND (b), 14-83(c), 14-84 AND 14-91, RELATIVE TO THE BOARD OF ELECTRICAL EXAMINERS
passed second and final reading and was signed in open meeting.

AMEND BUDGET ORD.

On motion of Councilman Gilbert, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND FISCAL YEAR 2011/2012 BUDGET
ORDINANCE TO APPROPRIATE TWELVE THOUSAND SEVEN
HUNDRED EIGHTY-NINE AND 73/100 DOLLARS (\$12,789.73) TO
INTERFAITH HOMELESS NETWORK FOR THE PAYMENT OF
DELINQUENT PROPERTY TAXES, INTEREST, AND PENALTIES ON
THE LEASEHOLD AT TAX MAP NO. 145E-T-002L000 LOCATED AT
1184 BALDWIN STREET FOR TAX YEARS 2010 AND 2011**
passed second and final reading and was signed in open meeting.

**AMEND CITY CODE
DUE CARE FOR DRIVERS**

On motion of Councilman Murphy, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART
II, CHAPTER 24, SECTION 24-171, DRIVERS TO EXERCISE DUE
CARE**
passed first reading.

CLOSE AND ABANDON

2012-030 (Memorial Health Care System)

On motion of Councilman Murphy, seconded by Councilman McGary,
**AN ORDINANCE CLOSING AND ABANDONING SEVERAL SEWER
EASEMENTS LOCATED WITHIN PROPERTIES LOCATED AT 950
NORTH CHAMBERLAIN AVENUE AND 1005 GLENWOOD DRIVE,
MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading, with Councilwoman Scott abstaining because of a
conflict of interest.

AGREEMENT

On motion of Councilwoman Scott, seconded by Councilman Rico,
A RESOLUTION TO AMEND RESOLUTION NO. 26605
AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF
PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH S&ME,
INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO.
E-10-010-303, FOR GEOENVIRONMENTAL AND CONSTRUCTION
MATERIALS CONSULTING REQUIREMENT CONTRACTS, TO
REVISE THE AMOUNT TO APPROXIMATELY ONE HUNDRED
THOUSAND DOLLARS (\$100,000.00)
was adopted.

AGREEMENT

On motion of Councilwoman Scott, seconded by Councilman Gilbert,
A RESOLUTION TO AMEND RESOLUTION NO. 26606
AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF
PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH
TERRACON CONSULTANTS, INC. FOR PROFESSIONAL SERVICES
RELATIVE TO CONTRACT NO. E-10-010-301, FOR
GEOENVIRONMENTAL AND CONSTRUCTION MATERIALS
CONSULTING REQUIREMENT CONTRACTS, TO REVISE THE
AMOUNT TO APPROXIMATELY ONE HUNDRED THOUSAND
DOLLARS (\$100,000.00)
was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Gilbert,
A RESOLUTION TO AMEND RESOLUTION NO. 26607
AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF
PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH
THOMPSON ENGINEERING, INC. FOR PROFESSIONAL SERVICES
RELATIVE TO CONTRACT NO. E-10-010-302, FOR
GEOENVIRONMENTAL AND CONSTRUCTION MATERIALS
CONSULTING REQUIREMENT CONTRACTS, TO REVISE THE
AMOUNT TO APPROXIMATELY ONE HUNDRED THOUSAND
DOLLARS (\$100,000.00)
was adopted.

PEDESTRIAN BRIDGE

On motion of Councilman McGary, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING LIBERTY TOWER, LLC TO BEGIN
CONSTRUCTION OF A PEDESTRIAN BRIDGE TO BE INSTALLED
OVER THE 200 BLOCK OF WEST 6TH STREET, AS SHOWN IN THE
DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY
REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
was adopted.

**LATE NIGHT ENTERTAIN./
SPEC. EXCEPTIONS PERMIT**

2012 (Paisa, Inc.)

Mr. Bryan Shults, Senior Planner with RPA, made the presentation regarding this application, noting that it was a commercial establishment with an occupancy capacity of more than 100 people and meets the definition of a Nightclub; therefore needing a Special Exceptions Permit. He noted that the application was filed on March 28th and must be placed on the City Council agenda no less than 30 days from the initial application. Mr. Shults continued, explaining the current process based on the definition of a nightclub, which is a commercial establishment, which may or may not be held out to the public as a Bar or other social gathering place, with an occupancy of 100 people and which serves alcohol or allows alcohol on the premises and is operated as a place of entertainment at night for eating, drinking, dancing and provides live or recorded entertainment and engages in certain activities. He noted that the application is made to RPA and a sign is placed on the property and notification letters sent out. This is all coordinated with the Fire Marshall, Police Dept., and Traffic Engineering; it is then sent through the City Attorney's office and on to the City Council to be placed on the agenda, and the City Council can approve or deny with our without conditions. This Special Exceptions Permit can be revoked by the City Council.

Mr. Shults went on to explain that said permit shall not be transferred to any persons other than the Officers and Owners of the Corporation as identified in the Liquor by the Drink Permit or Beer License application in place upon initial receipt of the Special Exceptions Permit without approval of the Chattanooga City Council.

SPEC.EXCEPTIONS PERMIT
(CONT'D):

Mr. Shults noted that this is in a C-2 Commercial Zone and is a permitted use in this zone; that a business establishment can operate without this Special Exceptions Permit if they are only serving beer or alcohol until 11:00 p.m.; this Permit gives them the ability to sell alcohol after 11:00 p.m., and the one receiving the Permit must comply with all requirements in the Ordinance and also comply with all conditions placed on the Special Exceptions Permit. He again read the definition of a Late Night Establishment, noting that any doorway entrance regularly used for ingress and egress or outdoor place of gathering such as a deck/patio shall be located more than 750 ft. away from the nearest boundary of any residential zone. The 750 ft. buffer distance may be decreased in part or entirety and the City Council may impose additional conditions for the protection of residential properties from excessive noise or other nuisance issues.

He then went on to list the series of Requests for Special Exceptions Permit, their location, the distance away from the nearest boundary of any residential zone, and whether the Request was granted or denied by the City Council.

Mr. Shults noted that the application before the Council tonight is for the La Onda Nightclub on Airways Blvd.; that the property is owned by Bobby Massey, and the application is under the name of Paisa, Inc. and will hold 299 occupants. He stated that notification letters had been mailed that advised property owners of this hearing tonight; that 14 letters were mailed and no one had called in opposition. He then proceeded to show the zoning map, which shows M-1 to the South; R-1 is further to the North on Vance Rd. He then showed an aerial view and pictures of surrounding offices and a shopping center. He showed a picture of the single-family home that is zoned R-1; also a picture of a medical office, a fencing company, and a picture of the nightclub, itself. The reduction being asked for is from 750 ft. to 345 ft. Also, a Site Plan was submitted with the application. Mr. Shults stated that Traffic Engineering had ruled that this does comply with parking requirements. There is no steep topography nor buffer. It is located in a commercial area with a residence in close proximity.

At this point, Mr. Shults read the following ten conditions: (l) A fully operational fire suppression system shall be installed by December of 2013 and shall remain operational and maintained; no outdoor gathering place such as a deck or patio shall be permitted; all exterior doors shall remain closed at all

SP. EXCEPTIONS PERMIT (CONT'D):

times except for normal ingress/egress; patron access to the establishment shall be from the front door only; no amplified noise, speakers, entertainment or lighting, and the sale of food or beverages shall not be permitted outside of the business establishment; a minimum of two security officers licensed by the State of Tennessee shall be provided between the hours of 11:00 p.m. to thirty minutes past the closing time of the business establishment; the security officers shall be easily and appropriately identified as security officers; signs shall be placed on the premises or around the perimeter of the parking lot prohibiting loitering and solicitation; upon inspection by the Regulatory Bureau of the Chattanooga Police Dept., the applicant may be required to conduct a lighting study of parking lot; and applicant shall be required to provide on-site parking in compliance with city code. He concluded by saying that Staff members were present to answer questions.

Councilwoman Robinson thanked Mr. Shults, stating that her question was for either the Police Dept. or Fire Dept., concerning the fire repression system that does not have to be installed until 2013. She had questions about this deadline.

Chief Parker stated that it was 2013 for existing businesses; that 299 occupants is the maximum without the sprinkler system.

Councilwoman Robinson wanted to know if they inspected prior to 2013? The answer was "yes". Chief Parker added that they were in compliance with all but the sprinkler system, which is to be installed by 2013, unless they become out of compliance.

Councilman Murphy stated that one of the things that the Land Use Plan proposes is to decrease the impact on residential uses. He asked if there was any consideration as to landscaping buffer on the north line and northeast 50 to 75 ft. to help with screening? He noted that they had talked about landscaping on the south but none on this property.

Mr. Shults responded that the fencing company has trees for a buffer; however north of this, there is very little. He stated that they did not discuss landscaping but that it could be added as a condition.

Councilman Gilbert asked about them not having the proper permits. Mr. Shults responded that he did not know about permits.

SP.EXCEPTIONS PERMIT(CONT'D):

Mr. Hutsell was asked to come forward. He explained that two months ago this club was cited to the Beer Board concerning a transfer of ownership; that he was present during the hearing; that the business had been closed for 100 days and no business license was in place nor beer license, and this was revoked by the Beer Board. He explained that the fire alarm was not monitored; the appeal was that the 100 days had expired, and the new owner was coming before the Council for this Permit; that since, they had obtained a Beer Permit for the new owners until 11:00 P.M., but this Permit would allow them to serve alcohol until 3:00 a.m.

Councilman Rico asked if this Permit was for the owner of the property or the owner of the club?

Mr. Hutsell responded that it was the owners of the corporation; that the Beer Code specifies a certain percentage—that there are three owners on this.

City Attorney McMahan mentioned a lawful non-conforming use—out of business for more than 100 days—that if this were the case, they would not be exempt from the provision for the sprinklers.

Chief Parker asked if they could get this recessed for two weeks to review this; that they might have to have the sprinkler prior to opening.

Councilman Murphy asked if he had heard right that this commercial establishment was closed for a period that exceeded 100 days? Mr. Hutsell explained that for a period of time it was closed for renovation; that they went well over 100 days without a permit, sprinkler, or fire alarm being maintained; that there is an attorney present who is representing the new owners, and they had had a discussion; that in his opinion, they had lost the grandfather clause. Councilman Murphy confirmed that they were closed for business for 100 days and were not under construction. Mr. Hutsell stated that was his belief. Councilman Murphy confirmed that this was Mr. Hutsell's opinion.

Councilwoman Berz stated that there were two other issues—that landscaping had been discussed. She asked Officer Collins to come forward, noting that she had sat in on the Beer Board when this was discussed. She asked him if he was aware of what Mr. Hutsell had said concerning the break in operation of 100 days? She noted in the Beer Board meeting that ownership had changed and asked if he recalled how many times this had occurred? Mr. Collins agreed that

SP.EXCEPTIONS PERMIT(CONT'D):

it had been several times, mentioning over 100 days and a notarized letter stating who the sole owner was; that this had gone back and forth without him as the owner and then it had been revised and put him on it as the owner and then revised again, and he was removed as the owner; that several people had been “crisscrossing”—that one time he was the owner—that it went in and out and was very confusing.

Councilwoman Berz noted that whoever was the owner was before the Beer Board for a violation, and then there was new ownership—that this might be legal, but she questioned this establishment.

Mr. Collins agreed that there was a constant change of ownership in the pipeline, and there was confusion; that they did get it straightened out, but there was a lot of confusion; that now this group was the last one who had applied.

Councilwoman Berz stated that to her recollection, this happened on a regular basis. She went on to say that Mr. Shults did not read the last condition, which was Condition #11—that he did not read this condition, and it relates to compliance with all ordinances adopted by the City Council as to electricity and kitchen inspection, and she would like clarification of this. She stated that she also went along with Councilwoman Robinson’s question, and their seeking to get this approved falling under our present sprinkler system ruling—that this is a new establishment.

At this time, Chairman Ladd stated that she would give the applicant nine minutes to speak, and she outlined the parameters.

The first to speak was **Mr. Munoz**, who stated that he was 72% owner of the La Onda Nighclub; that he lived in East Ridge, Tennessee and could commute quickly. His attorney, **Wes Kliner**, spoke, stating that he had been representing Paisa, Inc. for 35 days and was trying to turn this appeal process around; that there had been a lot of confusion; that the owner had been over zealous, and he was trying to assist. He stated that these folks are experienced operators of restaurants that serve alcoholic beverages; that they had operated in Dalton, Maryville, and West Tennessee—that they had extensive experience in this business; that Mrs. Munoz had 50% ownership and would be in charge of the corporation, itself, subject to approval of this request. He stated that they were trying to do the right thing and were trying to get it right, and he hoped that it

SP.EXCEPTIONS PERMIT (CONT'D):

was right this time; that Mr. and Mrs. Munoz had 75% ownership and were operating in full compliance. He mentioned the renovation of the project; that to prevent excess noise, they had installed double doors, which would help buffer noise; that Mr. Munoz was willing to answer questions; that he does have a sprinkler system where cooking is done—that it is partially sprinkled at this time even if it would require full sprinkling. He mentioned the renovation of the dance floor; that Mr. Massey, the owner, can't install sprinklers. He stated that the security being planned was more than what is being provided by most clubs; that there would be two security officers and then five, and there may be seven officers present, and they would circulate throughout the parking lot ever few minutes. He noted that there is only one close single-family residence and other residences are beyond 750 ft. He stated that they wanted to be responsible citizens and to honor the folks who live near them without being an excessive nuisance; that they were trying to be compliant.

Chairman Ladd asked if this completed their presentation? Mr. Kliner stated that it was complete; that he tried to be succinct.

Chief Parker stated that they did have a hood system where they cooked, but this did not qualify as a sprinkler system; that there was nothing in the remainder of the building.

Councilman Murphy related to Mr. Munoz and Mr. Kliner that we had heard from the Zoning Office—that the grandfather clause has expired, and the sprinkler system would have to be installed now. He also mentioned his comment on the landscaping buffer, stating that he did not know what these items would cost them—to provide screening for an audio-dampening effect. He stated that he loved the double doors. He went on to say that this is a heavy commercial area and wanted to know if they wanted their answer tonight or would rather have time to think about this and time to do some math to see how they could make it work with these two issues?

Councilman Benson stated that he would like to ask RPA a question—that we annexed this some time ago, and they may have lost their grandfather zoning clause, too? Mr. Shults responded that this is zoned C-2 now—that they never lost their zoning.

Mr. Kliner stated that he would like to ask a question of RPA concerning the 100 days lapse—that the lapse of ownership changed; that they had been open within 100 days.

SPEC.EXCEPT.PERMIT (CONT'D):

Councilman Murphy explained that this included all the construction and all the rest; that their professional judgment is that the time has elapsed; that if Mr. Kliner wants to contend that Mr. Hutsell is wrong, he would have to litigate or could ask for more time to see if these issues could be resolved.

Mr. Kliner responded that he did not want to litigate.

Mr. Bruce Hankinson, attorney for Mr. Massey, the owner of the property, spoke next. He stated that this had been a long-established nightclub—that even Councilman Rico had attended it in the past—that it once was a country nightclub; that this person had been a tenant of Mr. Massey's since 2008; that the country nightclub closed in 2006; that Mr. Massey is 77 years old and retired, and this is his only source of income other than social security; that these people had spent \$75,000 getting the club renovated; that Mr. Espinosa, the original attendant, who owned one-half of the business, had invested an additional \$150,000 and had rebuilt the whole stage; that there is a large dance floor; that they had tiled the bathroom; that everything had been re-done, and it was nice looking. He reiterated that it looked real nice, and he just wanted to give this history; that he would like some consideration given to the owner in relation to money—that \$250,000 had been spent on renovation, and he did not think they had been out of business for 100 days.

Chairman Ladd explained to Mr. Hankinson that Councilman Murphy had already asked this question.

Councilman Murphy thanked Mr. Hankinson; however the Council had been told by the Zoning Office their opinion—that Mr. Hankinson might be able to convince them otherwise to prevent a sprinkler from having to be put in this building sooner than 2013—that he might could convince them; that he did not know how this Council will vote; that this can be delayed to give them time to work on this, or the Council could vote tonight. Mr. Hankinson responded that it was up to them concerning the question about 100 days.

Mr. Kliner stated that he understood the question, and he would like to see if they could make this work financially and would like an additional two weeks so that they could talk to the Zoning Department; that he would request a two-week deferral.

SPEC.EXCEPT. PERMIT (CONT'D):

Chairman Ladd asked if the Council wanted to vote on the deferral or to vote on this tonight?

Councilwoman Scott stated that she would like clarification on ownership; that she was confused about ownership of the property and ownership of the business as a tenant, mentioning a prior case, stating that we don't want to go through that conflict again. She noted that when this Ordinance was passed concerning the issue of a Special Exceptions Permit it was to go to the owner who is operating the business, regardless of who owns the property; that the Special Exceptions Permit is attached to the business and not the property owner, and the permit can be taken away. She asked who was applying for this Permit and who runs the club? It was noted that the owners of the Business are Jack Munoz, Luis O., and a Ms. Munoz; that Mr. Massey is the owner of the property, and it was not being issued to him. She stated that she would like to hear from Officer Collins—that she would like him to tell the Council what kind of neighbor the owners would be to the community and if this was in the best interest of the zone. She wanted to know about the issue of noise.

Mr. Collins responded that there had been noise complaints in the past for this club; that there were not a whole lot of residences. Councilwoman Scott asked if the complaints came from nearby residents or business owners? Mr. Collins stated that the complaints did not say—that Councilwoman Berz could probably address the complaints. Councilwoman Scott stated that she wanted to know if the issue was within the club or in the parking lot—that she had heard there were double doors inside. Mr. Collins stated that the complaints did not specify this—that the two go hand-in-hand, but it does not specify if it is indoors or outdoors. Councilwoman Scott stated that she would like some clarification—that she had heard there was a hole burned in the roof. Mr. Collins noted some dispute—that he thought the fire was after hours.

Councilman Rico stated that if we were going to defer this that he saw no use in discussing this further; that if we were not going to defer, then we should deal with it.

Councilman Gilbert stated that Attorney Kliner had said that these were very experienced people in running a club. Mr. Kliner clarified that he said a restaurant that sells alcohol—that their dealings with clubs was not extensive. Councilman Gilbert asked if it were very experienced with a restaurant or a club? Mr. Kliner responded “a restaurant that offers alcoholic beverages”. Councilman Gilbert stated that they were operating without a permit—correct? Mr. Kliner responded that they thought they were correct. Councilman Gilbert

SPEC.EXCEPT.PERMIT (CONT'D):

responded that if they were experienced they would have known they had to have certain permits; that there was a problem with them not going through the proper channels. Attorney Kliner stated that that was a matter of opinion; that they had placed a great deal of reliance on the prior owner; that when things went “haywire”, they hired him; that he was considered to be a person of strict compliance; that they had exercised “good faith” with the prior ownership; that he was trying to be good counsel with strict compliance with all ordinances; that they had hired him, and he was a stickler at going by the book. Councilman Gilbert stated “then they had experience with restaurants”.

Councilwoman Berz stated that in all fairness; that they understood all of the conditions—the sprinkler and all of the conditions pertaining to screening and the real possibilities. She wanted to be sure they understood that there were other conditions and not just these 11 conditions—that there were other areas contained in our laws—everything from the number of people to the kitchen and electricity; that they needed to look at all the costs for all of this; that she wanted to make clear that Mr. Hankinson understood that this Special Exceptions Permit had nothing to do with the owner of the property but with the owner of the business; that what Mr. Hankinson had said was interesting; that there had been several breaks in ownership, which are of record; that Mr. Hankinson could check out the facts, as interesting as his comments might be—that it was the duty of the business owner and not the property owner.

On motion of Councilman Murphy, seconded by Councilman McGary,
**A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT
FOR USE OF A LATE NIGHT ENTERTAINMENT CENTER LOCATED
AT 6175 AIRWAYS BOULEVARD, AS MORE PARTICULARLY
DESCRIBED IN THE ATTACHED REPORT AND MAPS, SUBJECT TO
CERTAIN CONDITIONS**
was deferred for two weeks.

TDOT PAYMENT

On motion of Councilman Rico, seconded by Councilman Murphy,
**A RESOLUTION AUTHORIZING PAYMENT TO THE TENNESSEE
DEPARTMENT OF TRANSPORTATION, RELATIVE TO THE STATE
INDUSTRIAL ACCESS ROAD SERVING VOLKSWAGEN GROUP OF
AMERICA, CONTRACT NO. E-09-015-801, TDOT PIN NO.
114048.00 IN AN AMOUNT NOT TO EXCEED FIFTEEN THOUSAND
DOLLARS (\$15,000.00)**
was adopted.

TDOT REIMBURSEMENT

On motion of Councilwoman Berz, seconded by Councilman Murphy,
A RESOLUTION AUTHORIZING THE CITY OF CHATTANOOGA TO REIMBURSE THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR OVERCHARGES RELATIVE TO THE ENTERPRISE SOUTH PHASE 1B, CONTRACT NO. E-04-036, FEDERAL PROJECT NO. HPP-9202(94), TDOT PIN NO. 106263.02, IN AN AMOUNT NOT TO EXCEED TWENTY-ONE THOUSAND TWO HUNDRED FIFTY-TWO AND 87/100 DOLLARS (\$21,252.87)
was adopted.

OVERTIME

Overtime for the week ending April 26, 2012, totaled \$3,273.38.

PERSONNEL

The following personnel matters were reported for the various departments:

CHATTANOOGA FIRE DEPT.:

- **BYRON COLE**—Promotion to Fire Lieutenant, Range F3A, \$43,358 annually, effective 4/20/12.
- **MOSES DUCKETT**—Promotion to Fire Captain, Range F4A, \$49,725.90 annually, effective 4/20/12.

CHATTANOOGA POLICE DEPT.:

- **CLAYTON G. SMITH**—Resignation of Police Officer 1, effective 4/29/12.
- **CONNIE VALTIERRA**—Resignation of Police Service Tech., effective 4/27/12.
- **REGINALD MCCULLOUGH**—Resignation of Police Cadet, effective 4/24/12.

DONATION

Adm. Zehnder reported one donation of **8,500 books from High School FBLA Clubs from the Future Business Leaders of America, estimated at \$3.50 each, amounting to \$30,000.00.**

HOTEL PERMIT

On motion of Councilman McGary, seconded by Councilman Murphy, the following Hotel was granted a Permit:

BAYMONT INN—3540 Cummings Highway

Chief Parker announced that Mr. Brychta, who delivered the invocation, will be offering a course to employees through First Things First for family counseling. It will be a weekend retreat for firefighters. He will come back to the Council for further reporting concerning this.

PURCHASES

On motion of Councilman McGary, seconded by Councilman Rico, the following purchases were approved for use by the various departments:

CHATTANOOGA FIRE DEPARTMENT:

ROOMS TO GO (Best bid meeting specs.)
Requisition 54423/301694

Six Sofas and Ten Chairs

\$13,737.74

FINANCE AND ADMINISTRATION:

TYLER TECHNOLOGIES (Sole Source Purchase)
Requisition 56544

Service Agreement for Custom Programming & Software Maintenance Services

\$42,786.42

PURCHASES (CONT'D):

CHATTANOOGA POLICE DEPT.:

GULF STATES DISTRIBUTORS & CRAIG'S FIREARM SUPPLY (Multiple Conts.)
Requisition 55319/301747

Blanket Contract for Police Ammunition

\$100,000 approximately, annually

GULF STATES DISTRIBUTORS, GT DISTRIBUTORS, CPR SAVERS FIRST AIDE & SAFETY (Multiple Contracts)

Blanket Contract for Police Leather Goods

\$70,000 approximately annually

HUMAN SERVICES DEPT.:

MCGRAW HILL (Single Source Purchase)
Requisition R56190

DLM Early Childhood Express Software Upgrade

\$22,968.72

PERSONNEL DEPT.:

NEOGOV (Single Source Purchase)
Requisition R57274

Annual Software Maintenance Renewal

\$16,080.00

PURCHASES (CONT'D)

PUBLIC WORKS DEPT.:

MATERIAL MATTERS INC. (Best Bid Meeting Specs.)
Requisition R55752/301789

Biosolids Management Systems Support Service

\$50,000 annually, estimated

Councilwoman Scott made the motion that the last purchase (Material Matters, Inc.) be contingent upon the understanding that we will get a report back from the company a year from now when the Contract comes back up showing what they have accomplished. She explained that this had been listed in their tasks within the last two years, and we need to know at the end of next year what has been accomplished. She wished to make approval of the last purchase contingent upon receiving this report. She also stated that we needed to make the company aware of this before we go forward with it. **This was seconded by Councilman McGary.**

Councilwoman Berz asked if this request was part of the contract? Councilwoman Scott responded that there had been some disagreement as to whether this was a purchase or a contract; that it was offered up to the Council as a purchase but was written as a contract; that a contract required a Resolution. Councilwoman Berz asked if this requirement was already a part of the contract? Councilwoman Scott responded that it was part of the last two contracts but there had been no movement on this; that it was listed as a Task; that she had received a pile of papers from Mr. Stewart, which was very impressive, showing every ticket for every truck load, but the material had not addressed what the company had done in regards to this Task. Councilwoman Berz stated that she would like to hear from Adm. Leach so that we would not be micro-managing; that he was head of this department, and she respected him. She asked Mr. Leach if we could expect such a Report?

Adm. Leach responded “absolutely”. Councilwoman Berz asked if it would be within a year? Adm. Leach indicated that he would talk to the company tomorrow and request that they furnish this—that they were not trying to hide anything.

On motion of Councilman McGary, seconded by Councilman Rico, the last purchase was made contingent upon this request and all the other purchases were approved also.

COMMITTEES

Chairman Ladd stated that she did move a committee meeting—educational session on employee safety; that she had agreed to move the meeting so that Staff could have more time to answer questions that have been asked of them; that she had changed the date to two weeks, rather than on May 8th and that Councilwoman Scott, who was chairing the meeting, had been consulted on this.

Councilman Gilbert scheduled a meeting of the **Parks and Recreation Committee to immediately follow the Legal and Legislative Committee meeting on Tuesday, May 15th.**

Councilwoman Berz stated that she had two very important reports coming up; that the **Budget and Finance Committee would have an educational session for a presentation by United Way on May 8th at 10:00 a.m. until 12:00 p.m.;** that there would be a meeting of the **Budget and Finance Committee for a presentation of the 2012-12 Operating Budget to immediately follow the Public Works Committee on Tuesday May 8th.**

AGENDA: MAY 8, 2012

Chairman Ladd asked if there were any questions regarding next week's agenda; being none, the meeting continued.

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.

JOSEPH KOTSIS

Mr. Joseph Kotsis of Murfreesboro, Tennessee, addressed the Council. He stated that he was involved with Neighborhood Improvement and had two items to discuss. One item concerned a conference that is to be held on June 2nd, which will include Neighborhood Services Administrator, Beverly Johnson and also Joyce Moreland, who is an educator and psychiatrist. He stated that they were asking Neighborhood Services to endorse this conference.

JOSEPH KOTSIS (CONT'D):

Mr. Kotsis went on to talk about the progress being made in preparing to proclaim June of 2012 as Neighborhood Month; there are social activities planned to make people more aware of neighborhoods. He stated that Chattanooga was the best place to live in the United States; that he had previously worked for the IRS and had worked with Neighborhood Services, the Urban League, UTC, and Chattanooga State. He expressed his regards to the Council.

At this point, Councilman McGary asked Chairman Ladd if it would be possible to give individuals who wished to address the Council an opportunity to sit down so that they would not have to stand so long. (Chairman Ladd had asked those who wished to address the Council to come forward and form a line.) Chairman Ladd stated that they certainly could sit down, but she did want them to come forward at a certain time.

Councilman McGary stated to Mr. Kotsis that he was curious. He wanted to know if Mr. Kotsis' organization was a 501.c3? Mr. Kotsis responded that his group was an ad hoc bunch of people; that they had attended the previous meetings on gang suppression and had a personal interest in serving neighborhoods. Councilman McGary asked if they had a website? Mr. Kotsis responded that they were just a group of interested citizens who were trying to come up with these ideas to assist the City and Neighborhood Services; that they are all volunteers and not an organized 501.c3; that they are just people who care about this community.

Councilman Gilbert asked where the conference on June 2nd would take place and was told the Second Missionary Baptist Church on E. Third St., which is Rev. McDaniel's church.

Councilwoman Scott confirmed that Mr. Kotsis was not soliciting funds but was just a very concerned citizen, and she thanked him.

ROBERT CLARK

Mr. Robert Clark addressed the Council, stating that he had a P.O. Box number. He stated that he was not asking for money but was just asking for the 1954 Class to be able to meet at the Park on Third St.; that they had been told they had no right because of ballgames taking place; that they had meetings—only one meeting every month and that they were **somebody** also. He stated that he was a graduate of Howard High School.

ROBERT CLARK (CONT'D):

Chairman Ladd asked if a Council representative could get with Mr. Clark and help him out? Attempts were made to find out who his representative was. Councilman Murphy noted that Mr. Clark had given a post office box and not where he lived. Chairman Ladd asked Mr. Clark whose district he lived in? He responded that he lived in North Chattanooga, with Chairman Ladd noting that his representative would probably be Councilwoman Robinson. Councilman Rico asked him what street he lived on? Chairman Ladd suggested that Adm. Zehnder and Councilman Gilbert meet with Mr. Clark and find out his needs.

CHARLES WYSONG

Mr. Charles Wysong of Robin Drive addressed the Council. He expressed appreciation to the Council on the way they handled the most recent issue of the nightclub on Vance Rd. He then stated that he wanted to mention to the Council an article that had appeared in the newspaper about Mayor Littlefield. He stated that as he read it, he noted that here he was moving ahead and had had seven years in office, and this was his last year; that he had noticed in the last two years Mayor Littlefield had endorsed "government by edict", citing the turmoil over police cars; the stormwater issue, where people were furious; the tax increase, where people were furious; the Bessie Smith Strut issue; that he was convinced that he preferred "government by edict" rather than "government by consensus". He went on to say that now Mayor Littlefield was asking that the Council not talk to Department Heads. He stated that Mayor Littlefield's goal was consolidation of governments, and he asked that the Council "resist" this and let the new Mayor deal with this constitutionally; that if Mayor Littlefield had been recalled, we would not be having these issues. He again asked that the Council "resist" the effort to consolidate and everything that Mayor Littlefield desires to do. He mentioned that at a meeting, today, that Governor Haslam had read a scripture from Jeremiah, which he, too, read. He stated that he thought the Council was seeking the welfare of this City and again asked that they "resist" the efforts of Mayor Littlefield to continue his agenda of consolidation.

KARL EPPERSON

Mr. Karl Epperson of 1201 Boynton Drive addressed the Council. He thanked Chairman Ladd, and Councilmen Rico, Robinson, McGary, and Gilbert for attending meetings concerning the Westside, stating that he was a founding member of the Westside Community Association. He stated that with the help of COLA, they were making a difference on the Westside and that he wished all the members of the Council would try to attend one of the meetings; that they were in the process of trying to get 501.c3 status to further their goals; that he had spoken with Rev. Griffin and his wife and also with Missy Crutchfield about 25-30 boys in the Collegehill community in Westside who play baseball; that they were trying to get uniforms and bats and to get with Eric Estrada about mentoring in Chess and get these boys interested in things and keep them from getting involved in gangs. He asked that the Council help them with this—that they would greatly appreciate it. Chairman Ladd expressed appreciation for all that they were doing.

Councilman Gilbert noted that inter-city kids are playing baseball, and this group could get involved with this; that they would get this information to Mr. Epperson. Mr. Epperson stated that they were trying to bring this to fruition and get the Parks and Recreation Department to get their ball field in good order. Chairman Ladd stated that Adm. Zehnder could talk to Mr. Epperson after this meeting; that there were restrictions as to what he could do but that he would be glad to talk to Mr. Epperson. Mr. Epperson thanked Chairman Ladd and the Council.

ADJOURNMENT

Chairman Ladd adjourned the meeting of the Chattanooga City Council until Tuesday, May 8, 2012, 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)**