

**MINUTES OF THE  
OAK RIDGE CITY COUNCIL**

**March 7, 2012**

The regular meeting of the City Council of the City of Oak Ridge, Tennessee convened at 7:00 p.m. on March 7, 2012, in the Courtroom of the Municipal Building with Mayor Thomas L. Beehan presiding.

**INVOCATION**

The Invocation was given by Pastor Robert May, Oak Ridge Family Bible Church.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the Flag of the United States of America was given by Fenton White.

**ROLL CALL**

Upon roll call, the following councilmembers were present: Mayor Thomas L. Beehan; Councilmember Anne Garcia Garland; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr.; Mayor Pro Tem D. Jane Miller; Councilmember David N. Mosby; and Councilmember Ellen D. Smith.

Also present were Mark S. Watson, City Manager; Janice E. McGinnis, Finance Director; Kenneth R. Krushenski, City Attorney; and Diana R. Stanley, City Clerk.

**APPEARANCE OF CITIZENS**

Ms. Trina Baughn, 119 Newport Drive, remarked that the schools were entering their ninth month of non-payment on the high school's remodeling debt. She inquired about a meeting date of key school and city officials to determine how to handle the repayment to which Mayor Beehan confirmed that a meeting was scheduled.

Ms. Kay Williamson, 420 Jefferson Avenue, expressed her concerns about removing inoperable vehicles and trailers parked throughout neighborhoods, particularly Jefferson Avenue, and wanted to know when action would be taken on said vehicles by the City.

Mr. Parker Hardy, 123 Amanda Drive, President of the Oak Ridge Chamber of Commerce communicated that the Chamber is in support of the *Not in Our City* Initiatives because healthier neighborhoods are vital to investments and recruitment of employers and retail. Mr. Hardy remarked that, although the parking ordinances drafted may not be perfect, they were still a means to begin to address the issues and is better than what is currently in place.

Mr. Joe Lee, 99 East Pasadena Road, expressed his support for the *Not in Our City* Initiatives. He explained that his interpretation is that the initiatives' intent is to protect the value, as well as to enhance the communities. He expressed his concern regarding the development of the parking ordinances and noted that the future initiatives will be even more involved.

Mr. Kerry Trammel, 1125 West Outer Drive, praised the Oak Ridge Electric Department for their work on the replacement of an old transformer near the National HealthCare Corporation (NHC) building.

**PROCLAMATION AND PUBLIC RECOGNITIONS**

**A proclamation celebrating the 2012 National Library Week.**

Councilmember Smith moved, seconded by Councilmember Hope that the proclamation be adopted. The proclamation was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller and Mayor Beehan voting "Aye."

Kathy McNeilly, Oak Ridge Public Library Director, accepted the proclamation on behalf of the Library.

## **SPECIAL REPORTS**

(NONE)

## **CONSENT AGENDA**

Mayor Beehan continued the Consent Agenda concept, which was that items questioned by councilmembers would be removed and comments on agenda items would occur following approval of the Consent Agenda.

At the request of Councilmembers Smith and Hensley, the minutes of the February 13, 2012 City Council Meeting was removed from the Consent Agenda.

Councilmember Hensley moved, seconded by Mayor Pro Tem Miller to approve the remainder of the Consent Agenda which was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller and Mayor Beehan voting "Aye," thereby:

- Adopting Resolution No. 3-16-2012 granting renewal permits to persons engaged in the retail sale of alcoholic beverages for one year and waiving residency requirements for nonresident applicants.
- Adopting Resolution No. 3-17-2012 amending Resolution No. 6-94-95 that established an attendance policy for the City Boards and Commissions to delete Section 5: "Provision of Attendance Policy and Other Information to New Members" from the Attendance Policy.
- Adopting Resolution No. 3-18-2012 approving Amendment No. 13 to the Agreement PILT-OAK RIDGE-002 between the U.S. Department of Energy and the City of Oak Ridge for payment in lieu of taxes for tax year 2011 in the sum of \$1,662,113.38.

Councilmember Smith commented on the resolution regarding the City Boards and Commissions Attendance Policy, saying that other items in that policy could be examined at a later date. Mayor Beehan noted the increase in payment for 2011 received by the Department of Energy (DOE) in the Agreement PILT-OAK RIDGE-002. Councilmember Hensley also commented on the PILT by explaining that if the DOE was assessed similarly to a private business, then their property taxes owed would be substantially higher, and that the PILT payment is a small part of what DOE should be contributing to the City.

Councilmember Smith request that under "Council Requests for New Business Items or Future Briefings" that her comments be divided into two separate comments:

- (1) "In response to Mayor Beehan's comment about not having seen a report from an informal work session conducted by three Council members, Council member Smith explained that notes could be provided at a work session or in writing from herself or the City Clerk."
- (2) "Councilmember Smith said she had recently learned that the City's Utility Deposit System has caused unexpected problems for the Oak Ridge Housing Authority and its public housing tenants. A number of approved tenants are not moving in because they lack the funds for a utility deposit. She said she would like to have a one-year review of the Utility Deposit System to address this type of concern and to see if it is achieving the City's goal of ensuring that utility bills are being paid by residents."

Following clarification from the City Attorney on the proper means to amend the minutes, Councilmember Smith moved the minutes be amended per her aforementioned comments, which was seconded by

Mayor Pro Tem Miller. The motion was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

Councilmember Hensley moved that his comment under "Council Requests for New Business Items or Future Briefings" be amended and replace the verbiage regarding a strategic plan to "comprehensive" plan. The motion was seconded by Councilmember Smith and approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

The minutes of the February 13, 2012 City Council Meeting were approved, as amended, by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

## **RESOLUTIONS**

**Adopted Resolution No. 3-19-2012 authorizing the purchase of a Toro HDX utility vehicle and sprayer from Smith Turf and Irrigation Co., Nashville, Tennessee, for use at Centennial Golf Course, in the estimated amount of \$29,270.46.**

Mayor Pro Tem Miller moved, seconded by Councilmember Smith that the resolution be adopted.

Following brief deliberation, the resolution was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

**Adopted Resolution No. 3-20-2012 authorizing the City to apply for a grant from the Tennessee Department of Environment and Conservation (TDEC), Clean Tennessee Energy Program, in the amount of \$250,000.00 with a fifty percent (50%) local match, and accepting said grant if awarded.**

Mayor Pro Tem Miller moved, seconded by Councilmember Smith that the resolution be adopted.

The City Manager explained that several items currently in use throughout the City are becoming outdated and expensive to replace, and that many of the improvements proposed by staff would also coincide with the intended enhancements of the Police Department.

Councilmember Smith noted that the grant requires an estimate of energy savings and reductions, thus staff should be able to determine cost savings, which was inquired by Councilmember Mosby, once that information is developed and share said information with City Council.

The resolution was unanimously approved by voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

**Adopted Resolution No. 3-21-2012 awarding a contract (COR 12-06-A) to Diversified Service Associates, Inc., Oak Ridge, for mowing rights-of-way in the estimated amount of \$203,942.89 and a contract (COR 12-06-B) to KMF III Services, LLC, Knoxville, for mowing non-rights-of-way in the estimated amount of \$70,320.00, for the Public Works Department.**

Councilmember Smith moved, seconded by Councilmember Hensley that the resolution be adopted.

Following brief deliberation between City Council and Public Works Director Gary Cinder, the resolution was unanimously approved by voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

## **PUBLIC HEARING AND FIRST READING OF ORDINANCES**

**AN ORDINANCE TO AMEND ORDINANCE NO. 8-11, AS AMENDED BY ORDINANCE 11-11, WHICH ORDINANCE IMPOSES A TAX ON ALL PROPERTY WITHIN THE CITY, FIXES THE RATE OF THE**

**TAX, ADOPTS A BUDGET, AND ADOPTS APPROPRIATIONS FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, BY AMENDING SAID APPROPRIATIONS.**

Mayor Beehan began by explaining that this ordinance had been postponed from the February 13, 2012 City Council Meeting Agenda to allow for further clarification which was provided by the school administration at the February 27, 2012 Work Session.

Councilmember Smith moved, seconded by Councilmember Hope that the ordinance be approved on first reading.

A public hearing was held with the following participants:

Ms. Trina Baughn, 119 Newport Drive, claimed that the School had entered into leases that were not reported to the State of Tennessee and/or added to the School's budget after the budget approval phase. She continued to raise several questions to City Council regarding the technology lease and its equipment.

City Attorney Kenneth Krushenski clarified that the City is not providing any additional funding for the schools.

Ms. Karen Gagliano, Director of Business and Support Services for Oak Ridge Schools, explained that for leases, accounting entries must have the full value of the lease accounted for in the first year that the school enters into a lease. Ms. Gagliano continued that over the four-year lease agreement, the School accounts for the lease value in the expenditure budget for the repayment of the lease.

Councilmember Hope moved, seconded by Councilmember Smith to close the public hearing. The motion to close the public hearing was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

Ms. Gagliano further explained that the first payment is budgeted in the current year and that professional expertise had been consulted, including review by school attorneys and auditors for all leases. Oak Ridge Superintendent Dr. Thomas Bailey added that this was the fourth lease in which the school has been involved and that the leases utilize reoccurring dollars.

Ms. Gagliano explained that the school was aware of the lease when the budget was presented to City Council and that when accounting for it, only half of the lease value was recorded; it was entered as a line item for accounting rules. She continued by explaining that, when it was realized that the remaining portion was not recorded, it needed to be corrected by way of an amendment.

Mayor Pro Tem Miller moved to amend the motion to postpone the ordinance upon first reading to clarify the issues and acquire more answers to questions presented. Councilmember Hensley seconded the amendment. Following discussion among City Council and city staff, the amendment was approved by board vote with Mayor Beehan, Councilmember Hope, Councilmember Smith voting "Nay," and Councilmembers Garcia Garland, Hensley, Mosby, and Mayor Pro Tem Miller voting "Aye."

**FINAL ADOPTION OF ORDINANCES**

**AN ORDINANCE TO AMEND ORDINANCE NO. 19-82, AS AMENDED, BY DELETING THE PROVISION OF SECTION 2 PERTAINING TO THE SCHEDULE OF WATER RATES FOR COMMODITY CHARGES AND MINIMUM MONTHLY BILLING IN THEIR ENTIRETY, AND SUBSTITUTING THEREFOR A NEW SCHEDULE OF WATER RATES.**

Councilmember Hope moved, seconded by Councilmember Smith that the ordinance be adopted.

The City Manager explained that, as a result of the comments from the community, city staff would like to present a substitute ordinance for City Council's consideration. He explained that this substitution would

provide relief to senior customers and commercial businesses, while allowing the City to move forward with a rate change. He further noted that the City's Wastewater Fund is severely impacted by Environmental Protection Agency (EPA) requirements and has resulted in an urgency to make rate adjustments.

In response to a request by the Mayor, the City Manager provided a brief overview of the EPA Administrative Order, addressing such matters as infiltration and overflow, current status of sewer infrastructure, the newly proposed rate structure, and capital improvement needs of water and wastewater.

The City Manager reviewed the substitute ordinance which ultimately lessens the initial impact of the increase and allows users to plan accordingly for the proposed rates by using a two-phase rate structure: one that goes into effect April 1, 2012 and the second which takes effect January 1, 2013. He continued that the reason the City could adjust the rates as such is that the City would be deferring capital and water projects, but not wastewater projects.

Mayor Beehan commented that City Council was not pleased with the EPA mandates, and that not following said mandates carried consequences. For that reason, action needed to be taken by the City to comply. The City Manager added that the City could face penalties or legal ramifications if not sufficiently corrected and that efforts by other cities to counter the mandates have been unsuccessful.

Councilmember Hensley mentioned that during a recent visit of city staff, councilmembers, including Bill Nolan, Oak Ridge Consultant, to the Tennessee Municipal League (TML) Legislative Conference, the EPA situation was discussed with the Comptroller of the State of Tennessee and representatives of the Tennessee Department of Environment and Conservation (TDEC), who was troubled that the EPA had superseded TDEC, and suggested that the City contact elected representatives to discuss Oak Ridge's situation. Councilmember Hensley commented that the EPA would explore an extension to the deadline because of the concerns expressed by the Comptroller. He concluded by remarking that discussions on a viable solution should continue.

Councilmember Smith discussed that the proposed rate increase is considerably higher for larger consumers, and that the City does not seem as competitive within the region as it had been. Additionally, Councilmember Smith noted that the proposed rate structure had created a shift that relies primarily on commercial customers. She questioned whether the proposed rate structure was the correct one to provide a balance between residential and commercial businesses.

Mayor Pro Tem Miller supported Councilmember Hensley's idea of speaking with the legislators regarding the EPA mandates, as well as suggested utilizing the Oak Ridge Chamber of Commerce's Political Action Committee. She clarified that the City had been working toward addressing Oak Ridge's infrastructure and making improvements to the best of the City's ability.

Following Councilmember Mosby's inquiries, Finance Director Janice McGinnis explained that the shift from the current declining rate structure to the proposed flat rate structure caused the costs to be much higher for large consumers. Ms. McGinnis explained that Lamar Dunn's recommended rates would go into effect on January 1, 2013 and that for the remainder of the calendar year, intermediary steps would be introduced to consumers to allow them to transition into the new rate structure and adjust meter sizes accordingly. She continued that the water rates proposed in the substitute ordinance are based on capital projects being implemented over a longer period of time. Overall, Ms. McGinnis explained, the substitute ordinance rates are designed to help the City progress through the end of the calendar year since currently the water and wastewater systems are running at losses.

Based on concerns expressed by Councilmember Hope, Ms. McGinnis explained that rate increases should have occurred years before and both systems need a rate increase to sustain current needs. Discussions continued and the Finance Director proposed that the substitute ordinance could be amended to only adopt the proposed water and wastewater rates that become effective on April 1, 2012 and return in 2013 with a new rate proposal. Councilmember Hope stressed that City Council and city

staff needed to continue to put pressure on legislatures to convey the impact that the EPA mandates have created for the City.

Councilmember Smith indicated that she is uncomfortable voting on the substitute ordinance that was received during the Council meeting and would like to delay adoption until the ordinance could be adequately examined. The City Manager discussed passing the substitute ordinance at the meeting as a first reading item, and adopting the substitute ordinance during second reading at a special called meeting.

Following discussions on how to best handle consideration of the substitute ordinance, Councilmember Hensley moved, seconded by Councilmember Mosby to postpone consideration of the water ordinance to a special meeting. The vote was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

The City Manager suggested that there be a special meeting on March 26, 2012 prior to the regularly scheduled Work Session.

**AN ORDINANCE TO AMEND ORDINANCE NO. 21-82, AS AMENDED, BY DELETING SECTION 13, SEWER RATE SCHEDULE, IN ITS ENTIRETY, AND SUBSTITUTING THEREFOR A NEW SECTION PERTAINING TO SEWER RATES.**

Councilmember Smith moved, seconded by Councilmember Hope to postpone the consideration of the wastewater ordinance until a special meeting is called. Following an inquiry from Councilmember Mosby, Finance Director Janice McGinnis clarified that the substitute ordinance proposed by city staff amended the timeframe of the implementation of the rates, not the rate structure suggested by Lamar Dunn, to allow the commercial consumers to make adjustments.

Mr. Mark McBride, 954 West Outer Drive, small business owner and formal federal regulator, explained that it is his impression that federal regulators should be fair and reasonable and the EPA was apparently acting in neither capacity, and suggested that the City defend itself against the EPA given the unfairness. He concluded by explaining that if residents will be required to make home repairs as part of the mandates, then the public needs to be alerted to the possible issues.

Both the City Manager and Mayor Beehan explained that the City had made several attempts to come to more reasonable terms with the EPA.

The vote to postpone the consideration of the wastewater ordinance to a special called meeting was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

**ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

**Elections/Appointments**

On first ballot, Dr. Gray Dean was elected to serve on the Environmental Quality Advisory board for the balance of an unexpired term of office ending on December 31, 2012 receiving the votes of Councilmembers Garcia Garland, Hensley, Mosby, and Smith. Mayor Pro Tem Miller and Mayor Beehan voted for Ms. Sylvia Milanez and Councilmember Hope voted for Mr. Perry Jones.

**Announcements**

(NONE)

**Scheduling**

(NONE)

## **COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS**

Councilmember Hensley recognized Melinda Hillman, Executive Director for Roane State Foundation, for Roane State Community College's achievement of ranking 27<sup>th</sup> nationally among the Top 500 Community Colleges in the United States.

Mayor Pro Tem Miller reported on her attendance to the Goodwill Recognition Ceremony in that it was an impactful event. Mayor Beehan suggested that the attendance to the ceremony be rotated among the councilmembers so that everyone could have an opportunity to attend the event.

Mayor Beehan explained, in response to Councilmember Mosby's inquiry regarding a council retreat that the City Manager was aware that council was interested in a retreat and suggested that he and Mosby meet simultaneously and have the City Clerk's Office advertise the meeting in accordance with the Sunshine Law, which was also advised by the City Attorney. Councilmember Mosby also reported that he was the scorekeeper in the Tennessee Science Bowl in which Oak Ridge finished in the top sixteenth. He also noted that he recently attended the TML Legislative Conference in Nashville.

Councilmember Hensley continued the discussions about the TML Legislative Conference by explaining he and others had met with key officials and had good discussions regarding a range of topics that affect Oak Ridge.

Councilmember Hope commented that his first TML Conference was a great learning experience and that he had been afforded a worthwhile networking opportunity with other government officials.

Councilmember Garcia Garland reported that she attended the first robotics competition in Knoxville that combines science, technology, and math in a sports-style competition. She indicated that this was the first competition held in the region with various high schools from the nation participating, and the first in which Oak Ridge High School partook.

Councilmember Smith reported that she participated in two (2) working group sessions for the Plan East Tennessee (PlanET) program: transportation infrastructure and environment. She noted that a program facilitator remarked that the organization's goal is for different community members to meet and interact so they can work together in the future.

## **SUMMARY OF CURRENT EVENTS**

### **City Manager's Report**

The City Manager explained that the survey for the Senior Citizens Center Needs Assessment had been completed and since it involves the Elder Citizens Advisory Board (ECAB), the Recreation and Parks Advisory Board, and City Council. He suggested that the groups come together in a joint meeting to receive that report, possibly on March 29, 2012.

He also reported on the following legislative issues affecting Oak Ridge: Representative John Ragan sponsoring the Land Bank Legislation and a bill from Governor Haslam's Office to reduce grocery costs (which are state shared revenue). The City Manager also indicated that the City is closely following a "school bill" that allows schools to apply for grants unilaterally and, if awarded the grant, language exists that implies that the City could pay the matching funds associated with the grant.

### **Electric Vehicle Project**

Received for the record; no action taken.

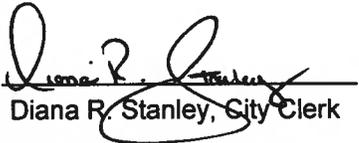
Councilmember Smith suggested that electric car recharging stations be installed near places where people would be more likely to gather, such as the Marina or the adjacent city-owned parking lot near the Children's Museum.

City Attorney's Report

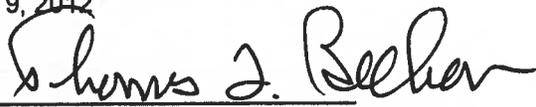
(NONE)

ADJOURNMENT

The meeting adjourned at 10:15 p.m.

  
Diana R. Stanley, City Clerk

APPROVED BY CITY COUNCIL  
April 9, 2012

  
Thomas L. Beehan, Mayor