

**OAK RIDGE CITY COUNCIL  
SPECIAL MEETING**  
Municipal Building Courtroom

October 20, 2014—7:00 p.m.

AGENDA

- I. ROLL CALL
- II. DISCUSSION AND CONSIDERATION

The following will be considered at the October 20, 2014 City Council Special Meeting:

“to discuss and possibly take action on a plan to engage DOE officials with regards to their obligations to the City of Oak Ridge and its citizenry. Let it [the special meeting request] include formally requesting, in writing, a DOE Community Assistance Review as allowed within AECA 1955, PL 84-221, DOE Order 2100.12A and other supporting legislation, including those self-sufficiency plans dating from 1980 through a Council Resolution and other joint local government collaborative action to include a specific date for a response.”

- III. ADJOURNMENT

## Stanley, Diana

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**From:** Trina Baughn <trina.baughn@gmail.com>  
**Sent:** Monday, October 6, 2014 3:27 PM  
**To:** Stanley, Diana; Krushenski, Ken  
**Subject:** RE: Special Called Meeting Request

Ms. Stanley,

Please schedule, per Section II-2 of the Charter City Charter, a special meeting of the council for October 20, 2014 to discuss and possibly take action on a plan to engage DOE officials with regards to their obligations to the City of Oak Ridge and its citizenry. Let it include formally requesting, in writing, a DOE Community Assistance Review as allowed within AECA 1955, PL 84-221, DOE Order 2100.12A and other supporting legislation, including those self-sufficiency plans dating from 1980 through a Council Resolution and other joint local government collaborative action to include a specific date for a response.

Trina Baughn

## Stanley, Diana

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**From:** chuck188@comcast.net  
**Sent:** Tuesday, October 7, 2014 12:47 PM  
**To:** Stanley, Diana  
**Subject:** Re: Special Meeting Request, October 20

Diana  
I also would like to have a meeting with that purpose.  
Sincerely,  
Charlie Hensley

Sent from XFINITY Connect Mobile App

----- Original Message -----

**From:** Diana Stanley  
**To:**  
**Sent:** October 7, 2014 at 11:48 AM  
**Subject:** Special Meeting Request, October 20

On October 6, 2014, I received a request from a member of City Council to have a special meeting on Monday, October 20 for the following:

“to discuss and possibly take action on a plan to engage DOE officials with regards to their obligations to the City of Oak Ridge and its citizenry. Let it include formally requesting, in writing, a DOE Community Assistance Review as allowed within AECA 1955, PL 84-221, DOE Order 2100.12A and other supporting legislation, including those self-sufficiency plans dating from 1980 through a Council Resolution and other joint local government collaborative action to include a specific date for a response.”

If another member of the City Council is interested in pursuing this request, please contact me.

Thank you,

*Diana Stanley*  
*City Clerk*  
*City of Oak Ridge*  
*200 S. Tulane Avenue*  
*Oak Ridge, TN 37830*  
[dstanley@oakridgetn.gov](mailto:dstanley@oakridgetn.gov)  
*(865) 425-3411\_office*  
*(865) 425-3409\_fax*  
[www.oakridgetn.gov](http://www.oakridgetn.gov)

Electronic communications with officials and employees of the City are subject to Tennessee's Public Records Act.

**CITY COUNCIL MEMORANDUM**  
**14-36**

**DATE:** October 17, 2014

**TO:** Honorable Mayor and Members of City Council

**FROM:** Mark S. Watson, City Manager

**SUBJECT:** OCTOBER 20, 2014 CITY COUNCIL SPECIAL MEETING

City Council shall conduct an information gathering session and Council discussion on the background of DOE funding and reliance on future support for the Oak Ridge community. The purpose of the meeting is as described and requested by Councilmember Trina Baughn. The meeting shall also include a presentation by former City Councilmember Leonard Abbatiello.

The City of Oak Ridge was established in 1959 as a municipal corporation within the State of Tennessee. The Oak Ridge National Laboratory, Y-12 National Security Complex, the inactive K-25 Gas Diffusion Processing Facility and numerous DOE support facilities are located within the city limits of Oak Ridge. As a result of serving these facilities, the City of Oak Ridge has many unique public service requirements, untypical of many cities of our size such as radioactive emergency response, fire protection for large facilities, external police observation and cultural/historical projects.

Financially, the DOE has provided a payment in lieu of taxes (PILT) funding for many years to replace standard property taxes for the tax exempt property owned by the DOE. This formula has been set up for many years and concern has been expressed for its adjustment to today's dollars. Additional efforts have been made by the City to obtain additional revenues through such matters as direct appropriation, land transfers, tipping fees and contracts for services.

The City Council has asked that the current Council be apprised of these efforts, obtaining various perspectives on how the City may fund city services in the future with a correct share of financial support from the U.S. Government.

  
\_\_\_\_\_  
Mark S. Watson

LEGAL DEPARTMENT MEMORANDUM  
14-39

RECEIVED  
2014 SEP 23 PM 3:16  
OFFICE OF THE CITY CLERK

DATE: September 23, 2014  
TO: Honorable Mayor and Members of City Council  
FROM: Kenneth R. Krushenski, City Attorney  
SUBJECT: BAKER DONELSON PROFESSIONAL SERVICES AGREEMENT - 2002-2005

At last night's Work Session, Council discussed the Baker Donelson lobbying efforts for the City which resulted in the document entitled "Application for the Renewal of Annual Assistance Payments to the City of Oak Ridge under the Atomic Energy Community Act of 1955.

For historical and background information, I have attached the following documents which are on file in the City Clerk's Office for Council's review:

1. Memorandum from the Committee for the Enhancement of DOE's Related Remuneration Final Report dated January 30, 2002
2. Baker Donelson Professional Services Agreement dated February 18, 2002
3. Memorandum dated January 12, 2004 from then Councilman Tom Beehan
4. Memorandum from Baker Donelson to the Intergovernmental Relations Committee dated February 4, 2004
5. City Clerk Memorandum #05-07 dated January 7, 2005  
Subject: Final Payment on Baker Donelson Contract
6. Legal Department Memorandum #05-22 - Baker Donelson Bearman & Caldwell (BDBC)  
Contract/After Action Summary

For information only. Should you have any questions or concerns, please feel free to contact me.

  
Kenneth R. Krushenski

Attachment

cc: Mark S. Watson, City Manager

## MEMORANDUM

DATE: January 30, 2002

TO: Fellow Members of City Council

FROM: Committee for the Enhancement of DOE-Related Remuneration  
Councilman Leonard A. Abbatiello, Chair  
Councilman Tom Beehan  
Mayor David R. Bradshaw

SUBJECT: FINAL REPORT AND RECOMMENDATIONS FOR  
ENHANCED REMUNERATION FROM DOE

The Committee for the Enhancement of DOE-Related Remuneration (CEDRR) met on January 9, 2002 and reviewed the *Action Plan Pursuant to the Professional Services Agreement Between the City of Oak Ridge and Baker, Donelson, Bearman & Caldwell* dated December 31, 2001. The Committee voted unanimously to accept the Action Plan. At the January 14, 2002 City Council work session, Mr. Robert F. Worthington of Baker, Donelson, Bearman & Caldwell made a verbal presentation of the Action Plan. The verbal presentation completed all requirements of the Professional Services Agreement (PSA).

The purpose of the PSA was to have a capable legal firm evaluate new avenues and recommend methods through which Oak Ridge might achieve increased federal or state remuneration. The objective is significantly increased revenues within two to four years. The "Action Plan" that resulted from the PSA is summarized in an attached table.

On January 29, 2002, the CEDRR voted to recommend that City Council proceed expeditiously with the following specific actions:

- Apply to DOE for consideration under the ***Special Burdens*** clause of AEA 168. (Oak Ridge has never appealed to DOE under this provision).
- Pursue specific goals to support an updated ***Self Sufficiency Agreement***. Additional land transfer is an important component. All transferred land should also be provided with the needed infrastructure, if it is to assist self-sufficiency. (Currently no official self-sufficiency agreement exists. To date, DOE has transferred only 2,371 acres even though it had agreed to transfer 10,405 acres in previous actions. DOE currently holds 33,905 acres).
- Mount an aggressive **Washington Lobbying Effort** with a specific ***Special Burdens*** focus. (Oak Ridge needs a presence within Washington, D.C., addressing every assembly that debates our future).
- Pursue reinstatement of the previously terminated **Annual Assistance Payments** concept. (Assistance payments terminated in 1986).
- Create **New Tennessee Legislation** authorizing State financial assistance through enhanced sales tax returned to the city. (Focus on uniqueness of Oak Ridge's situation and its regional impact).

Future Directions and Recommendations:

Clearly, there is no "silver bullet," either legal or otherwise, available to Oak Ridge that is likely to immediately increase local remuneration from the DOE or the State, but there is a sound legal and moral basis to pursue enhanced DOE remuneration. Based on the results of this PSA and the successes of other energy communities, we should begin such an effort.

The Committee recommends the following:

That the City Manager and City Attorney be directed to negotiate a professional services agreement with Baker, Donelson, Bearman & Caldwell for completion of Items I, II, III, IV, and V from the Action Plan submitted by the firm on December 31, 2001, with the negotiated agreement to be presented to City Council on February 18, 2002 for consideration and approval.

Attached is a resolution that will initiate this effort as proposed.

During the Energy Communities Alliance (ECA) Conference that was recently held in Oak Ridge, the CEDRR Chairman had the opportunity to listen to and confer with community leaders of several DOE contractor-dominated communities. The Chairman was specifically looking for problems common to the various communities that might be a basis for joint, unified action with respect to the DOE. The communities have very diverse situations, ranging from large reserve funds to communities with benevolent local income tax revenues that provide generous incomes. Land transfer needs were the only common areas identified. Self-sufficiency means very different things to each of these communities, but several of them were effectively employing active lobbying of both DOE and their own elected representatives located in Washington, D.C. Some common threads were present in each and every city. These are:

1. Active lobbying by the community's local elected officials, making it clear that they are the "official" City voice. Officials visit often, preferably bi-monthly.
2. Maintain a focused message, one point at a time, until results are achieved.
3. Demand results and supervise progress while being persistent.

In summary, the Committee believes that an effective local, **official** lobbying effort in pursuit of additional DOE payments under the current law is the best method available to alter our predetermined destiny of very high city property tax rates and/or significant reductions in both municipal and school system services.

This final report completes the CEDRR's responsibility under Resolution Number 8-139-00 (attached). It is recommended that the CEDRR be assigned oversight of the new, negotiated agreement with Baker, Donelson, Bearman & Caldwell.

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Leonard A. Abbatiello, Chairman

## **ACTION PLAN**

### **PURSUANT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OAK RIDGE AND BAKER, DONELSON, BEARMAN & CALDWELL**

Oak Ridge is home to a National Laboratory, a world class weapons complex and a major cleanup effort. The Federal Government owns some 33,420 acres surrounding the 23,219 acres represented by the OR tax base. The annual budget for FY 2001 is \$30,830,365, of which the Federal Government contributed \$1,179,438 as payment in lieu of tax (PILT).

Oak Ridge is a Tennessee Municipal Corporation and is limited in the ways that it can obtain revenue to fund operations and provide services. The principal source of funds available to Oak Ridge is the Real Property Tax which contributed approximately 43% of the total City revenue. In contrast, the property tax contributes approximately 70% to the Knox County revenue. Because the vast majority of land that would under normal circumstances constitute the City tax base is owned by the Federal Government, it is impossible for OR to meet its municipal obligations without substantially increased Federal contributions.

This situation could be substantially alleviated by transferring Federal lands into the tax base. This process should be implemented; however, it is necessarily a long-term solution since the land must be converted to taxable uses such as residential, commercial or industrial uses.

In the meantime, substantially increased Federal participation will be necessary to establish an adequate fiscal structure for the City.

Adequate fair value for remuneration to the City based on the Federal presence in Oak Ridge, we feel could be justified in the area of \$6,000,000-\$9,000,000 annually over a period of three to five years.

The Draft of Action Plan Pursuant to the Professional Services Agreement between the City of Oak Ridge and Baker, Donelson, Bearman & Caldwell is incorporated herein by

reference. This supplement relies upon the background and analysis of the Preliminary Action Plan and in general proposes a description of the recommended action to be taken.

The following are the actions we recommend that the City of Oak Ridge consider in order to increase remuneration to the city.

**I. Apply to the Department of Energy for Special Burdens Relief**

Section 168 of the Atomic Energy Act (AEC) (42 U.S.C § 220 et seq.) authorizes payments in lieu of taxes for property acquired for purposes specified in the Act and that had been subject to taxation by local taxing jurisdictions before the government's acquisition of the property. The payments generally cannot exceed the amount of taxes that would have been payable for the property "in the condition in which it was acquired." Payments to Oak Ridge have been based on acreage classified as farm or agricultural property, assessed at 25% of appraised value and based on a tax rate per \$100 of assessed value. For tax year 2001, based on 33,420 acres of federal land assessed at \$5,327 per acre, the tax rate of \$2.65 per \$100 produced payment in lieu of taxes of \$1,179,438.

The statutory basis for DOE's position in this regard contains a significant exception. AEA § 168 provides, in pertinent part, as follows:

*[T]he [Atomic Energy] Commission shall be guided by the policy of not making payments in excess of the taxes which would have been payable for such property, in the condition in which it was acquired, except in cases where special burdens have been cast upon the State or local government by activities of the [Atomic Energy] Commission, the Manhattan Engineer District or their agents. In any such case, any benefit accruing to the State or local government by reason of such activities shall be considered in determining the amount of the payment.*

42 U.S.C. §2208. (Emphasis added).

As indicated in the Draft of Action Plan, there is no record of DOE having granted Special Burdens assistance. However, our information indicates that only a few applications

have been made and it is our belief that a reasonable case for relief can be made under the Special Burdens section.

The Act does not define what constitutes a special burden. However, according to DOE, such Burden must be unusual and substantial.

It is interesting that a GAO report dated July 1994 contained the following language:

According to DOE officials, in May 1994 DOE was actively studying whether the act permits payments that are based on alternative property classifications. While DOE's legal opinion is not yet available, a senior DOE attorney stated that, in his view, basing payments on alternative property classifications is within DOE's discretion under the act. Specifically, he stated that the act is very vague and that it does not address the cross-classification issue. Instead, as discussed earlier, the act states that payments in lieu of taxes generally cannot exceed the amount of taxes that would have been payable for the property "in the condition in which is was acquired." Basing payments on alternative property classifications would be a major departure from the agency's past interpretations and actions. However, in the senior attorney's view, calculating payments on the basis of alternative property classifications is probably permitted by the act. Absent congressional guidance on the subject, he said that the language in the act could be interpreted as simply prohibiting payments based on government-financed improvements.

We believe that a well-constructed analysis of the situation in Oak Ridge could meet the statutory requirements for Special Burdens relief and if artfully presented with appropriate background and argument, there is a reasonable chance of success. The fact that Oak Ridge is the only site in our country that has three major DOE missions going on at the same time (a National Laboratory, a weapons facility and a cleanup initiative), should weigh in the city's favor. Plus, the time and effort expended on seeking this Special Burdens relief would be valuable in pursuing other alternatives and would at least meet any obligation to exhaust our administrative remedies under the Act.

Should property assessments be on the basis of highest and best use, then remuneration to the City of Oak Ridge could be subject to rather dramatic increase. Agricultural property under Tennessee law is assessed at 25% of appraised value.

As indicated in the appraisals, the federal lands were assessed at \$5,317. We are informed that industrial property appraisals range from \$17,500 to \$35,000; residential appraisals for undeveloped land range from \$9,000, and commercial appraisals range from \$50,000 to \$400,000.

If these values were utilized in calculating PILT payments, a substantial increase of two to three times the 2001 PILT payments would not seem unreasonable.

We estimate that the research and preparation of the Special Burdens petition to DOE could take from three to six months. Laying the groundwork with DOE and the Congressional delegation could well take an additional six months. Approval could come within one to two years.

Our estimate of the cost for such services is \$30,000 on an annual basis.

There are political advantages to applying for this status and by doing so, the city will have the opportunity to present its situation to DOE and the Congressional delegation. Furthermore, it will end any argument that this alternative should have been pursued.

## **II. Renegotiate City's 1985 Contract with DOE to Reinstitute Annual Financial Assistance Payments and Add More Federal Land to the Tax Base.**

In December 1985, the City of Oak Ridge entered into an agreement with DOE regarding direct financial assistance payments pursuant to Section 91 of the Atomic Energy Communities Act ("AECA"). This agreement provided a lump sum payment in settlement of "all annual financial assistance payments pursuant to Section 91 of the Atomic Energy Community Act of 1955 as amended." Under this contract, PILT payments were terminated for 10 years or until fiscal year 1996.

DOE, in entering into this Memorandum of Understanding, agreed to certain items "considered to be important additional components necessary to assist the Communities [to]

reach financial self-sufficiency." Section 2 of the agreement provides that DOE will adopt a 10-year program which will "minimally include provisions for (a) purchasing options for the transfer of surplus land at full market value to the local governments, (b) maximizing the use of privately-owned, taxable facilities and services for DOE/,ORO and contractor programs, and (c) assisting in the implementation of the DOE contractor community involvement proposals. Section 4 of the contract states that DOE "will evaluate and report on the degree of achievement of local government self-sufficiency and the need for further action. This language makes clear the intention of DOE to go forward in assisting the communities in achieving self-sufficiency and clearly contemplates that further action may be required.

We believe that a case can be made that the goals contemplated by the Memorandum of Understanding have not been met, that circumstances have changed, and that the means of achieving the goal of self-sufficiency for Oak Ridge should be re-examined and the means of achieving this should be re-evaluated in view of the circumstances now prevailing. It is our assessment that the goal of self-sufficiency can most likely be achieved by the transfer of federal land in a manner that will cause it to be included in the tax base. As previously suggested, this is a long term solution and we believe that a case can be made for reinstating the annual financial assistance payments. The last Federal assistance payment amounted to \$3,042,185 which was paid in FY 1985. It is reasonable to assume that payments in excess of that figure could now be justified.

Here again, careful study and analysis must be invested in determining the circumstances which would justify modification of the 1985 Memorandum of Understanding. Much of this work would be covered by the research and analysis required for a Special Burdens petition. Similarly, the time for putting together an effective plan could well amount to three to six

months. Implementation of the Plan would include obtaining an investment in working together to resolve the problem by affected centers of influence, including the Congressional Delegation (Congressmen, Senators and appropriate Legislative Directors), as well as key DOE officials. An estimate of the time it would take to implement the recommendation would be from one to two years and at a cost of approximately \$30,000 on an annual basis. Here again, there is very little political downside to this approach and, in fact, it does provide an opportunity to portray Oak Ridge in a positive light and to establish a meaningful dialogue which may well result in a resolution of the situation by means not now contemplated. We feel that this approach has a reasonable chance of success.

### **III. Focus on Federal Land Transfers Pursuant to "Self-Sufficiency" Plan**

As stated above, the overriding fundamental fiscal issue faced by the City of Oak Ridge is the limitation on the City's ability to raise revenue under Tennessee's property tax-based municipal taxing regime.

There has been a general recognition of the problem; however, attempts to resolve the problem have until now been disappointing and to the extent that progress has been made excruciatingly slow.

The City submitted a self-sufficiency plan dated August 1979 which was accepted by DOE for funding. The proposal established three categories of activities for which DOE would provide funds: (a) commercial/industrial development; (b) development of a general aviation airport; and (c) short-term economic development grants to new industry.

Some of the initiatives originally proposed as part of the self-sufficiency plan, such as the establishment of a general aviation airport, never came to fruition. As the original self-sufficiency plan evolved and was revised over the years, DOE ultimately agreed that land could be conveyed to the City, for both industrial and residential use, to further self-sufficiency goals.

At one point, DOE's Oak Ridge Operations office determined that the land could be transferred directly to the City at fair market value pursuant to Section 161g. of the AEA, rather than being reported excess to the U.S. General Services Administration (hereinafter sometime referred to as "GSA") for screening and subsequent disposal.

Ultimately, twenty-two (22) parcels, totaling approximately 10,405 acres, were identified as self-sufficiency parcels. In 1985 certain remaining designated parcels that had been in view were "grandfathered", thus permitting DOE to consider those transfers should the land become excess to the needs of DOE. To date, only five (5) of such parcels, constituting approximately 2,371 acres, have actually been conveyed to the City.

In Section 3158 of the Defense Authorization Act for FY 1998, DOE has promulgated a new rule entitled *Transfer of Real Property at Defense Nuclear Facilities for Economic Development*. The rule authorizes DOE to transfer property for economic development at below fair market value or at no cost at sites that are negatively impacted by downsizing and changing missions of DOE. Pursuant to the new rule, the City has submitted a proposal to DOE requesting that the land be transferred at no cost to the City due to the extenuating circumstance of the community.

At its February 7, 2000 meeting, the City Council adopted a resolution approving the City's financial strategy to implement the project which includes a commitment from the City of up to \$5.07 million dollars. The resolution authorized the Mayor to request introduction of an amendment to the AECA for the purposes of (1) designating the *Partners for Progress West End* infrastructure initiative as an economic diversification pilot project; and (2) promoting greater self-sufficiency by authorizing the appropriation of assistance payments to the City and to Roane

and Anderson Counties to assist in implementation of economic conversion projects including the pilot project.

The *Partners for Progress* initiative currently encompasses five tracts in the City's West End, comprising approximately 5,441 acres, of which 2,448 acres are slated for development. It is currently estimated that installation of appropriate utilities to these parcels will cost \$15.2 million dollars and will be accomplished in four phases over a period of approximately 12 years. Current estimates of new tax revenues, based upon the assumption of a 20-year build-out of the developable 2,448 acres, suggest that when realized, the *Partners for Progress* development could result in additional annual property tax revenues of \$6,487,200 and \$287,111 in resident sales taxes for Oak Ridge.

There seems to be no lack of either statutory or administrative authority for DOE to go much further in transferring federal lands to the City. Rather, it would seem that the City's focus should be concentrated on developing a sustained and cohesive strategy of persuading and consistently pressuring DOE to increase and accelerate its efforts to identify excess lands and to transfer them to City or private ownership.

We view the City's commitment to the *Partners for Progress* initiative to have been a wise strategic decision on the City's part. We believe that the City's efforts in that regard should be combined with a further commitment to devoting a sustained lobbying effort to continue federal land transfers to Oak Ridge and to fulfill DOE's obligation under Self Sufficiency Plans, which includes grants for infrastructure and economic development.

Here again, we believe that an Action Plan should be carefully laid out and coordinated with *Partners for Progress*. This activity should be accomplished within four months. This plan should be discussed with and commitments for assistance obtained from the Congressional

Delegation. This would be an ongoing effort for as long as three to five years. However, again under the current DOE land occupancy conditions, we feel that \$6,000,000 to \$9,000,000 annually from the Department of Energy would be a fair expectation.

The City is likely to realize some benefits from this without a sustained lobbying effort, but it is likely that the timing of land transfer can be expedited and the possibility of obtaining grants for infrastructure or economic development incentives will be substantially enhanced.

Our estimate of the cost for such services is \$30,000 on an annual basis.

#### **IV. Develop Close Relationships with Contractors and Lobbyists, and Maintain an Aggressive Lobbying Effort on Behalf of the City's Interests**

It is imperative that the City develops close working relationships with DOE's contractors in Oak Ridge, especially those with an active lobbying presence in Washington, D.C. Previously, contractors were required to have an economic development commitment as a condition of their contract, but with the new Y-12 contract this criteria was not included. With this being the case, it is more important than ever for the City to strengthen and to build its relationships with these prime and subcontractors.

As a first step in doing this, we recommend that the city do an inventory of all the companies in Oak Ridge that have strong lobbying relationships in D.C. Upon doing this, the city should convene a joint meeting of such parties preferably in Washington. At this meeting, the city should come prepared to address four to six common areas of interest that the companies would then be asked to get behind. The advancement of each of these issues should be advantageous to all the parties involved. And with the old theory that there's strength in numbers, we believe that by having each company lobby these issues individually, the City will have the greatest opportunity for success.

Some possible lobbying issues could include the following areas:

- Current annual PILT payments
- Cleanup funds
- Reindustrialization
- Land-use Issues
- DOE contractor's economic development support
- Forming coalitions with other communities, particularly other DOE communities and the City of Knoxville

By bringing this group together on a regular basis (we suggest every other month or at least quarterly), the City is taking its place at the table with Oak Ridge's heavyweights in D.C. with the objective of achieving win-win-win solutions for the City, the overall Oak Ridge community and Oak Ridge's contractors.

In order to maintain these relationships, we suggest an ongoing program of coordinating with the lobbyists. Our estimate of the costs for such services would be \$30,000 on an annual basis.

**V. Focus on Issues Specific to the State of Tennessee and Explore the Potential for Legislation that Recognizes Oak Ridge's Unique Status as a Federal Community**

While it is imperative that the City of Oak Ridge improve its presence in Washington, it is equally important for the city to strengthen its ties in Nashville with the administration and with state legislators such as Senator Randy McNally and Representative Gene Caldwell. The City has suffered from its lack of a continuous presence in the state capitol, particularly when it comes to the areas of economic development and environmental management. Obviously, it's a lot easier to sell your ideas to someone who knows you and by getting in front of the movers and shakers in Nashville on a regular basis, they will have a better understanding of the City's overall needs and be more willing to help the City in progressing its goals..

Oak Ridge is unique in Tennessee in its status as a federal community and the City must leverage this fact when pursuing state support. There is no city in the country that has what Oak

Ridge has to offer -- a renowned national laboratory; the soon-to-be largest science project in the world, SNS; a world-class weapons complex; and a first-of-its-kind reindustrialization effort, all less than 30 minutes away from the most visited National Park in our nation. Gatlinburg enjoys a similar singular status because of its location outside the Park and the number of visitors it attracts to East Tennessee each year. Its recognition as a premier resort town, has qualified Gatlinburg to receive double the normal sales tax funds from the state. Oak Ridge should receive similar consideration.

We believe that the chances of success in this area are good.

We recommend that the City move forward in this area to help the City advance its goals with the state. As with the objective of building relationships in D.C., we believe this should also be an ongoing effort and estimate the cost of such services at \$25,000 on an annual basis.

**VI. Increase Expertise in Grantsmanship within the City of Oak Ridge, at both State and Federal Levels**

As the City becomes more engaged in lobbying efforts with the state and federal governments, it is important that the City's lobbying firm work alongside the person in charge of seeking grants for the City. While the City's staff person will prepare the grant applications, the paid lobbyists may have knowledge and/or access to additional grant resources and opportunities that could be easily overlooked.

We also suggest that the City look at what other Energy Community Alliance cities are doing in the area of grants and if needed, revamp its own grants program to model after more successful ones. Additionally, it is recommended that the City maintain key relationships with the East Tennessee Development District, since Anderson and Roane counties are contained therein. The ETEDA offers expertise on the preparation of grant applications, which can be assessed and utilized to the benefit of Oak Ridge as well. As noted above, Oak Ridge's unique

status as a federal community presents the City with the opportunity to go after other alternative forms of financial assistance as well, and the City should work with its lobbyists and grants team to assure that this is being done.

This program should produce additional funds over those now being realized and should have a net positive political impact. Our estimate of the cost for our services is \$10,000 based on an annual basis.

**VII. Establish More Effective Public/Private Partnerships to Stir Greater Private Sector Investments**

Along with the City's effort to encourage DOE to transfer more federal land to be used in private enterprise (as noted under item III in this Action Plan), the city must also build its partnerships with the private sector. One good example of this is the partnership the city has already developed with the Rarity Ridge project.

On a further note, the City also stands a much better chance of gaining EDA funding if it has already secured partial funding from the private sector. By showing this initiative to gain monetary assistance from a private company, the EDA will usually look more favorably on a request for support. This program should produce positive results with a net positive political impact. Our estimate of the costs for our services is \$10,000 on an annual basis.

**VIII. Pursue Compensation Under the Tennessee Perpetual Care Investment Fund**

In late 1999, the DOE and the Tennessee Department of Environment and Conservation entered into a Consent Order whereby DOE agreed to pay \$1,000,000 per year for 14 years into a fund to be managed by TDEC. This fund, the Tennessee Perpetual Care Investment Fund, is be used to conduct surveillance and maintenance of Oak Ridge's Environmental Management Waste Management Facility (EMWMF). The fund will terminate upon written agreement between DOE and TDEC that surveillance and maintenance of the facility is no longer required.

The City has the opportunity, when this happens, to pursue funding from the state for its role in the upkeep of the EMWMF pursuant to Tennessee Code Annotated 68-212-210 that provides that a Solid Waste Disposal Control Board shall have the authority to establish eligibility requirements for a local government to receive funds, if any, appropriated by the Tennessee General Assembly in general appropriations to encourage responsible waste disposal. T.C.A. 68-212-210 also establishes the minimum standards that must be met in order for a local government to be eligible to receive such funds. It appears that the EMWMF would meet the requirements set forth in T.C.A. 68-212-210.

This approach has considerable potential and would have a net positive political effect. Our estimate of the cost for our services is \$35,000 on an annual basis. In addition, and perhaps most significantly, *Tennessee Code Annotated §68-212-211* provides as follows:

**68-212-211. Local government fees - State hazardous waste management fee. -**

- (a) Any local government which has received the funds deposited in the responsible waste disposal incentive fund pursuant to §68-212-210 may levy an additional fee on the disposal of hazardous wastes disposed of at the facility within its jurisdiction not to exceed the following; (1) Five dollars (\$5.00) per ton on the land disposal of hazardous wastes; and (2) Two dollars and fifty cents (\$2.50) per ton on the treatment of such wastes.
- (b) In addition to such local government fees, the board shall levy a state hazardous waste management fee on such commercial facility in a sum sufficient to replace the fees levied and appropriations made pursuant to §68-212-203. Such fees shall be structured to encourage the treatment, reduction and reclamation of hazardous wastes. At such time as such state fees are levied, all fees levied pursuant to §68-212-203 shall be rescinded and the obligation to pay such fees shall cease to exist.
- (c) All fees levied pursuant to this section shall be paid quarterly by the owner or operator of the commercial facility to the department of revenue. such department shall remit the local government fee to the county in which such facility is located and shall deposit the state fee in the fund. The board shall adopt rules and regulations in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, governing the collection of such fees and the records required to be maintained by such facility. [Acts 1983, ch. 423 § 11; T.C.A., § 68-46-211.]

As can be seen from the foregoing, the establishment of the Tennessee Perpetual Care Trust Fund, combined with the pre-existing state statutory authority for local governments to receive state appropriations and the concomitant authority to enact direct levies upon DOE use of the Y-12 EMWMF, could provide Oak Ridge with a regular stream of revenue directly tied to DOE's use of the facility.

As noted above, disputes currently exist between DOE and the State regarding various issues relating to the EMWMF and the Perpetual Care Trust Fund. It is fair to assume that DOE may resist the interpretation of the various relevant orders and statutory provisions discussed above. Nevertheless, we view this as a sufficiently interesting potential source of future revenues to the City to bear further investigation and analysis.

The above approaches are somewhat interrelated and could prove to be mutually exclusive. We believe that the best approach would be to conduct the above-mentioned strategies simultaneously. The emphasis should be on identifying the problem and proposing these approaches as a means of resolving the problem. If we are successful in getting the Congressional Delegation and DOE "on board" in finding a way to resolve the problem, then these proposals are merely a means to an end. Conceivably, other avenues may be found.

New legislation or amendments to existing legislation may ultimately prove to be the solution; however, at this time we recommend that this approach be held in reserve.

## PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into as of the 18th day of February, 2002, by and between the City of Oak Ridge, Tennessee, (City) and Baker, Donelson, Bearman & Caldwell, Attorneys-at-Law, Knoxville, Tennessee (BDBC).

WHEREAS, the City has been directed to engage BDBC to provide professional legal services for City pursuant to City of Oak Ridge Resolution No. 2-11-02 which is attached hereto and incorporated by reference herein; and

WHEREAS, BDBC is willing to provide such services on behalf of City under the terms and conditions set forth.

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

1. ENGAGEMENT OF BAKER, DONELSON, BEARMAN & CALDWELL

City hereby engages BDBC to perform the services hereinafter set forth, and BDBC hereby accepts such engagement.

2. BAKER, DONELSON, BEARMAN & CALDWELL SCOPE OF SERVICES

2.1 Scope of Services

BDBC will work with the City to identify issues which are of significant interest to the City and assist the City in its efforts to secure federal and state support to address those issues, including short and long-term solutions. The firm will utilize all appropriate assets and personnel of the firm in that effort. Such efforts are listed as Items I, II, III, IV, V and VIII of the BDBC Action Plan dated December 31, 2001 and summarized as follows:

- Apply to Department of Energy (DOE) for consideration under *Special Burdens* clause of AEI 168.
- Pursue specific goals to support an updated *Self Sufficiency Agreement*. Additional land transfer is an important component. All transferred land should also be provided with the needed infrastructure, if it is to assist self-sufficiency.
- Mount an aggressive **Washington Lobbying Effort** with a specific *Special Burdens* focus.
- Pursue reinstatement of the previously terminated **Annual Assistance Payments** concept.
- Create **New Tennessee Legislation** authorizing State financial assistance through enhanced sales tax returned to the city with a focus on uniqueness of Oak Ridge's situation and its regional impact.

2.2 Supplemental Scope of Services

- Pursue Tennessee Perpetual Care Investment Fund Compensation (Hazardous Waste Management Fees)

3. ASSISTANCE FROM CITY.

To assist BDBC in performing legal representation, City shall furnish BDBC, without charge, copies of all available agreements, reports, regulations, technical data and other information reasonably requested by BDBC relevant to the services to be provided by BDBC.

4. TERM.

This Agreement shall become effective on the date first written above and shall continue for a period of three (3) years or until the services set forth in Section 2.1 and 2.2, Scope, have been completed, whichever occurs first, unless mutually extended in writing by the parties, or unless terminated by the parties pursuant to Section 12 herein.

5. COMPENSATION AND EXPENSES.

The Compensation for services paid to BDBC per year under this Agreement shall be \$144,000.00. The Compensation shall be payable in equal monthly installments of \$12,000.00 per month, plus expenses such as photocopying charges, facsimile charges, long distance charges, and travel expenses, if necessary. Each installment shall be due on the 18<sup>th</sup> day of the month.

6. INSURANCE.

The services to be performed under this Agreement shall be performed entirely at BDBC's risk. BDBC shall maintain in full force and effect, during the entire term of this Agreement, Professional Liability Insurance, along with Comprehensive General Liability, Workers' Compensation and Automobile Insurance, in the minimum limits set forth below, and shall provide to the City certificates of insurance.

- Comprehensive General Liability:

Bodily Injury	\$100,000	each occurrence
	\$300,000	aggregate
Property Damage	\$50,000	each occurrence
	\$100,000	aggregate
Or Combined Single Limit of	\$500,000	

- Workers' Compensation and Employer's Liability as provided for in applicable statutes.
- Comprehensive Automobile Liability (Including all owned, non-owned and hired vehicles)

Bodily Injury	\$100,000	each person
	\$300,000	each occurrence
Property Damage	\$50,000	each occurrence
	\$100,000	aggregate
Or Combined Single Limit of	\$500,000	

7. INDEMNIFICATION.

BDBC hereby agrees to protect, indemnify and save harmless the City from and against any and all loss, liability, expense, damage, charge and costs (including court costs and counsel fees) for injury to or death of persons and injury to or destruction of property suffered or alleged to have been suffered as a result of any act or omission on the part of BDBC or others whose services are engaged by BDBC or anyone directly or indirectly employed or controlled by either of them in the course of the performance of the services provided for in this Agreement.

8. INDEPENDENT CONTRACTOR.

It is expressly agreed and understood that BDBC is an independent contractor and shall not represent itself, its agents or employees as agents, employees or servants of the City. Nothing herein is to be construed as to create any employer-employee relationship, and neither BDBC nor any of its employees shall be deemed to be employees or agents of the City.

9. PERSONNEL

9.1. BDBC represents that it has, or will, secure at the BDBC's expense, all personnel required to perform the work and services set forth in Section 2, Scope. Such personnel shall not be employees of or have any contractual relationship with the City.

9.2. All of the services required hereunder will be performed by BDBC or under the BDBC's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under state and local laws to perform such services.

9.3. Representatives of BDBC engaged in providing the services under this Agreement shall be Robert F. Worthington, Jr. and Steve Roth of the Knoxville office of BDBC, Charles Parkinson of the Washington, D.C. office of BDBC, and Jennifer Ford of the Nashville, Tennessee Public Policy Office of BDBC. At all times material to this Agreement, Darrell Akins (Akins/Crisp Public Strategies) shall be considered as a consultant/subcontractor to BDBC and shall be acting under the supervision, direction and control of BDBC.

9.4. Additional personnel may be employed from time to time as the need arises to perform services for BDBC under this agreement. BDBC shall have discretion in obtaining the services of these individuals or companies and controlling their activities.

10. ANTI-DISCRIMINATION.

BDBC, in performing the work or furnishing the services covered by this Contract, shall not discriminate against any person because of race, creed, color, national origin, age, sex, sexual orientation, disability, religion or other legally protected status. The City of Oak Ridge encourages the utilization of minority and women-owned businesses in its contracting and subcontracting projects and BDBC is encouraged to actively solicit the participation of these businesses. BDBC shall inform all of its subcontractors and vendors of this requirement and shall ensure compliance therewith.

11. COMPLIANCE WITH ALL LAWS, ORDINANCES, STATUTES, AND REGULATIONS.

BDBC shall comply with all applicable federal, state, and local laws, ordinances, statutes, rules and regulations.

12. TERMINATION.

Either of the Parties to this agreement may terminate this Agreement by giving sixty (60) days written notice to the other Party of the intent to terminate. Upon the receipt of Notice (as set out in Section 13) it is understood that the services provided by BDBC will cease and the City's obligation to pay any further monthly installments under this Agreement will terminate. The Parties will then have sixty (60) days to conclude this Agreement and terminate BDBC's representation of the City. All services, including but not limited to, work product and documents provided by BDBC for the City that have been provided and paid for under the monthly payment schedule set out in Section 5 shall become the property of the City of Oak Ridge.

13. NOTICE.

Any notice or other communication required or permitted under this Agreement shall be in writing and will be deemed given at the time it is deposited in the United States mail, postage paid, certified or registered mail, return receipt requested, addressed to the party to whom it is to be given as follows:

To BDBC:

Robert F. Worthington, Jr.  
Baker, Donelson, Bearman & Caldwell  
220 Riverview Tower  
900 S. Gay Street  
P.O. Box 1892  
Knoxville, Tennessee 37901

To the City:

Jacquelyn Bernard  
City Clerk  
City of Oak Ridge  
P.O. Box 1  
Oak Ridge, Tennessee 37831-0001

Either party may change its address to which notices will be sent by a notice similarly sent.

14. NO CONFLICTS OF INTEREST.

BDBC acknowledges that its attorneys are subject to the Rules of the Tennessee Supreme Court, and the Tennessee Code of Professional Responsibility promulgated thereunder, which establish the ethical standards relating to the practice of law in the State of Tennessee. Accordingly, the Contractor agrees that as of the date of this Agreement it does not currently represent any client whose interests are adverse to the interests of the City of Oak Ridge with respect to the matters which are the subject of this Agreement. The Contractor further agrees that during the term of this Agreement, it will not accept the representation of any client whose interests are adverse to the interests of the City of Oak Ridge with respect to the matters which are the subject of this Agreement.

During the term that this Agreement is in effect BDBC agrees that it will be bound by the requirements of Disciplinary Rule 5-105 of the Lawyers Code of Professional Responsibility as it relates to BDBC's representation of the City of Oak Ridge and other clients represented by BDBC that may have interests which differ from the City of Oak Ridge's interest set out in this Agreement.

For the purposes of paragraph 14, the reference to BDBC shall include all sub-contractors and/or consultants employed by BDBC at any time while this Agreement is in effect.

15. ENTIRE AGREEMENT.

This Agreement contains the entire agreement of the parties hereto and supersedes any and all prior agreements, contracts and understandings, whether written or otherwise, between the parties relating to the subject matter hereof. In the event any provision of this Agreement is found to be legally invalid or unenforceable for any reason, all remaining provisions of this Agreement will remain in full force and effect.

16. MODIFICATION.

This Agreement cannot be changed or modified except in writing and signed by both parties.

17. ASSIGNMENT.

BDBC shall not assign this Agreement or any interest or obligation herein, by operation of law or otherwise, without the prior written consent of the City. Any such assignment without such consent shall be void, and shall, at the option of the City constitute a material breach of this Agreement.

18. NO WAIVER.

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

19. APPLICABLE LAW.

This Agreement shall be governed by the laws of the State of Tennessee, and deemed to be executed in the City of Oak Ridge, Anderson County, Tennessee.

IN WITNESS THEREOF, Baker, Donelson, Bearman & Caldwell and the City have duly executed this Agreement on the date first written above.

APPROVED AS TO FORM AND LEGALITY:

CITY OF OAK RIDGE, TENNESSEE

Kenneth R. Kushenshi  
City Attorney

David R. Bradshaw  
Mayor

BAKER, DONELSON, BEARMAN &  
CALDWELL

Robert F. Worthington, Jr.  
Signature

Robert F. Worthington, Jr. - Counsel  
Printed Name and Title



## MEMORANDUM

DATE: January 12, 2004

TO: Intergovernmental Relations Committee

FROM: Councilman Tom Beehan

SUBJECT: CONTRACT WITH BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ RELATIVE TO INCREASED FEDERAL AND STATE REMUNERATION

I know that the Intergovernmental Relations Committee is working this issue, and I support the committee system, but felt it was time that I communicated with you about my ongoing concerns for the product we are receiving from this endeavor.

During the past couple of years, we've supported this contract in hopes that we would see an increase of income from the Federal Government due to the efforts of this partnership. Part of this effort was to be also bringing our story to and representing us in Nashville.

Even though we've been assured that something was just around the corner, and that our appeal for additional funding will occur if we are just patient, there have been times during the past year that local contacts have communicated to some that the path we were following would end up a dead end. And in fact that has occurred.

All this being said, I believe it's time to revisit this contract, and renegotiate the price and the product that we should expect. I believe that we should keep the *Baker Donelson* portion of the team that has represented us in Washington. But it is now time to find a different representative in Nashville. Also, we should drastically reduce the cost of the current endeavor. Quite frankly, in my opinion, we're paying way too much for the services we're receiving.

I know that the Intergovernmental Relations Committee is dedicated and working hard to gain revenue from the Federal Government, so I'm asking that Committee to take a look at these concerns.

Now is the time, as we look at our budget, to take action.

  
Tom Beehan 

cc: City Council  
City Manager  
Government & Public Affairs Coordinator

3/22/04 - Dist. to Council

MEMORANDUM

RECEIVED  
OFFICE OF CITY CLERK

2004 MAR 22 P 4: 32

DATE: February 4, 2004

TO: Intergovernmental Relations Committee  
Mayor David Bradshaw, Chairman  
Councilman Leonard Abbatiello  
Councilwoman Lou Dunlap

SUBJECT: PROFESSIONAL SERVICES AGREEMENT – RECOMMENDED AREAS OF  
CONCENTRATION 2004/2005

As the Professional Services Agreement (PSA) entered into between City of Oak Ridge (COR) and Baker Donelson et al (BDBC) begins its third year, BDBC has been requested by the Intergovernmental Relations Committee to provide the committee with the firm's suggested course of action to follow during this third and final year of the original PSA.

Based on the Firm's progress during the first two years of the PSA, BDBC recommends that maximum efforts and resources be directed toward the following areas:

I. Federal Level

*Bob Worthington to coordinate efforts through the BDBC office in Washington, D.C. with John Tuck*

- A. Following up on our success in bringing to the attention of the senior Federal Legislators from Tennessee, Senators Frist and Alexander, we continue to leverage their support to gain the attention of the Senior Administrators of the Department of Energy to recognize the statutory obligation of the Federal Government to provide adequate resources to the City of Oak Ridge

Actions taken this year include the following:

At the request of Baker Donelson and in conjunction with the Senate Energy committee hearing conducted by Senator Domenici on the FY '05 budget of the Department of Energy, Senator Alexander posed question to the Deputy Secretary of Energy asking what actions are being taken by the Department to comply with report language in the Energy and Water Appropriations Act for FY '04 directing the Department to assist the City of Oak Ridge and Anderson and Roan Counties to achieve financial self sufficiency.

Meetings are being scheduled with the offices of Senators Frist and Alexander during the first week of March 2004 to coordinate the activities of the City of Oak Ridge and the Tennessee Senators in compelling the Department of Energy to fully comply with the direction of the Congress to assist the City of Oak Ridge to achieve financial self sufficiency.

Concurrently, meetings are being requested with the appropriate officials at the Department of Energy to plan and execute a course of action to assist the City of Oak Ridge in its effort to achieve financial self sufficiency. The meetings when appropriate will include the Power Point Presentation and Elected Officials and City staff representatives. Steps will be taken to brief DOE contractors and to solicit their support for these efforts.

Going forward this year, the legislative vehicles available to perfect and amend with specific language relating to the City of Oak Ridge are few. , The single most likely vehicle will be this year's Energy and Water Appropriations bill. Our efforts should focus on this vehicle and the Senators and Congressmen who work on this specific bill to achieve success.

B. Promote Oak Ridge's 2004 Legislative Agenda.

Monitor and facilitate Museum and potential land conveyance issues

**II. State Level**

*Bob Worthington to coordinate efforts through the BDBC office in Nashville, TN with Betty Anderson*

A. NRDA Trustee Council Appointment

A series of meetings have been held which included Commissioner Betsy Child, Deputy Commissioner of Environment Karen Stachowski, Deputy Commissioner for Environment, Joe Sanders, General Counsel for TDEC, Barry Turner, Deputy Attorney General/Environment, concerning the request that the City of Oak Ridge be appointed to the Natural Resource Damage Assessment Trustee Council. It is obvious that the matters within the jurisdiction of the Council are critically important to the City of Oak Ridge. Discussions have included the proper role for the City's participation in the deliberations of the Council and the details are currently being discussed on an ongoing basis.

The steps to be accomplished will include:

1. Determination by the TDEC Attorney General of the appropriate role for Oak Ridge participation.
2. Approval by the Commissioner of TDEC of Oak Ridge participation.

3. Define the rights, duties, and responsibilities of Oak Ridge with regard to the Council.
4. A recommendation by TDEC Commissioner to the Governor.
5. Appointment by Governor.

B. Waste Disposal Trust Fund

Commissioner Child agreed to meet on a regular basis with representatives of the City of Oak Ridge to analyze the situation and determine the best available steps to be taken. This study would entail biweekly meetings between the parties for a period of six months.

The steps to be accomplished will include:

1. The TDEC Commissioner will assign a staff member for a period of six months to help evaluate options regarding waste fees.
2. The City Manager will assign a staff member to serve as point of contact.
3. BDBC&B will work with the Group to facilitate.
4. BDBD&B will work to coordinate accomplishment of goals and/or opportunities identified by the study group.

C. Promote Oak Ridge's 2004 Legislative Agenda.

Submit weekly report of relevant legislative activity and calendar.

Next Steps: Continue to monitor the progress of issues affecting Oak Ridge.

D. Educate Decision Makers about Oak Ridge Issues.

The Next Steps to be accomplished:

1. Longer-term process with goal of special legislation to address Oak Ridge "special burdens" issues at the state level.
2. Establish calendar of Nashville visits with City Council members.

BDBCB Public Strategies Group  
 Tasks Accomplished for the City of Oak Ridge in 2002/03/04

2002	<ul style="list-style-type: none"> <li>▪ Meeting with Justin P. Wilson, Deputy to Governor Sundquist – Attendees: Betty Anderson - BDPS ,etal – courtesy call</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Dave Cooley, Deputy to Governor Bredesen</li> <li>▪ Attendees: Janice Yates-BDPS, Darryl Akins, Oak Ridge City officials re: interaction with Governor’s Office and other state agencies as well as inclusion of Oak Ridge City officials in the DOE decision-making process when the City of Oak Ridge is impacted</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with TDOT</li> <li>▪ Attendees: Commissioner Gerald Nicely and key staff, Janice Yates-BDPS, Darryl Akins, and Oak Ridge City officials re: utility relocation issues and courtesy call</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Economic and Community Development</li> <li>▪ Attendees: Commissioner Matt Kisber and key staff, Janice Yates-BDPS, Daryl Akins and Oak City Ridge officials re: economic development strategies and marketing</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Department of Environment and Conservation</li> <li>▪ Attendees: Commissioner Betsy Child, Janice Yates-BDPS, Daryl Akins and Oak Ridge City officials re: Oak Ridge and other environmental issues</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting #2 with the Department of Environment and Conservation</li> <li>▪ Attendees: TDEC Commissioner Betsy Child, Betty Anderson-BDPS, Robert Worthington-BDBCD, and Oak Ridge City officials re: Oak Ridge decision-making process and courtesy call to acquaint new officials with Commissioner Child.</li> </ul>

2003	<ul style="list-style-type: none"> <li>▪ Tracked and monitored legislation which could possibly impact the City of Oak Ridge</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Researched grant opportunities for the City of Oak Ridge</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Numerous conference calls between the Tennessee Emergency Management Agency, Tennessee Homeland Security Director and the Department of Health, Betty Anderson-BDPS, Bob Worthington and BDBCB Washington Lobbyist re: bio-terrorism funding opportunities for security and other state and federal issues</li> </ul>
****2003	<ul style="list-style-type: none"> <li>▪ Successfully passed PC 0007 on re-appraisal for city of Oak Ridge (SB 677/McNally and HB714/Hackworth)</li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Several meetings with Rep. Hackworth to discuss Oak Ridge issues (Betty Anderson)</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Coordinating and facilitating the request for Oak Ridge appointee to the Natural Resource Damage Assessment Trustee Council for DOE</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Facilitate appointment of TDEC liaison to work with City of Oak Ridge</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Weekly monitoring and tracking of legislation with possible impact to Oak Ridge</b></li> </ul>
****2004	<ul style="list-style-type: none"> <li>▪ <b>Weekly reports via extranet website provided by BDBCB Public Strategies Group as follows: Oak Ridge Weekly Calendar, Oak Ridge Comprehensive Report (overview of bills for 2003 and 2004 session), and a report of any new introductions. Samples are attached. Client is notified of weekly new postings via email.</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ Weekly schedule of events posted to client's extranet website.</li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ Meeting #3 w/the Department of Environment and Conservation</li> <li>▪ Attendees: Betty Anderson, BDBCB Public Strategies Group; Commissioner Betsy Child, Department of Environment and Conservation; BCBCB Attorney Robert Worthington</li> </ul>

2004 (2/16)	<ul style="list-style-type: none"> <li>▪ Teleconference with Amy Fitzgerald re legislative initiatives. (Janice Yates)</li> </ul>
2004 (2/17)	<ul style="list-style-type: none"> <li>▪ Three meetings with Representative Dennis Ferguson re SB 3288 (in lieu of tax bill and other legislation impacting Oak Ridge (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Teleconference with city Attorney Ken Krushenski re SB 348 amendment impacting Oak Ridge (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Conversation with Senator McNally's staff re SB 3288 (in lieu of tax bill) to discuss home rule amendment</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Discussion with Greater Nashville Resource Council re SB 348 amendment impacting Oak Ridge. (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Discussion with Justin Wilson re Oak Ridge DOE Trust Fund. Meeting to be scheduled w/Janice Yates for thorough briefing on Trust Fund.</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Report to Amy Fitzgerald status update re SB 348 with amendments. (Janice Yates)</li> </ul>
2004 2/18)	<ul style="list-style-type: none"> <li>▪ Strategy meeting with Betty Anderson re Oak Ridge legislative initiatives (Janice Yates)</li> </ul>

**CITY CLERK MEMORANDUM**  
**05-07**

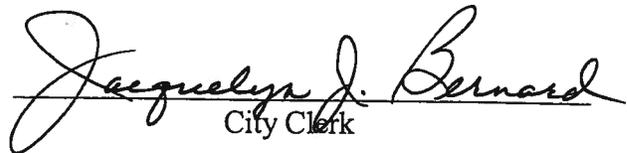
DATE: January 7, 2005

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: FINAL PAYMENT ON BAKER/DONELSON CONTRACT

Today, at 4:15 p.m., I okayed the final payment of \$12,000 on the attached agreement with Baker, Donelson, Bearman, Caldwell, and Berkowitz. As you will note, the agreement specified payments of \$12,000 per month for a total of \$144,000 per year. With the issuance of the check for the payment okayed today, we will have paid the firm a total of \$432,000 in compensation and \$3,364.37 in expenses, for a total of \$435,364.37.

  
City Clerk

Attachment

cc: City Manager  
City Attorney

*File - Vault  
Contract*

LEGAL DEPARTMENT MEMORANDUM

05-22

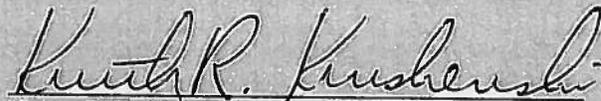
DATE: April 7, 2005

TO: Intergovernmental Relations Committee  
Mayor David R. Bradshaw, Chair  
Leonard A. Abbatiello  
Louise B. Dunlap

FROM: Kenneth R. Krushenski, City Attorney

SUBJECT: BAKER, DONELSON BEARMAN & CALDWELL (BDBC) CONTRACT/AFTER-ACTION SUMMARY

At the request of Councilman Leonard Abbatiello, member of the Intergovernmental Relations Committee, the City Attorney's office has prepared this after-action summary. It is a compilation of the recommendations and activities undertaken by BDBC while the firm was engaged as the City's lobbyist for the purpose of assisting the City in its efforts to secure federal and state support, both financial and in other forms, in order to enable the City of Oak Ridge to achieve its goal of financial self-sufficiency.

  
Kenneth R. Krushenski

Attachments

cc: Mayor and Members of Council  
James R. O'Connor, City Manager  
Dr. Amy Fitzgerald, Government and Public Affairs Coordinator  
Jacquelyn J. Bernard, City Clerk

I. DRAFT OF ACTION PLAN  
October 16, 2001

The initial document prepared by Baker, Donelson, Bearman & Caldwell (BDBC) was the "Draft Action Plan" dated October 16, 2001.

The Draft contained an "Executive Summary." This Summary detailed several areas of potential resources that could be examined. These areas were described with a brief explanation as follows:

***Apply to the Department of Energy for consideration under the special burdens clause of the Atomic Energy Communities Act.***

Under special conditions, this provision allows for payments over and above that of the payment in lieu of taxes (PILT) from the DOE. However, the history of success with this clause has not been good, including unsuccessful attempts by Anderson and Roane counties in 1974. Other communities have had failed attempts, as well. Even if such an effort is not approved, however, the City will gain valuable information that can be used for future applications and will have exhausted all administrative remedies.

***Reopen the 1986 settlement between the City of Oak Ridge and DOE regarding direct financial assistance payments pursuant to section 91 of the AECA.***

It is key to have such payments resume, either under Section 91 or under a new, analogous provision created as an amendment to the AECA. This approach offers specific advantages by seeking solutions through the use of existing legislative acts and administrative programs at both the state and federal levels.

***Pursue federal land transfers pursuant to the "Self-Sufficiency" Plan.***

DOE owns approximately sixty (60) percent of the "City's" land mass, severely restricting the City's ability to raise revenue under Tennessee's property tax-based municipal taxing regime. The obvious long-term solution to this predicament is to have more land returned to private ownership, thus making it subject to the local property tax, consistent with Section 91, which emphasizes the goal of self-sufficiency for Oak Ridge and the other original Manhattan project communities.

***Aggressively pursue establishment of the Tennessee Perpetual Care Trust Fund and related funding streams.***

Establishment of this trust fund is currently generating disputes between the DOE and the State of Tennessee. However, this potential source of future revenues bears further investigation and analysis. Combined with the pre-existing state statutory authority for local governments to receive state appropriations, along with the concomitant authority to enact direct levies, this Trust Fund could provide a regular stream of revenue directly tied to DOE's use of the environmental waste management facilities in Oak Ridge.

***Access resources that already exist.***

This is essential. These alternative forms of financial assistance are those pursuant to analogous, pre-existing federal legislative provisions, through which other communities, similarly disadvantaged by significant federal presences, receive aid.

The above strategy acknowledges that the 1986 settlement between the City and DOE with respect to direct financial assistance pursuant to AECA was contemplated to be final. However, it also recognizes that existing commitments by the federal government are not being met – Secretary O’Leary’s commitments at Horizon Center, for example. Oak Ridge must work within the system more effectively, including the DOE, the Appalachian Regional Commission, the Economic Development Administration and TVA.

***Create new legislation, the equivalent of a new volume of AECA.***

This would involve developing and pursuing enactment of a new piece of federal legislation specifically designed to provide financial assistance to Oak Ridge. It would be carefully structured to address the unique needs of Oak Ridge currently and into the foreseeable future, in a way in which AECA could not.

Such an effort would involve consideration of the differences between the 1986 settlement and current circumstances that justify a new piece of legislation with a similar focus. Issues such as global economic competition, homeland security and worldwide issues related to the technologies being developed in Oak Ridge may make new legislation advisable.

Legislation created specifically for Oak Ridge is justified because the community is unique. Only Oak Ridge is home to a national laboratory, a world-class weapons laboratory and a major cleanup effort.

Today, such a distinction is actually a penalty, since funding is often cut from one program with the appearance of funding another. For example, as the SNS has been funded, cleanup efforts have been cut. With this approach, Oak ridge must seek new ways to do its part and help create better ways to support the national lab, the weapons plant and the cleanup effort.

***Develop close relationships with contractors and lobbyists, and maintain an aggressive lobbying effort on behalf of the City’s interests.***

The City’s lobbyists need to develop a close working relationship with contractors and their lobbyists, coordinating efforts specifically related to the City’s agenda. The lack of such an effort is obvious. With Sen. Howard Baker’s assistance, contractors were once required to make an economic development commitment as a condition of their contract. When the Y-12 contract was recently awarded, this criteria was not included. It is imperative that proactive steps be taken once again to encourage cooperation between contractors and the City. In many cases, it will be in the best interest of the contractors to coordinate these efforts, as well.

In addition to a formalized plan of specific actions, key ongoing lobbying issues include:

- Current annual PILT payments
- Cleanup funds
- Reindustrialization
- Land-use issues
- DOE contractor’s economic development support
- Forming possible coalitions with other communities, particularly other DOE communities and the City of Knoxville

***Focus on issues specific to the State of Tennessee and explore the potential for legislation that recognizes Oak Ridge’s unique status as a federal community.***

For example, Gatlinburg enjoys a similar singular status with its premier resort status, qualifying for sales tax funds returning to the City at double the normal rate. Such an approach has the potential to at least partially resolve funding issues the state level or in cooperation with the state.

Currently, Oak Ridge does not enjoy an ongoing presence in Nashville, in either the legislative quarters or the administrative. However, to fulfill the demands of Oak Ridge’s world-class facilities, the City must aggressively pursue support at all levels.

***Increase expertise in grantsmanship within the City of Oak Ridge, at both state and federal levels.***

A partnership with a well-positioned lobbying firm is advised in order to identify a wide range of opportunities.

***Establish more effective public/private partnerships to stir greater private sector investment.***

The Oak Ridge Economic Partnership is a step in the right direction, coordinating efforts with the City, the Community Reuse Organization of East Tennessee and the Oak Ridge Chamber of Commerce. However, the environment is still fragmented, with the City Industrial Board and other economic development entities operating separately, and more opportunities for consolidation certainly exists.

***Blend a combination of the afore-mentioned strategies to tap the numerous resources that exist or that may be developed.***

#### CONCLUSION (Taken from the Draft)

“The City of Oak Ridge needs an advocate in the region, at the state and federal level to make sure its issues are on the table when considering regulatory issues and policy development. It is up to Oak Ridge and its lobbyists to help implement solutions, which may include crafting new legislation on the front end. The same, old approach will no longer work. Creativity, expertise and a strategic approach are imperative.”

II. ACTION PLAN PURSUANT TO THE PROFESSIONAL SERVICES AGREEMENT  
BETWEEN CITY OF OAK RIDGE AND BAKER, DONELSON, BEARMAN & CALDWELL  
December 31, 2001

After the Draft Plan was presented by Baker, Donelson, Bearman & Caldwell (BDBC), the City of Oak Ridge and the firm continued to develop a strategy to be implemented to pursue identified and achievable goals from the Draft. These negotiations resulted in the Action Plan submitted by Robert Worthington to City of Oak Ridge on December 31, 2001.

The Action Plan further refined the Draft and suggested eight (8) areas of concentration for the City of Oak Ridge to consider in BDBC's scope of work. They are set out as follows:

- I. SPECIAL BURDENS RELIEF
- II. RE-INSTITUTE ANNUAL ASSISTANCE (Renegotiate the basis of PILT)
- III. NEW FEDERAL LAND TRANSFER SUPPORTING SELF-SUFFICIENCY  
(Land with Infrastructure)
- IV. AGGRESSIVE WASHINGTON LOBBYING EFFORTS
- V. NEW STATE OF TENNESSEE LEGISLATION RECOGNIZING  
OAK RIDGE STATUS
- VI. INCREASED "GRANTS" EFFORTS
- VII. PUBLIC/PRIVATE PARTNERSHIP INVESTMENT OPPORTUNITIES
- VIII. PURSUE TENNESSEE PERPETUAL CARE INVESTMENT FUND  
COMPENSATION (Hazardous Waste Management Fees)

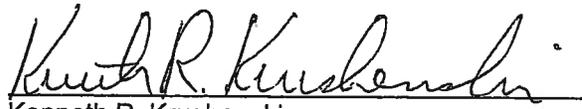
A Memorandum dated January 30, 2002 was submitted to Council by Leonard Abbatiello, Chairman of the CEDRR Committee (which later was designated as the Inter-Governmental Relations Committee). The Memo represented the Committee's Final Report and Recommendations. This Memo is Exhibit A to this report.

A Professional Services Agreement between the City of Oak Ridge and Baker, Donelson, Bearman & Caldwell, which incorporated action items I, II, III, IV, V, and VIII was approved by Council on February 18, 2002.

III. SUMMARY

Approximately one year prior to the expiration of their contract, BDBC submitted a report on "Recommended Areas of Concentration 2004/2005." A copy of this report is attached as Exhibit B. The Professional Services Agreement expired after three years on February 18, 2005. The following is a list of additional documents that contain information the Intergovernmental Relations Committee may wish to review as it formulates future policy.

- a. Application for Renewal of Annual Assistance Payments to the City of Oak Ridge under the Atomic Energy Communities Act of 1954 dated April 15, 2003. (See Exhibit C)
- b. Correspondence dated July 19, 2004 from Senators Frist and Alexander to then Secretary of Energy Abraham. (See Exhibit D)
- c. Potential Federal Funding Report which was submitted by BDBC with its Draft Action Plan. (See Exhibit E)
- d. State legislation is currently pending in Nashville to allow the City of Oak Ridge to collect hazardous waste storage fees. The legislation was addressed in Legal Department Memorandum No. 05-16 which was presented to the Intergovernmental Relations Committee and distributed to Council last Friday along with copies of Senate Bill 892 sponsored by Sen. McNally and House Bill 880 sponsored by Rep. Hackworth.

  
Kenneth R. Krushenski

## MEMORANDUM

DATE: January 30, 2002

TO: Fellow Members of City Council

FROM: Committee for the Enhancement of DOE-Related Remuneration  
Councilman Leonard A. Abbatiello, Chair  
Councilman Tom Beehan  
Mayor David R. Bradshaw

SUBJECT: FINAL REPORT AND RECOMMENDATIONS FOR  
ENHANCED REMUNERATION FROM DOE

The Committee for the Enhancement of DOE-Related Remuneration (CEDRR) met on January 9, 2002 and reviewed the *Action Plan Pursuant to the Professional Services Agreement Between the City of Oak Ridge and Baker, Donelson, Bearman & Caldwell* dated December 31, 2001. The Committee voted unanimously to accept the Action Plan. At the January 14, 2002 City Council work session, Mr. Robert F. Worthington of Baker, Donelson, Bearman & Caldwell made a verbal presentation of the Action Plan. The verbal presentation completed all requirements of the Professional Services Agreement (PSA).

The purpose of the PSA was to have a capable legal firm evaluate new avenues and recommend methods through which Oak Ridge might achieve increased federal or state remuneration. The objective is significantly increased revenues within two to four years. The "Action Plan" that resulted from the PSA is summarized in an attached table.

On January 29, 2002, the CEDRR voted to recommend that City Council proceed expeditiously with the following specific actions:

- Apply to DOE for consideration under the ***Special Burdens*** clause of AEA 168. (Oak Ridge has never appealed to DOE under this provision).
- Pursue specific goals to support an updated ***Self Sufficiency Agreement***. Additional land transfer is an important component. All transferred land should also be provided with the needed infrastructure, if it is to assist self-sufficiency. (Currently no official self-sufficiency agreement exists. To date, DOE has transferred only 2,371 acres even though it had agreed to transfer 10,405 acres in previous actions. DOE currently holds 33,905 acres).
- Mount an aggressive **Washington Lobbying Effort** with a specific ***Special Burdens*** focus. (Oak Ridge needs a presence within Washington, D.C., addressing every assembly that debates our future).
- Pursue reinstatement of the previously terminated **Annual Assistance Payments** concept. (Assistance payments terminated in 1986).
- Create **New Tennessee Legislation** authorizing State financial assistance through enhanced sales tax returned to the city. (Focus on uniqueness of Oak Ridge's situation and its regional impact).

Future Directions and Recommendations:

Clearly, there is no "silver bullet," either legal or otherwise, available to Oak Ridge that is likely to immediately increase local remuneration from the DOE or the State, but there is a sound legal and moral basis to pursue enhanced DOE remuneration. Based on the results of this PSA and the successes of other energy communities, we should begin such an effort.

The Committee recommends the following:

That the City Manager and City Attorney be directed to negotiate a professional services agreement with Baker, Donelson, Bearman & Caldwell for completion of Items I, II, III, IV, and V from the Action Plan submitted by the firm on December 31, 2001, with the negotiated agreement to be presented to City Council on February 18, 2002 for consideration and approval.

Attached is a resolution that will initiate this effort as proposed.

During the Energy Communities Alliance (ECA) Conference that was recently held in Oak Ridge, the CEDRR Chairman had the opportunity to listen to and confer with community leaders of several DOE contractor-dominated communities. The Chairman was specifically looking for problems common to the various communities that might be a basis for joint, unified action with respect to the DOE. The communities have very diverse situations, ranging from large reserve funds to communities with benevolent local income tax revenues that provide generous incomes. Land transfer needs were the only common areas identified. Self-sufficiency means very different things to each of these communities, but several of them were effectively employing active lobbying of both DOE and their own elected representatives located in Washington, D.C. Some common threads were present in each and every city. These are:

1. Active lobbying by the community's local elected officials, making it clear that they are the "official" City voice. Officials visit often, preferably bi-monthly.
2. Maintain a focused message, one point at a time, until results are achieved.
3. Demand results and supervise progress while being persistent.

In summary, the Committee believes that an effective local, **official** lobbying effort in pursuit of additional DOE payments under the current law is the best method available to alter our predetermined destiny of very high city property tax rates and/or significant reductions in both municipal and school system services.

This final report completes the CEDRR's responsibility under Resolution Number 8-139-00 (attached). It is recommended that the CEDRR be assigned oversight of the new, negotiated agreement with Baker, Donelson, Bearman & Caldwell.

  
Leonard A. Abbatiello, Chairman *JA*

**RESOLUTION**

WHEREAS, with the adoption of Resolution Number 8-139-00 on August 21, 2000, the Oak Ridge City Council created the ad hoc Committee for the Enhancement of DOE-Related Remuneration (CEDRR) which had as its charge to interview law firms and recommend the employment of a nationally effective firm to conduct an analysis of the legislative, administrative, and legal alternatives which have the potential of providing the basis of new sources of federal or state remuneration for Oak Ridge; and

WHEREAS, on February 19, 2001, the CEDRR presented its recommendation to City Council regarding the engagement of a law firm, and the Council adopted Resolution Number 2-27-01 authorizing the Committee to enter into negotiations with the firm of Baker, Donelson, Bearman & Caldwell for the development of a final task statement, time schedule, and fee schedule to serve as the basis for a professional services agreement with the firm; and

WHEREAS, on April 16, 2001, the CEDRR presented for the Council's consideration a negotiated professional services agreement between the City and Baker, Donelson, Bearman & Caldwell to investigate and offer recommendations, in the form of an action plan, of possible avenues for increased remuneration to the City from the federal and state governments, and the Council approved the agreement by the adoption of Resolution Number 4-66-01; and

WHEREAS, on December 31, 2001, Baker, Donelson, Bearman & Caldwell presented to the City the *Action Plan Pursuant to the Professional Services Agreement Between the City of Oak Ridge and Baker, Donelson, Bearman & Caldwell*, and on January 9, 2002, the CEDRR accepted the same; and

WHEREAS, on January 29, 2002, the CEDRR met and, as directed in Resolution Number 8-139-00, developed its recommendations to City Council regarding further actions based on alternatives suggested by the law firm.

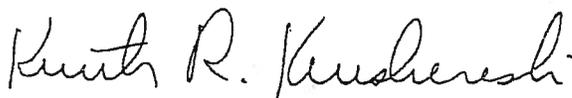
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCILMEN OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendations of the Committee for the Enhancement of DOE-Related Remuneration (CEDRR) are approved and the City Manager and City Attorney are hereby directed to negotiate a professional services agreement with Baker, Donelson, Bearman & Caldwell for completion of Items I, II, III, IV, and V from the Action Plan submitted by the firm on December 31, 2001, with the negotiated agreement to be presented to City Council on February 18, 2002 for consideration and approval.

BE IT FURTHER RESOLVED, that the CEDRR is assigned oversight of the negotiated agreement with Baker, Donelson, Bearman & Caldwell upon its approval by City Council.

This the 4<sup>th</sup> day of February 2002.

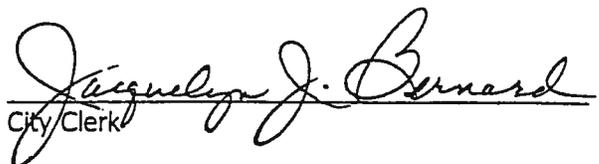
APPROVED AS TO FORM AND LEGALITY:



City Attorney



Mayor



City Clerk

## MEMORANDUM

DATE: February 4, 2004

TO: Intergovernmental Relations Committee  
Mayor David Bradshaw, Chairman  
Councilman Leonard Abbatiello  
Councilwoman Lou Dunlap

SUBJECT: PROFESSIONAL SERVICES AGREEMENT – RECOMMENDED AREAS OF  
CONCENTRATION 2004/2005

As the Professional Services Agreement (PSA) entered into between City of Oak Ridge (COR) and Baker Donelson et al (BDBC) begins its third year, BDBC has been requested by the Intergovernmental Relations Committee to provide the committee with the firm's suggested course of action to follow during this third and final year of the original PSA.

Based on the Firm's progress during the first two years of the PSA, BDBC recommends that maximum efforts and resources be directed toward the following areas:

### I. Federal Level

*Bob Worthington to coordinate efforts through the BDBC office in Washington, D.C. with John Tuck*

- A. Following up on our success in bringing to the attention of the senior Federal Legislators from Tennessee, Senators Frist and Alexander, we continue to leverage their support to gain the attention of the Senior Administrators of the Department of Energy to recognize the statutory obligation of the Federal Government to provide adequate resources to the City of Oak Ridge

Actions taken this year include the following:

At the request of Baker Donelson and in conjunction with the Senate Energy committee hearing conducted by Senator Domenici on the FY '05 budget of the Department of Energy, Senator Alexander posed question to the Deputy Secretary of Energy asking what actions are being taken by the Department to comply with report language in the Energy and Water Appropriations Act for FY '04 directing the Department to assist the City of Oak Ridge and Anderson and Roan Counties to achieve financial self sufficiency.

Meetings are being scheduled with the offices of Senators Frist and Alexander during the first week of March 2004 to coordinate the activities of the City of Oak Ridge and the Tennessee Senators in compelling the Department of Energy to fully comply with the direction of the Congress to assist the City of Oak Ridge to achieve financial self sufficiency.

Concurrently, meetings are being requested with the appropriate officials at the Department of Energy to plan and execute a course of action to assist the City of Oak Ridge in its effort to achieve financial self sufficiency. The meetings when appropriate will include the Power Point Presentation and Elected Officials and City staff representatives. Steps will be taken to brief DOE contractors and to solicit their support for these efforts.

Going forward this year, the legislative vehicles available to perfect and amend with specific language relating to the City of Oak Ridge are few. , The single most likely vehicle will be this year's Energy and Water Appropriations bill. Our efforts should focus on this vehicle and the Senators and Congressmen who work on this specific bill to achieve success.

B. Promote Oak Ridge's 2004 Legislative Agenda.

Monitor and facilitate Museum and potential land conveyance issues

## II. State Level

*Bob Worthington to coordinate efforts through the BDBC office in Nashville, TN with Betty Anderson*

A. NRDA Trustee Council Appointment

A series of meetings have been held which included Commissioner Betsy Child, Deputy Commissioner of Environment Karen Stachowski, Deputy Commissioner for Environment, Joe Sanders, General Counsel for TDEC, Barry Turner, Deputy Attorney General/Environment, concerning the request that the City of Oak Ridge be appointed to the Natural Resource Damage Assessment Trustee Council. It is obvious that the matters within the jurisdiction of the Council are critically important to the City of Oak Ridge. Discussions have included the proper role for the City's participation in the deliberations of the Council and the details are currently being discussed on an ongoing basis.

The steps to be accomplished will include:

1. Determination by the TDEC Attorney General of the appropriate role for Oak Ridge participation.
2. Approval by the Commissioner of TDEC of Oak Ridge participation.

3. Define the rights, duties, and responsibilities of Oak Ridge with regard to the Council.
4. A recommendation by TDEC Commissioner to the Governor.
5. Appointment by Governor.

B. Waste Disposal Trust Fund

Commissioner Child agreed to meet on a regular basis with representatives of the City of Oak Ridge to analyze the situation and determine the best available steps to be taken. This study would entail biweekly meetings between the parties for a period of six months.

The steps to be accomplished will include:

1. The TDEC Commissioner will assign a staff member for a period of six months to help evaluate options regarding waste fees.
2. The City Manager will assign a staff member to serve as point of contact.
3. BDBC&B will work with the Group to facilitate.
4. BDBD&B will work to coordinate accomplishment of goals and/or opportunities identified by the study group.

C. Promote Oak Ridge's 2004 Legislative Agenda.

Submit weekly report of relevant legislative activity and calendar.

Next Steps: Continue to monitor the progress of issues affecting Oak Ridge.

D. Educate Decision Makers about Oak Ridge Issues.

The Next Steps to be accomplished:

1. Longer-term process with goal of special legislation to address Oak Ridge "special burdens" issues at the state level.
2. Establish calendar of Nashville visits with City Council members.

BDBCB Public Strategies Group  
 Tasks Accomplished for the City of Oak Ridge in 2002/03/04

2002	<ul style="list-style-type: none"> <li>▪ Meeting with Justin P. Wilson, Deputy to Governor Sundquist – Attendees: Betty Anderson - BDPS ,etal – courtesy call</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Dave Cooley, Deputy to Governor Bredesen</li> <li>▪ Attendees: Janice Yates-BDPS, Darryl Akins, Oak Ridge City officials re: interaction with Governor’s Office and other state agencies as well as inclusion of Oak Ridge City officials in the DOE decision-making process when the City of Oak Ridge is impacted</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with TDOT</li> <li>▪ Attendees: Commissioner Gerald Nicely and key staff, Janice Yates-BDPS, Darryl Akins, and Oak Ridge City officials re: utility relocation issues and courtesy call</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Economic and Community Development</li> <li>▪ Attendees: Commissioner Matt Kisber and key staff, Janice Yates-BDPS, Daryl Akins and Oak City Ridge officials re: economic development strategies and marketing</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting with Department of Environment and Conservation</li> <li>▪ Attendees: Commissioner Betsy Child, Janice Yates-BDPS, Daryl Akins and Oak Ridge City officials re: Oak Ridge and other environmental issues</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Meeting #2 with the Department of Environment and Conservation</li> <li>▪ Attendees: TDEC Commissioner Betsy Child, Betty Anderson-BDPS, Robert Worthington-BDBCD, and Oak Ridge City officials re: Oak Ridge decision-making process and courtesy call to acquaint new officials with Commissioner Child.</li> </ul>

2003	<ul style="list-style-type: none"> <li>▪ Tracked and monitored legislation which could possibly impact the City of Oak Ridge</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Researched grant opportunities for the City of Oak Ridge</li> </ul>
2003	<ul style="list-style-type: none"> <li>▪ Numerous conference calls between the Tennessee Emergency Management Agency, Tennessee Homeland Security Director and the Department of Health, Betty Anderson-BDPS, Bob Worthington and BDBCB Washington Lobbyist re: bio-terrorism funding opportunities for security and other state and federal issues</li> </ul>
****2003	<ul style="list-style-type: none"> <li>▪ Successfully passed PC 0007 on re-appraisal for city of Oak Ridge (SB 677/McNally and HB714/Hackworth)</li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Several meetings with Rep. Hackworth to discuss Oak Ridge issues (Betty Anderson)</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Coordinating and facilitating the request for Oak Ridge appointee to the Natural Resource Damage Assessment Trustee Council for DOE</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Facilitate appointment of TDEC liaison to work with City of Oak Ridge</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ <b>Weekly monitoring and tracking of legislation with possible impact to Oak Ridge</b></li> </ul>
****2004	<ul style="list-style-type: none"> <li>▪ <b>Weekly reports via extranet website provided by BDBCB Public Strategies Group as follows: Oak Ridge Weekly Calendar, Oak Ridge Comprehensive Report (overview of bills for 2003 and 2004 session), and a report of any new introductions. Samples are attached. Client is notified of weekly new postings via email.</b></li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ Weekly schedule of events posted to client's extranet website.</li> </ul>
2004	<ul style="list-style-type: none"> <li>▪ Meeting #3 w/the Department of Environment and Conservation</li> <li>▪ Attendees: Betty Anderson, BDBCB Public Strategies Group; Commissioner Betsy Child, Department of Environment and Conservation; BCBCB Attorney Robert Worthington</li> </ul>

2004 (2/16)	<ul style="list-style-type: none"> <li>▪ Teleconference with Amy Fitzgerald re legislative initiatives. (Janice Yates)</li> </ul>
2004 (2/17)	<ul style="list-style-type: none"> <li>▪ Three meetings with Representative Dennis Ferguson re SB 3288 (in lieu of tax bill and other legislation impacting Oak Ridge (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Teleconference with city Attorney Ken Krushenski re SB 348 amendment impacting Oak Ridge (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Conversation with Senator McNally's staff re SB 3288 (in lieu of tax bill) to discuss home rule amendment</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Discussion with Greater Nashville Resource Council re SB 348 amendment impacting Oak Ridge. (Janice Yates)</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Discussion with Justin Wilson re Oak Ridge DOE Trust Fund. Meeting to be scheduled w/Janice Yates for thorough briefing on Trust Fund.</li> </ul>
2004 (2/18)	<ul style="list-style-type: none"> <li>▪ Report to Amy Fitzgerald status update re SB 348 with amendments. (Janice Yates)</li> </ul>
2004 2/18)	<ul style="list-style-type: none"> <li>▪ Strategy meeting with Betty Anderson re Oak Ridge legislative initiatives (Janice Yates)</li> </ul>

**APPLICATION FOR THE RENEWAL OF ANNUAL ASSISTANCE PAYMENTS  
TO THE CITY OF OAK RIDGE, TENNESSEE UNDER  
THE ATOMIC ENERGY COMMUNITY ACT OF 1955**

**Submitted by the City of Oak Ridge  
David Bradshaw, Mayor  
April 15, 2003**

**APPLICATION FOR THE RENEWAL OF ANNUAL ASSISTANCE PAYMENTS  
TO THE CITY OF OAK RIDGE, TENNESSEE UNDER  
THE ATOMIC ENERGY COMMUNITY ACT OF 1955**

**I. INTRODUCTION AND EXECUTIVE SUMMARY**

The City of Oak Ridge, Tennessee ("Oak Ridge" or the "City") stands at a critical juncture in its history. There can be no doubt that activities of the U.S. Department of Energy ("DOE") conducted inside Oak Ridge are crucial both to the national security and to our country's most important research efforts. For example, the completion of the Spallation Neutron Source will soon support exciting new research efforts; key components for nuclear weapons are produced at the Y-12 facility; and our homeland security is enhanced by the ongoing work at the Oak Ridge National Laboratory ("ORNL").

While the work done at Oak Ridge's federal facilities reaches new levels of sophistication, the City of Oak Ridge languishes. This point is perhaps most vividly illustrated by examining reports concerning Oak Ridge's progress in 1978 and 1984 by SRI International ("SRI"). They demonstrate that the City's situation has not fundamentally changed over the last quarter century. The same intractable problems remain:

- over half the land inside the Oak Ridge city limits is owned by the federal government;
- the City continues to have one of the highest tax rates in the state;
- Oak Ridge's population contains a large -- and growing -- percentage of retirees;
- much of its housing stock is outmoded and the valuations limit the City's tax base;
- the City has spent over \$20 million to date to repair aging water and sewer systems installed by the federal government in the 1940s; and
- the City is home to only a small percentage of the Department of Energy ("DOE") employees who work there.

In many ways, Oak Ridge's situation is more challenging--and precarious--than at any time in the last 25 years. When SRI drafted its two reports in 1978 and 1984, the extent of the

environmental contamination spawned by operations of the federal government was not fully understood. Now, for well over a decade, Oak Ridge's citizens have read daily accounts profiling this contamination, the attendant clean up effort and the stark reality that hazardous waste will be stored in the City in perpetuity.

The City's efforts to become self-sufficient have been consistent and sustained. Over the years, Oak Ridge has instituted new taxes and user fees whenever possible; it has studied and improved its efficiency; it has committed millions to economic development and improvements to its infrastructure; it has supported new residential development. Nevertheless, for reasons beyond its control, the City's goal of self-sufficiency cannot yet be attained.

Oak Ridge cannot reach self-sufficiency without additional federal aid. Accordingly, the City respectfully requests that DOE reinstitute annual assistance payments under § 91 of the Atomic Energy Communities Act of 1955 (the "AECA").<sup>1</sup> Although the City accepted a lump-sum payment to end AECA annual assistance in 1986, the facts reviewed in this Application conclusively demonstrate that the objectives behind this settlement have not been achieved. In some cases, the City's unique problems are so deeply rooted that they cannot be easily solved. In others, unanticipated circumstances have blocked the City's ongoing efforts to become self-

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<sup>1</sup> The authority of the Secretary to request such assistance payments is supported by the plain terms of 42 U.S.C. § 2391(a) (Secretary empowered to continue payments after the initial 10-year period). Nevertheless, as a practical matter, the City acknowledges that the resumption of assistance payments under the AECA will entail additional congressional review in the budget process. The City requests that the Secretary agree to support the funding proposed in this Application in all relevant budget requests made by DOE.

42 U.S. C. §2391(d) is not a barrier to this request. This provision required the Secretary (or his predecessor) to submit a recommendation concerning payments to Oak Ridge by January 1, 1979. The Secretary (or his predecessor) submitted this recommendation and discharged his obligations under §2391(d) (*see* discussion in Part II, D below). His discretion to award annual assistance payments is, therefore, unimpeded on any statutory basis.

Ridge's water and sewer lines--and accordingly the massive expenditures the City must bear--were the direct result of the Manhattan Project and ensuing federal activities in the area.

In addition, the Partners for Progress project will require approximately \$10 million in additional funding. This is precisely the kind of effort that will allow Oak Ridge to become self-sufficient. Current estimates indicate that the effort will generate significant new tax revenues; however, it will take twelve years to complete. These payments proposed above will provide much needed support to Oak Ridge as it completes this effort.

The annual payment amount is also reasonable and fair. Several reasons support this conclusion. First, the amount of the last annual assistance payment (in 1985) was \$3 million. Oak Ridge's situation is not materially changed from that time. In fact, because of the widespread perception of extensive environmental contamination, it is significantly worse. Second, this payment is less than the last one in 1985. In real terms, the value of \$3 million in 1986 is greater than the value of \$3 million today. Finally, prior to their termination, the amount of this assistance was trending upward. In 1983 and 1984, the City received \$1.9 and \$2.2 million (rounded) respectively. In 1985, the City received \$3 million (rounded).

Oak Ridge does not assert that it should receive annual assistance payments indefinitely. This proposal strikes a balance between Oak Ridge's need for additional support and DOE's desire to limit assistance only to what is reasonably necessary.

## V. CONCLUSION

The City's request is a simple and equitable one. Oak Ridge serves vital national needs by providing highly sophisticated research and key elements of our nation's defense. The costs of these efforts should be shared by all taxpayers in the United States, not only by 28,000 people

in this small east Tennessee community. The federal government established the City, and many of the daunting challenges it faces can be traced back either (i) to the decisions made at or near the time it was created or (ii) to decisions of the federal government since that time.

As this document demonstrates, the 1986 Agreement has not provided Oak Ridge with the resources it needs to stand on its own. As a result, the City requests that the Department of Energy reinstitute national assistance payments under § 91 of the AECA on the basis outlined above.

LAW OFFICES  
BAKER, DONELSON, BEARMAN, CALDWELL & BERKOWITZ  
A PROFESSIONAL CORPORATION  
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POST OFFICE BOX 1792  
KNOXVILLE, TENNESSEE 37901

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Facsimile  
(865) 525-8569

MEMORANDUM

VIA FACSIMILE 425-3420

TO: Mayor David Bradshaw  
CC: Ken Krushenski  
FROM: Robert F. Worthington, Jr.  
DATE: June 2, 2004  
RE: Department of Energy information

You have asked that we advise you of the present status of discussions in Washington with the Department of Energy (DOE). As you know a great deal of study and effort led us to recommend filing with the DOE an application for Renewal of Annual Assistance payment to the City of Oak Ridge. This Application was approved by Council and we approached Members of Congress and their staff, as well as the DOE to review the matters set forth in the application.

At that time the consensus seemed to be that the filing of the application might limit consideration to the renewal of annual assistance payments as a means of obtaining sustainability for the City while other alternatives might have more chance of success.

As a result it was decided to withhold filing the Application until other alternatives had been explored.

The ongoing discussions resulted in language in the FY04 Energy and Water Appropriations Bill urging DOE to work with the City to help achieve financial self-sufficiency.

We just received a copy of DOE's initial response and have not had a chance to discuss it in depth with Congressional staff. Although it does not propose specific solutions it does appear that the DOE response may form the basis for continuing dialogue.

We will keep you informed of on going discussion and will be prepared to brief the committee on developments. I expect that members of the committee should be prepared to travel to Washington in order to participate in the discussions.

In the meantime, I think that it may be premature to officially file the application at this time. Of course, the contents of the application have been shared with all concerned and were very useful.

**United States Senate**

WASHINGTON, DC 20510

July 19, 2004

The Honorable Spencer Abraham  
Secretary  
Department of Energy  
1000 Independence Avenue, SW  
Washington, DC 20585

Dear Mr. Secretary:

We are writing on behalf of the City of Oak Ridge and Anderson and Roane counties regarding their efforts to work with the Department of Energy to achieve financial self-sufficiency.

The Department has long pursued a national policy of helping our nation's nuclear cities achieve financial self-sufficiency. The Atomic Energy Community Act of 1955 provided special payments to our nation's nuclear cities to mitigate the special burdens created by the presence of large federal facilities that severely impacted basic infrastructure and service capabilities and withdrew significant lands from the local tax base. Various arrangements between the federal government and the nuclear cities have been tailored over the years to address the aforementioned burdens, but such efforts have fallen short in Oak Ridge. The Department's continued control of significant lands in Oak Ridge has imposed greater burdens on the remaining taxable base and discouraged economic growth and development.

In 1985, a new agreement was signed between the Department and the City of Oak Ridge and Anderson and Roane counties with the hope and expectation that financial self-sufficiency might be achieved. The 1985 agreement specifically provided for lump-sum payments and the transfer of 10,405 acres termed "self-sufficiency parcels." The communities accepted lump sum payments in exchange for a commitment from the Department to transfer land for the purposes of establishing a local tax base sufficient to provide the revenues necessary to supplant federal annual assistance payments. Today, 18 years later, many aspects of this agreement remain unrealized. The lands identified in the 1985 agreement have not been transferred to the local governments; and, accordingly, the anticipated enhanced tax base to achieve self-sufficiency has not been realized. In fact, only 23 percent of the self-sufficiency parcels have been transferred by the federal government to the City of Oak Ridge and Anderson and Roane counties.

In light of the continued difficulties experienced by these Tennessee communities, the following language was included in the Fiscal Year 2004 Energy and Water Appropriations bill.

EXHIBIT  
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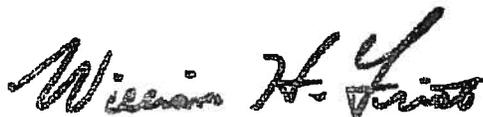
"The Committee is aware of concerns expressed by the City of Oak Ridge and Anderson and Roane counties in the State of Tennessee regarding the level of financial assistance provided by the Department of Energy. As a Manhattan Project atomic energy community, the Department has a special relationship with Oak Ridge. Although the area receives modest support from the Department as part of the Payment in Lieu of Tax program, economic development has been severely limited by extensive Federal ownership of lands, aging infrastructure, and disproportionately high local tax rates. Unfortunately, Oak Ridge has not achieved the level of self-sufficiency envisioned by the Atomic Energy Community Act of 1955. The Committee urges the Department to work with city and county officials to develop a plan to help the Oak Ridge community achieve financial self-sufficiency."

In February of this year, during the Senate Energy and Natural Resources Committee's hearing on the Department's fiscal year 2005 budget, Senator Alexander submitted a written inquiry asking how the Department planned to help the Oak Ridge community achieve financial self-sufficiency. The Department's response, received on May 4<sup>th</sup>, provided detailed information about previous efforts to help these communities achieve self sufficiency, but failed to address the critical question of how the Department would work with the city and counties to provide meaningful assistance in the future.

The Oak Ridge community believes that the land currently controlled by the Department should produce tax benefits of \$280 per acre, which is comparable to similarly sized Tennessee industrial communities. To reach this goal, we specifically request that the Department develop a viable self-sufficiency plan that may include the transfer of lands identified in the 1985 agreement that have not yet been transferred, the resumption of special assistance payments, or other proposals developed by the Department. We very much hope that the Department will produce a solution or develop a process to resolve this matter by the end of this year or early next year.

The Oak Ridge community strongly supports the Department and its contractors. Tennessee takes great pride in the contributions made by the Oak Ridge National Laboratory and the Y-12 National Security Complex and treasures its relationship with the Department. We thank you for your attention to this matter and look forward to working with you in the weeks and months ahead.

Sincerely,



William H. Frist, M.D.  
Majority Leader  
United States Senate



Lamar Alexander  
United States Senate

## **POTENTIAL FEDERAL FUNDING REPORT**

In the past, the U.S. federal government has offered funding assistance to communities affected by military base closure. The following report summarizes various opportunities presented by numerous governmental departments and agencies over the past few years:

### **Department of Agriculture**

- Biotechnology Risk Assessment Grant
- Education and Extension Service – Grant and Funding Opportunities
- National Research Initiative
- Rural Electrification Administration's Rural Economic Development Loan and Grant Program

### **Department of Commerce**

- Economic Development Administration's Defense Conversion Assistance Programs
- Economic Development Administration's Planning and Implementation Grants
- Fire Research Grant Program
- National Institute of Standards' Advanced Technology Program Competitions

### **Department of Defense**

- Assistance to Communities Affected by Multiple Base Closures
- Commercial Operations and Support Savings Initiative
- Grants to Institutions of Higher Education to Provide Education and Training in Environmental Restoration to Dislocated Defense Workers and Young Adults
- Office of Economic Adjustment Grants
- Small Business Technology Transfer (STTR) Pilot Program

### **Department of Energy**

- Energy Biosciences Grant Program
- Financial Assistance Program for Basic Energy Sciences, Biological and Environmental Research
- Inventions and Innovation Program
- Municipal Energy Management Program's Energy Research, Demonstration and Technology Transfer Projects (administered by the Urban Consortium Energy Task Force);
- National Industrial Competitiveness through Energy, Environment and Economics (NICE3)

### **Department of Housing and Urban Development**

- Community Development Block Grants
- Economic Development Initiative Grants
- Lead-Based Paint Hazard Control Grant Program

### **Department of Transportation**

- Federal Aviation Administration's Airport Improvement Program
- Next Generation High-Speed Rail Corridor Studies

**Department of Treasury**

Forecast of Contract Opportunities

**Environmental Protection Agency**

Brownfields Assessment Demonstration Pilots

Environmental Education Grants Program

Environmental Research Grants Through the Science to Achieve Results (STAR)

Program

Superfund Technical Assistance Grants

Sustainable Development Challenge Grant Program

**Institute of Museum & Library Services**

Grants and discretionary programs to improve museum, library and information services

**National Aviation & Space Administration**

Small Business Innovation and Research (SBIR) Program

Small Business Technology Transfer (SBTT) Research Program

**National Civil Aviation Review Commission**

Airport Development Needs and Financing Options Report

**National Consortium for Environmental Education & Training**

Environmental Education on the Internet (EE-Link) Grants & Awards;

**National Science Foundation**

NSF Grants Program

**National Telecommunications & Information Administration**

Infrastructure Assistance Program

**National Technology Transfer Center**

Free Technical Assistance, Access to Federal Lab System

**Small Business Administration**

Defense Loan and Technical Program

International Trade Loan Guarantees

Pollution Control Loans

Section 7(A) Loan Guaranty Program

Section 8(a) Eligibility Programs (for socially or economically disadvantaged business persons)

Small Business Innovation and Research funding

Small General Contractors Loan Program

Small Loan Program

Surety Bond Program

Vietnam Era and Disabled Veterans Program

**Trade & Commerce Agency**  
Defense Adjustment Matching Grant Program

**U.S. Air Force**  
Dual Use Applications Program

**U.S. Geological Survey**  
Earthquake Hazards Reduction Program



**William H. Frist, M.D.  
Majority Leader  
UNITED STATES SENATE**

**FACSIMILE COVER SHEET**

**TO:** John Tuck

**FAX:** 508-3402

**FROM:** Allison Martin  
Projects Director and Legislative Counsel

**DATE:** 7/21/04

**NUMBER OF PAGES (including this sheet):**

**COMMENTS:** If you have any questions regarding this facsimile please contact Allison Martin at 202-224-9593.

**United States Senate**

WASHINGTON, DC 20510

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Secretary  
Department of Energy  
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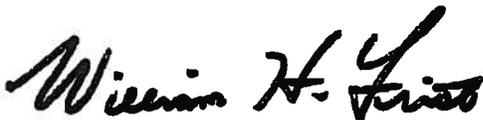
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Sincerely,



William H. Frist, M.D.  
Majority Leader  
United States Senate



Lamar Alexander  
United States Senate

10/20/2014

**DRAFT 10/17/14**

The Honorable Ernest Moniz, Secretary of Energy  
Department of Energy  
1000 Independence Ave.  
Washington, DC 20585

Subject: A Review of DOE Community Assistance and Self-sufficiency Efforts Under the provisions of AECA of 1955 and subsequent Legislation to the City of Oak Ridge.

Dear Mr. Secretary:

Oak Ridge is a maturing City that has worked diligently since its incorporation in 1959 to archive both self-sufficiency and Tennessee competitiveness. It has achieved some degree of success at developing into a competitive City but still is burdened by high property taxes. DOE contractors contribute little to the Oak Ridge general revenues. Today, DOE direct PILT payments constitute only 4.8 % of general revenues while property taxpayers bear a high burden.

Typically, a community this size hosting a large commercial industrial complex, is supported by this industry supplying 20 % of its revenue needs. In summary, Oak Ridge has matured in many ways during the last 55 years, we The Oak Ridge City Council, are requesting a formal review of DOE PILT Payments, the Oak Ridge DOE Self-sufficiency Program of 1980's, and the appropriate Special Burden Payments under the provisions of AECA of 1955 and subsequent Legislation applicable to the City of Oak Ridge. This has never been done since incorporation in 1959. Today, many aspects of the previously legislated self-sufficiency efforts have either failed or remain unrealized.

There have been three major studies which have all concluded that there were intractable obstacles to Oak Ridge achieving total self-sufficiency, and that also concluded that DOE had not been paying its large industry equivalent fair share of community revenues. Two of these studies, (1978 & 1984), by DOE resulted in DOE initiating additional self-sufficiency efforts which were to focus on 1) additional land transfers. 2) Major DOE contractor commitments to the community through what was known as "Chapter 4" bidder requirements. All efforts have failed to meet expectations; 1) less than 25% of the Promised Land transfers have occurred. 2) Since 1985, no major contractor has made any significant commitment increasing community revenues and DOE / Contractor Oak Ridge self-sufficiency considerations are no longer a part of any contract bidding. The City of Oak Ridge itself has been unable to attract a single major private industrial company in the intervening 55 years.

Our major hope to gain revenues from taxation of DOE commercial uranium enrichment operations collapsed in 1987 when the uranium enrichment forever terminated and the facility was dismantled. Today, there are no other commercial DOE products in Oak Ridge which can provide DOE-linked revenues. The DOE SNS Research Facility was granted State and City perpetual tax immunity from all taxes at its construction and contributes nothing financially to Oak Ridge. Our own City efforts to expand other commercial, retail, and residential sources have failed to generate the needed revenues. Various arrangements between the federal government and Oak Ridge have been tailored to address the special burdens, but all of these efforts have fallen short of revenue expectations.

Since 1985, DOE has placed an emphasis on fractionating the major local contracts from one into many. Today, these contractors come and go every few years and there are no community committed contractors and "Chapter 4" bidding commitments have been long forgotten. Even DOE has no effective single contact point for AECA 1955 discussions. DOE Oak Ridge now has 7 fractionated major Energy Department contact points. This fractionalization of responsibilities completely inhibits any meaningful local discussion of community revenue problems.

In spite of Oak Ridge having been created as a debt-free city in 1959 complete with all infrastructure which included; electrical, water, sewers, roads, schools, a hospital, and municipal buildings which were all spent, aging infrastructures when they were contributed by the federal government. Oak Ridge is now heavily in debt owing over \$180,000,000. Today, Oak Ridge has the highest per resident debt in Tennessee and finds further systems upgrade financing needs burdensome. It also has had the dubious distinction of having highest or near highest, property tax rate in Tennessee since 1959. Today, Oak Ridge faces many additional major capital needs which will require significant additional debt which will likely require even higher taxes.

The Oak Ridge City Council has long recognized this major revenue problem and has sought DOE help over some period of time. In July 2004, it attempted to discuss the problem with DOE by politically engaging our federal representatives. Council compelled then Tennessee Senators Frist and Alexander to write a letter to then DOE Secretary Spencer Abraham. A copy of this July 19, 2004 signed letter is attached. DOE has never acknowledged, responded to, or answered this letter in the intervening 10 years! We sincerely hope that this is an oversight and not stone walling as many people fear!

Oak Ridge endures the impact of both past and present DOE activity as special burdens. These are: A) Occupation of a large fraction of all community property, (~32,500 acres), with little remuneration. B) Permanent radiological contamination. C) Deteriorating, 70 year old, substandard, uncompetitive for new DOE employees, Manhattan Era housing which is now requiring City demolition at a rate which exceeds our current new residential construction. Oak

Ridges' future may well depend upon our ability to recycle these Manhattan Era neighborhoods, as they still constitute over 50 % of all Oak Ridge residential housing.

Today, the major source of the community revenue provided by DOE is a DOE PILT. This property tax equivalent PILT is based upon the scrub-forested, unutilized farm value of the DOE occupied and federally owned property and our current property tax rate. That is, that ~32,500 acres which is not otherwise taxable. Today, this property is yielding about \$52/acre in equivalent property taxes, or ~\$1,661,000 annually. This is far below the revenue that similar Tennessee cities receive from their hosted major industrial operations here in Tennessee. That is, operations like: Tennessee Eastman, Volkswagen, Nissan, Alcoa Aluminum, Whirlpool, or The Tennessee Valley Authority (TVA) in other Tennessee cities. The TVA pays 5% of all power sales revenues in State and Community PILTS paying a total of \$522 million in 2014. Today, Oak Ridge currently receives no revenue for its contaminated or heavy metals and radioactive waste burial sites which are a "Special Burden" as they impact the community in many very measurable, negative ways.

In summary, the City of Oak Ridge is proud to host DOE facilities in our community and we vigorously support all of DOE's missions! We support scientific research and nuclear weapons maintenance and production, radiological waste storage, and everything in between! Oak Ridge has matured since incorporation in 1959. We have been and we are a DOE advocate community! But, DOE is not paying its fair share of community revenues and we would like to formally discuss this issue under the provisions of the AECA 1955 and it's following supporting legislation.

Today, Oak Ridge receives 4.8% of its revenues from the DOE PILT. This has been an ever decreasing percentage over many years. Originally DOE bore the near complete financial burden of Oak Ridge. After incorporation in 1959 DOE has borne and ever decreasing Oak Ridge community burden. By as early as 1964, DOE provided only 27% of revenues while property taxes provided over 70% of revenues. In 1968 DOE provided 19% of revenues, by 1978 it was 14 % of revenues, today this has been reduced to 4.8% of revenues while property taxes still remain high, now providing 56.4% of the revenues. DOE contributions have continually decreased and are now well below that normally expected from large industry. A normal large industry should be providing about 20% of the revenues. DOE has not contributed 20% of revenues since 1967. Many of the past DOE self-sufficiency promises have never been delivered and therefore are not contributing revenue as hoped, or have since proven to be intractable. Property taxes are high and burdensome while community budget cuts have been "to the bone" impacting those community characteristics that the Joint Committee of Atomic Energy intended to protect through the Energy Community legislation of AECA 1955.

The Oak Ridge City Council asks DOE to initiate active talks with us by 1 April 2015, and to conduct / conclude these revenue discussions by 1 January 2016.

The focus of these discussions should to be: "How can DOE assist this community by providing additional community revenues for Oak Ridge?" based upon the following: 1) A revised PILT formula coupled to both inflation and DOE activities. 2) Initiate annual supplemental "Special Burden Payments" compensating the City of Oak Ridge for Site contamination impacts as appropriate. 3) Update / revise past DOE Oak Ridge "Self-sufficiency" plans from those originally proposed by DOE in the 1980's, or drop them. 4) Allow Oak Ridge taxation of another commercially-linked DOE activity, as was planned for all commercial uranium enrichment in the "70's & 80s." 5) Identify and / or implement alternative revenue ideas proposed or suggested by DOE as appropriate.

Thank you for your consideration of our request as we desire to work toward finding mutually supportive solutions! We look forward to a long and productive working relationship with DOE!

Sincerely,

Oak Ridge City Council

Inc.: Letter of 19 July, 2004

Cys to:

Sen. B. Corker

Sen. L. Alexander

Rep. C. Fleischman

Press as appropriate