

**MINTES OF THE
OAK RIDGE CITY COUNCIL**

November 5, 2012

The regular meeting of the City Council of the City of Oak Ridge, Tennessee convened at 7:00 p.m. on November 5, 2012, in the Courtroom of the Municipal Building with Mayor Thomas L. Beehan presiding.

INVOCATION

The Invocation was given by Pastor Robert May.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance to the Flag of the United States of America was led by Ms. Theresa Scott.

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 Gary M. Cinder, Public Works Director serving in the brief absence of the City Manager; Mark S. Watson, City Manager; Janice E. McGinnis, Finance Director; Kenneth R. Krushenski, City Attorney; and Diana R. Stanley, City Clerk.

APPEARANCE OF CITIZENS

Mr. Martin McBride, 954 West Outer Drive, wanted to offer three (3) suggestions regarding the Environmental Protection Agency (EPA) Administrative Order (AO). Mayor Beehan requested that Mr. McBride provide his comments after staff had delivered their cost report for the EPA AO under "Special Reports." In regards to Mr. McBride's comments regarding the City's strategies for the Department of Energy (DOE), the Mayor requested that too be delayed as part of his overall comments that he would make following the cost report.

PROCLAMATIONS AND PUBLIC RECOGNITIONS

Public Recognition of Code Enforcement Officials in the Community Development Department for their recent training completion.

Mr. Arnold Blackwell and Mr. Jake Martin, Code Enforcement Officials in the Community Development Department, received public recognition for completing their training in the International Mechanical Code 2012 edition.

SPECIAL REPORTS

Oak Ridge Heritage Railroad Authority Annual Report 2012 from Gordon Fee, Chairman of the Board of Directors.

Mr. Gordon Fee, Chairman of the Oak Ridge Heritage Railroad Authority (1064 W. Outer Drive), presented the Board's Report for Fiscal 2012 (July 1, 2011 to June 30, 2012). After brief discussion, Councilmember Smith moved that the report be received for the record. The motion was seconded by Mayor Pro Tem Miller and was adopted by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

Environmental Protection Agency (EPA) cost report from Public Works Department Director Gary Cinder.

Public Works Director Gary Cinder provided an extensive overview regarding EPA updates on the AO

which included the following cost summaries: city field crew services, professional services, information management system, engineering, rehabilitation projects cost-pre remediation plan, remediation plan projects, and Public Works Department additional staffing. The presentation also showed examples of minor fixes for laterals of property owners performed by Public Works, as well as smoke testing findings of property owners.

Following the conclusion of the presentation, Mr. Cinder responded to questions and comments of City Council.

Mr. Martin McBride, 954 West Outer Drive, offered three (3) suggestions regarding the AO: (1) develop a strategy for Council to monitor the scope, schedule, and cost of the project; (2) develop a strategy to help the DOE understand their participation; and (3) strategy for the EPA regarding requirement relief. Additionally, Mr. McBride commented that a total cost estimate that includes capital, operating/maintenance, and lateral expenses of three aforementioned suggestions were needed so as to better communicate with the different agencies involved in this situation.

(The City Manager was noted as present at this time.)

CONSENT AGENDA

The City Clerk noted that two (2) corrections needed be made to the October 22, 2012 City Council meeting minutes. On page 2 of the minutes, under Resolution No. 10-82-2012, the third paragraph, the word "organizations" should read "organization's." Also, on page 4 of the minutes pertaining to Ordinance No. 17-2012, the citizen's participating in the public hearing needed the last name changed from "Chris" to "Crist."

Councilmember Smith requested that the following resolutions be removed from the Consent Agenda:

Adoption of a resolution amending Resolution 12-141-06 to require the City Judge Salary Review Committee to recommend to City Council any modifications to the compensation of the City Judge no later than July 1 of the year in which the term of office is set to expire.

Adoption of a resolution approving the FY2013 revised Classification Plan, as recommended by the City Manager.

Upon removal of the items, the remainder of the Consent Agenda was approved by unanimous voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye," thereby:

Approving the October 22, 2012 City Council meeting minutes as corrected.

Adopting Resolution No. 11-86-2012 to accept and approve revised bylaws of the Personnel Advisory Board.

Items Removed from the Consent Agenda

Resolution No. 11-87-2012

Adoption of a resolution amending Resolution 12-141-06 to require the City Judge Salary Review Committee to recommend to City Council any modifications to the compensation of the City Judge no later than July 1 of the year in which the term of office is set to expire.

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

The City Clerk briefly reviewed the timeline of the meetings and actions of the committee to this point.

Councilmember Mosby moved to include language in the resolution regarding the Committee's consideration and recommendation that no changes were made in compensation for the City Judge. 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."

Following brief discussion regarding the City Judge's current compensation and committee meeting scheduling, the resolution, as amended, was unanimously approved by voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye."

Resolution No. 11-88-2012

Adoption of a resolution approving the FY2013 revised Classification Plan, as recommended by the City Manager.

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

Following brief discussion and review by the City Manager, 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."

RESOLUTIONS

Resolution No. 11-89-2012

Adoption of a resolution authorizing an expenditure of \$50,000.00 from the Economic Diversification Fund for the 2013 Secret City Festival and designating the City as a "Festival Sponsor" for the event.

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

Recreation and Parks Department Director Josh Collins and Finance Director Janice McGinnis responded to inquiries of Councilmember Smith regarding the budget location of the monies retained at the end-of-year by explaining that funds are deposited into a liability account that is used as a standing festival account to build a balance in emergency funding situations.

Following additional discussions, the resolution was approved by voice vote with Councilmembers Hensley, Hope, Mosby, Smith, Mayor Pro Tem Miller, and Mayor Beehan voting "Aye," and Councilmember Garcia Garland voting "Nay."

Resolution No. 11-90-2012

Adoption of a resolution authorizing a Professional Services Agreement with the Arts Council of Oak Ridge to provide entertainment, production support, activities and programs related to the upcoming 2013 Secret City Festival and authorizing the reimbursement of actual costs incurred in an amount not to exceed \$150,000.00.

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

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

Resolution No. 11-91-2012

Adoption of a resolution approving an agreement with Motorola Solutions, Inc., Knoxville, Tennessee, to provide a radio expansion system with Long Term Evolution (LTE) Technology for the City's Public Safety System in the estimated amount of \$1,044,622.00 to be paid for with federal grant funds.

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

Deputy Police Chief Alan Massengill responded to inquiries of City Council and after brief, additional discussions, 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."

Resolution No. 11-92-2012

Adoption of a resolution authorizing the expenditure of up to \$340,000.00 from the Equipment Replacement Fund for the purchase and equipping of eight (8) patrol vehicles for the Police Department.

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

Police Chief James Akagi provided information regarding the Vehicle Take Home Program's use by police officers, and noted that positives results of this program within the community and the Department. The Police Chief also responded to questions and comments of the City Council.

Oak Ridge Police Lieutenant Charles Smith noted success stories of the Vehicle Take Home Program of other cities, and reviewed the Department's proposed replacement structure plan with the new program. Additionally, Lieutenant Smith noted that studies have showed that single-owned vehicle maintenance costs are lower than that of pool vehicles.

Following additional discussions, 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."

Resolution No. 11-93-2012

Adoption of a resolution to amend the Professional Services Agreement with Kutak Rock, LLP, Washington D.C. to add an additional \$25,000.00 for contract negotiation with the United States Department of Energy (DOE) for a new water services agreement.

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

The City Attorney noted that staff had retained services of Seth Kirshenbug of Kutak Rock to help finalize the water services agreement with DOE based on previous professional services with the organization, as well as their experience with the DOE. Mr. Krushenski noted that this procedure to amend the Professional Services Agreement was a safeguard in the event that the original agreement exceeds the original \$25,000.00.

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."

Resolution No. 11-94-2012

Adoption of a resolution to provide for special consideration regarding the City's Utility Deposit Policy for residential utility account holders that are displaced due to the Kroger Marketplace development provided certain conditions are met.

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

Mayor Beehan recused himself from participation on this resolution and Mayor Pro Tem Miller assumed chairmanship for this item.

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

PUBLIC HEARINGS AND FIRST READING OF ORDINANCES

AN ORDINANCE TO AMEND THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCELS 16-37, ANDERSON COUNTY TAX MAP 099K, GROUP B, AND PARCELS 28-57, ANDERSON COUNTY TAX MAP 099K, GROUP C, FROM R, RESIDENTIAL TO B, GENERAL BUSINESS; AND CHANGING THE DESIGNATION OF PARCELS 13-15, ANDERSON COUNTY TAX MAP 099K, GROUP B, FROM O, OFFICE/INSTITUTIONAL TO B, GENERAL BUSINESS.

Councilmember Hensley moved, seconded by Mayor Pro Tem Miller that the ordinance be approved on first reading.

Mayor Beehan recused himself from participation on this amendment and Mayor Pro Tem Miller assumed chairmanship for this item.

Councilmember Smith moved, seconded by Councilmember Hope to open the floor for the public hearing.

Following no citizen participation, Councilmember Smith moved, seconded by Councilmember Hope to close the public hearing. The motion was approved by voice vote with Councilmembers Garcia Garland, Hensley, Hope, Mosby Smith, and Mayor Pro Tem Miller voting "Aye."

Community Development Directory Kathryn Baldwin responded to questions and comments of City Council, and afterwards the ordinance was approved on first reading with Councilmembers Garcia Garland, Hensley, Hope, Mosby, Smith, and Mayor Pro Tem Miller voting "Aye."

FINAL ADOPTION OF ORDINANCES

Ordinance No. 23-2012

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING SECTION 8-805, TITLED "DRUGS OR LIQUOR ON PREMISES," AND SETTING FORTH A NEW SECTION 8-805, TITLED "DRUGS ON PREMISES," AND TO DESIGNATE CITY CODE SECTION 11-201, CURRENTLY UNTITLED, TO BE TITLED "CUSTOMERS' ABILITY TO BRING ALCOHOLIC BEVERAGES INTO A PLACE OF BUSINESS FOR PERSONAL CONSUMPTION," ALL FOR THE PURPOSE OF SETTING FORTH REGULATIONS CONCERNING THE PRACTICE COMMONLY REFERRED TO AS "BROWN BAGGING."

Councilmember Garcia Garland moved, seconded by Councilmember Hensley to re-enter the ordinance titled, *"an ordinance to amend the Code of Ordinances, City of Oak Ridge, Tennessee, by deleting section 8-805, titled "Drugs or Liquor on Premises," and setting forth a new section 8-805, titled "Drugs on Premises"; and by deleting title 11, titled "Municipal Offenses," chapter 2, titled "Alcohol, Drugs, etc." in its entirety and substituting therefor a new chapter 2, titled "Alcohol," all for the purposes of setting forth regulations concerning the practice commonly referred to as "brown bagging"* that was tabled at the October 22, 2012 City Council meeting. 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."

The City Manager noted that staff, following discussions with the City Council, was introducing a new, substitute ordinance at the November 5, 2012 City Council meeting that contained a new section titled "Municipal Offenses" and "Section 11-201," and noted that the substitute ordinance does not place a square footage minimum on food service establishments.

Councilmember Hensley moved to consider the substitute ordinance as presented by staff, seconded by Hope.

Councilmember Smith proposed two (2) amendments to the substitute ordinance: (1) to correct a typo in

the title of Section 2 from "Place a Business" to "Place of Business;" and (2) to include the additional verbiage in the first paragraph under Section 11-201 so that it reads "...that possesses a valid permanent *on premises* beer permit."

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

Ms. Theresa Scott, 102 Victoria Road, inquired about the brown bagging of wine to businesses, and expressed her concern that the ordinance was broad and would cause future issues.

Senior Staff Tammy Dunn and Oak Ridge Police Chief James Akagi responded to inquiries and comments of the City Council and following brief discussions, the substitute ordinance, as amended, 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

Announcements

Scheduling

The City Clerk reviewed City Council meetings for the remainder of 2012 as follows:

- November 19, 2012 Work Session at 7:00 p.m. in the Central Services Complex, Multipurpose Room
- December 10, 2012 City Council regular meeting at 7:00 p.m. in the Municipal Building Courtroom
- December 17, 2012 City Council special meeting to election members to Boards and Commissions

Additionally, the City Clerk noted that the filing deadline for applications and other supporting documents for the Boards and Commissions election was Friday, November 16, 2012 by close of business.

COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS

Councilmember Hensley requested that a new initiatives committee be considered at a future Work Session.

Mayor Pro Tem Miller inquired about updates on the AT&T UVerse Connection to view the City Council meetings to which Mayor Beehan answered that a resident had indicated to him that the current meeting was displaying correctly.

Councilmember Hope expressed his gratitude in working with the other City Councilmembers. Mayor Beehan additionally expressed his best wishes to the three (3) councilmembers campaigning for the city election.

Councilmember Mosby noted that he had received positive comments regarding the Oak Ridge Police Department's improvements, and would also like to have the City examine a project manager position in the future.

Councilmember Smith also expressed positive remarks of the Oak Ridge Police Department's services

she had received from the community. She also noted that positive feedback had been received regarding the enforcement of parking ordinances.

SUMMARY OF CURRENT EVENTS

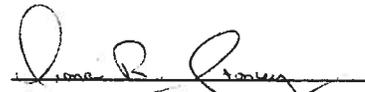
CITY MANAGER'S REPORT

The City Manager reminded the City Council that the Election Commissions will need to certify the Roane and Anderson County election results, and that the organization has until November 26, 2012 to complete the certification. Following certification, the City Manager explained that City Council could have a private swearing-in to continue to conduct city business.

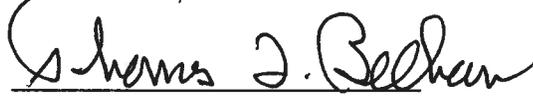
CITY ATTORNEY'S REPORT

ADJOURNMENT

The meeting adjourned at 10:25 p.m.


Diana R. Stanley, City Clerk

APPROVED BY CITY COUNCIL
December 10, 2012


Thomas L. Beehan, Mayor