

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

October 11, 2010 – 7:00 p.m.

AGENDA

**1. INVOCATION**

The Reverend David Allred, High Places Community Church

**2. PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

**4. APPEARANCE OF CITIZENS**

**5. APPROVAL OF AGENDA**

**6. RECOGNITION OF VISITORS**

**7. PROCLAMATIONS AND COURTESY RESOLUTIONS - None**

**8. PUBLIC HEARING**

Rezoning from FIR, Federal, Industry and Research, to IND-2, Industrial, of approximately 83.3 acres within the Heritage Center identified as Parcels ED-8 A, ED-8 B, ED-8 C, ED-8 D, ED-8 E, and Parcels 1.01, 1.02, 1.03 and 1.07, Roane County Tax Map 30, located on the north side of State Route 58, east of Meritus Avenue.

**9. CONSENT AGENDA**

- a. Approval of the Minutes of the September 13, 2010 City Council meeting.
- b. Adoption of a resolution authorizing the acceptance of an enforcement initiative grant from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,597.98 to be used for authorized traffic enforcement and/or training purposes.
- c. Adoption of a resolution approving the amended bylaws for the Health and Educational Facilities Board.
- d. Adoption of a resolution approving the donation of one (1) 1984 GMC military ambulance (Unit 339) to the City of LaFollette, Tennessee, as authorized by Tennessee Code Annotated § 12-3-1005.
- e. Adoption of a resolution authorizing the City to enter into an amendment to the water services agreement between the City and the United States of America Department of Energy to extend the agreement through June 30, 2011.
- f. Approving the recommendation of the Youth Advisory Board Screening Panel and appointing Ms. Lisa Ebeler to serve on the Youth Advisory Board for the balance of an unexpired term of office ending on July 31, 2011.

**10. SPECIAL REPORTS**

a. Mayor and City Council

b. Special Committees

Intergovernmental Relations Committee Report and Recommendation

Mayor Tom Beehan, Chair

c. Boards and Commissions

d. Other

**11. APPROVAL OF MINUTES**

**12. ORDINANCES**

a. First Reading of New Ordinances

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF THE BUILDINGS DESIGNATED AS PARCELS 1.01, 1.02, 1.03, AND 1.07, ROANE COUNTY TAX MAP 30, AND THE REAL PROPERTY DESIGNATED BY THE UNITED STATES DEPARTMENT OF ENERGY AS PARCELS ED-8A, ED-8B, ED-8C, ED-8D, AND ED-8E FROM FIR, FEDERAL INDUSTRY AND RESEARCH, TO IND-2, INDUSTRIAL.

AN ORDINANCE TO AMEND TITLE 3, TITLED "MUNICIPAL COURT," CHAPTER 1, TITLED "CITY COURT," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING SECTION 3-103, TITLED "TIME FOR SESSIONS," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SECTION 3-103, TITLED "TIME FOR SESSIONS," FOR THE PURPOSE OF CHANGING THE DATES AND TIMES FOR SESSIONS OF CITY COURT AS WELL AS ESTABLISHING JUDICIAL AUTHORITY TO HOLD SPECIAL COURT SESSIONS.

b. Adoption of Ordinances (Second Reading) - None

AN ORDINANCE TO AMEND ORDINANCE NO. 27-85, TITLED "A PERSONNEL PLAN FOR EMPLOYEES OF THE CITY OF OAK RIDGE, TENNESSEE," AS AMENDED BY DELETING ARTICLE 11, TITLED "LEAVE," IN ITS ENTIRETY AND BY ADDING A NEW ARTICLE 11, TITLED "LEAVE."

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 060.00, MAP 940, GROUP A, FROM R-1-C, ONE-FAMILY RESIDENTIAL IN THE MANHATTAN DISTRICT OVERLAY, TO B-2/PUD, GENERAL BUSINESS WITH A PLANNED UNIT DEVELOPMENT OVERLAY, AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 060.00, MAP 940, GROUP A, FROM R, RESIDENTIAL TO B, BUSINESS.

AN ORDINANCE TO AMEND TITLE 15, TITLED "MOTOR VEHICLES, TRAFFIC AND PARKING," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE," BY AMENDING SECTION 15-505, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – THIRTY-FIVE MILES PER HOUR," SUBSECTION (4); SECTION 15-506, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY MILES PER HOUR," SECTION 15-507, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY-FIVE MILES PER HOUR," SUBSECTION (4); AND SECTION 15-508, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FIFTY MILES PER HOUR," TO SET FORTH NEW SPEED LIMITS ALONG THE OAK RIDGE TURNPIKE (STATE ROUTE 95) AS INDICATED BY THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION.

**13. RESOLUTIONS**

a. General Resolutions

A resolution approving the 2010 PILOT Reauthorization documents for use by the Industrial Development Board of the City of Oak Ridge (IDB) as a guideline for tax abatements and payments in lieu of taxes for qualifying entities in Oak Ridge through December 31, 2013, and terminating the *Suggested Revisions to Proposed Economic Development Incentives (PILOT) Adjustments* approved by City Council by Resolution 12-114-07 and replacing them with the attached 2010 PILOT Reauthorization documents.

A resolution approving the recommendations of the City Manager and the Oak Ridge Municipal Planning Commission and abandoning the right-of-way located between Sanford Lane and Rand Circle in its entirety, and dedicating the same to abutting property owners conditioned upon the abutting property owners being responsible for the costs associated with the required surveys and legal documents, as well as recording costs.

b. Bids and Contracts

A resolution extending the contract between the City and the State of Tennessee Local Government Health Insurance Program, Nashville, Tennessee, to provide employee medical insurance for the period January 1, 2011 through December 31, 2011 at an estimated cost of \$3,600,000.00.

A resolution authorizing the City to enter into an agreement with Lamar Dunn & Associates, Inc., Knoxville, Tennessee, for the provision of professional engineering services to assist the City with various tasks required by the United States Environmental Protection Agency to improve the wastewater collection system to comply with the Administrative Order by the EPA, in the estimated amount of \$1,429,620.00.

**14. ELECTIONS**

Election of one (1) member to serve on the Board of Directors of the Oak Ridge Convention and Visitors Bureau for the balance of an unexpired term of office ending on June 30, 2012.

Election of one (1) member to serve on the Highland View Redevelopment Advisory Board for the balance of an unexpired term of office ending on March 31, 2013.

Election of one (1) member to the Board of Directors of the Oak Ridge Heritage Railroad Authority to serve as the Director at Large for three years commencing on October 10, 2010.

Notice of Elections

Three (3) elections are scheduled for the November 8, 2010 City Council meeting to appoint:

- One (1) member to the Highland View Redevelopment Advisory Board
- One (1) member to the Board of Plumbing Examiners
- Four (4) members to the Traffic Safety Advisory Board, one of whom shall be an Oak Ridge High School student

The deadline for filing is 5:00 p.m. on Tuesday, October 26, 2010.

15. COMMUNICATIONS - None

16. CITY MANAGER'S REPORT

2009 Neighborhood Stabilization Program (NSP)

17. CITY ATTORNEY'S REPORT

18. UNFINISHED BUSINESS

19. NEW BUSINESS

20. MISCELLANEOUS

21. UPCOMING MEETINGS/MAJOR ISSUES

22. ADJOURNMENT

# **PUBLIC HEARING**

**CITY CLERK MEMORANDUM**  
**10-66**

DATE: September 30, 2010

TO: Honorable Mayor and Members of City Council

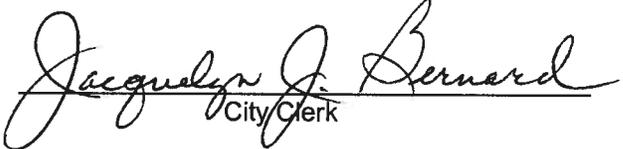
FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: PUBLIC HEARING

A public hearing has been scheduled for the October 11, 2010 City Council meeting on the following:

Rezoning from FIR, Federal, Industry and Research, to IND-2, Industrial, of approximately 83.3 acres within the Heritage Center identified as Parcels ED-8 A, ED-8 B, ED-8 C, ED-8 D, ED-8 E, and Parcels 1.01, 1.02, 1.03 and 1.07, Roane County Tax Map 30, located on the north side of State Route 58, east of Meritus Avenue.

Supporting documentation for this item will be found under First Reading of New Ordinances.

  
City Clerk

# **CONSENT AGENDA**

**CITY CLERK MEMORANDUM**

10-67

DATE: September 30, 2010

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: CONSENT AGENDA

The following items are presented for the Council's consideration as the Consent Agenda for the October 11, 2010 Council meeting.

Approval of Minutes – September 13, 2010

General Resolutions

A resolution authorizing the acceptance of an enforcement initiative grant from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,597.98 to be used for authorized traffic enforcement and/or training purposes.

A resolution approving the amended bylaws for the Health and Educational Facilities Board.

A resolution approving the donation of one (1) 1984 GMC military ambulance (Unit 339) to the City of LaFollette, Tennessee, as authorized by Tennessee Code Annotated § 12-3-1005.

Resolutions – Bids and Contracts

A resolution authorizing the City to enter into an amendment to the water services agreement between the City and the United States of America Department of Energy to extend the agreement through June 30, 2011.

Elections

Approving the recommendation of the Youth Advisory Board Screening Panel and appointing Ms. Lisa Ebeler to serve on the Youth Advisory Board for the balance of an unexpired term of office ending on July 31, 2011.

**The documentation for these items follows this memorandum.**

  
City Clerk

# MINUTES OF THE OAK RIDGE CITY COUNCIL MEETING

September 13, 2010

The regular meeting of the City Council of the City of Oak Ridge, Tennessee, convened at 7:00 p.m. on September 13, 2010 in the Courtroom of the Municipal Building with Mayor Thomas L. Beehan presiding.

## INVOCATION

The Invocation was given by The Reverend Stella Roberts of First United Methodist Church.

## PLEDGE OF ALLEGIANCE

An Oak Ridge member of the Boy Scouts of America led the Pledge of Allegiance to the Flag of the United States of America.

## ROLL CALL

The following members of Council were present: Anne Garcia Garland, Thomas W. Hayes, L. Charles Hensley, D. Jane Miller, David N. Mosby, Ellen D. Smith, and Mayor Thomas L. Beehan.

Also present were Mark S. Watson, City Manager; Kenneth R. Krushenski, City Attorney; Steven W. Jenkins, Deputy City Manager; and Jacquelyn J. Bernard, City Clerk.

## APPEARANCE OF CITIZENS

### Shooting Death of Mr. Rodney Harris on July 18, 2010

Ms. Lynda Lewis, 430 Villanova Road, stated: I simply wish to remind the Council of the Harris family, still bereaved and still awaiting answers. And we recognize that we were told that it might be months before anything would be known in terms of an official report, but I guess my thought is – and I don't know who said it first and when I don't I just say somebody said this before I did – that "justice delayed is justice denied." So we want very much to make certain in whatever way that we can to get answers for this family. They have recently suffered another bereavement, not at the hands of any entity but rather due to an automobile accident, and so they lost three members of their extended family and are clearly very grief stricken and that's why they are not speaking tonight. We know that everyone wants to know the truth and to get the very best resolution that is possible, and we know that Council understands their anxiety about this but we just want to make certain that there is always a face to that situation and that we will be able to reach some type of positive resolution.

### Anderson County Remote Area Medical Expedition

Mr. Leon May of 1721 Huntwood Lane in Knoxville, Tennessee, made a presentation on behalf of the Anderson County Remote Area Medical in which he advised that the Remote Area Medical organization will hold an "expedition" on April 30 and May 1, 2011 at the First Baptist Church in Clinton, Tennessee. He read the organization's mission: *It's a county-wide project to assist the uninsured or the underinsured in Anderson County and surrounding counties for free medical, dental and vision care. We expect to use about 250 to 300 volunteers and serve about 1000 to 1400 patients over a two-day period.* He commented on the organization's need for money and requested that donations be addressed to FBC/RAM and mailed to P. O. Box 268, Clinton, TN 37717.

### **APPROVAL OF AGENDA**

Councilwoman Miller moved that the agenda be approved as published, seconded by Councilman Hensley.

The Mayor reported that subsequent to the distribution of the agenda for this meeting a request was received from the Regent of the Clinch Bend Chapter of the Daughters of the American Revolution for a proclamation designating the week of September 17 through 23, 2010 as "Constitution Week." He recommended its addition to the agenda under Proclamations and Courtesy Resolutions.

Councilman Hensley moved that the agenda be so amended. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

The agenda was approved, as amended, by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

### **RECOGNITION OF VISITORS**

Mayor Beehan recognized Representative Jim Hackworth, who represents Oak Ridge in the House of the Tennessee General Assembly. He reported (1) that the Tennessee Department of Transportation (TDOT) is going to be "at or near" on schedule with the West End Turnpike improvement project and (2) that to expect Edgemoor Road improvements to be in next year's TDOT "three-year plan."

### **PROCLAMATIONS AND COURTESY RESOLUTIONS**

Resolution No. 9-85-10

**A resolution recognizing the 100<sup>th</sup> anniversary of the Boy Scouts of America and expressing appreciation for the service and character-building that the organization has provided through its dedication to the youth of the City of Oak Ridge.**

Councilwoman Miller moved that the resolution be adopted. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye." An executed copy of the resolution was presented to Mr. Jim McCauley, a representative of the Boy Scout organization in Oak Ridge.

The Mayor recognized other Boy Scout leaders and members of Oak Ridge troops who were present in celebration of their organization's 100<sup>th</sup> anniversary.

**A proclamation designating September 17 through 23, 2010 as "Constitution Week."**

Councilman Hensley moved that the proclamation be adopted. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye." The proclamation was presented to Ms. Laurel Gorman, Regent of the Clinch Bend Chapter of the Daughters of the American Revolution.

### **PUBLIC HEARING**

A public hearing was held on the following:

Rezoning of Parcel 60.00, Group A, Anderson County Tax Map 940, located at 132 Tyson Road, from R-1-C, Single-Family Residential in the Manhattan District Overlay, to B-2, General Business with a Planned Unit Development (PUD) Overlay; and amendment of the Comprehensive Plan's Land Use Plan to change the designation of the parcel from R, Residential, to B, General Business.

The City Manager briefly reviewed this proposed rezoning and advised that the Planning Commission recommended its approval by a vote of 7-0 at its regular meeting on August 26, 2010.

Ms. Nancy Snowden, 100 Tucker Road, who indicated that she was representing the neighborhood in this area, stated that the neighbors do not object to this rezoning, having found that the rezoning applicant, Mr. Eddie Hair, who is also the owner of the property, has in the past demonstrated his willingness to be cooperative with the residential neighborhood.

### **CONSENT AGENDA**

Councilman Hensley moved that the Consent Agenda be approved as presented, seconded by Councilwoman Smith.

Councilwoman Garcia Garland requested that the following item be removed from the Consent Agenda and considered under Bids and Contracts:

Adoption of a resolution approving a Professional Services Agreement between the City and Leathers and Associates, Ithaca, New York, for the provision of professional design services to prepare plans and specifications to construct a universally accessible playground at Cedar Hill Park, as well as services relating to construction oversight, in the estimated amount of \$38,500.00.

Councilwoman Miller requested that the following item be removed from the Consent Agenda and considered under Elections:

Confirming the appointment of Council Members Thomas W. Hayes, David N. Mosby, and Mayor Thomas L. Beehan to serve as the Committee Structure Review Committee, with Mayor Beehan to serve as the Chair.

The Consent Agenda was approved, as amended, thereby:

- Approving the Minutes of the Minutes of the August 9, 2010 City Council meeting;
- Approving the Minutes of the August 23, 2010 City Council meeting;
- Adopting **Resolution No. 9-86-10** agreeing to sign the Memorandum of Understanding *Establishing a Regional Integrated Transportation Project* in order to participate in the planning and implementation of a regional sustainability initiative that can result in tangible benefits to the Oak Ridge community.

The vote was unanimous with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith and Mayor Beehan voting "Aye."

## **SPECIAL REPORTS**

### **NLC Congress of Cities and Exposition**

Mayor Beehan reported that the National League of Cities (NLC) Annual Congress of Cities and Exposition will be held November 30–December 4, 2010 in Denver, Colorado. He encouraged Council members who wished to attend to proceed with their arrangements for this conference in order to take advantage of early registration fees.

### **Youth Advisory Board 2010-2011 YAB Goals and Objectives**

Mr. Calvin Cummings, Chair of the City's Youth Advisory Board (YAB), presented the Board's proposed goals and objectives for its 2010-2011 term year.

The report was discussed at some length with Mr. Cummings responding to the Council's questions and comments.

Councilman Hensley moved that the goals and objectives be approved as presented. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

## **APPROVAL OF MINUTES**

See Consent Agenda.

## **ORDINANCES**

### **First Reading of New Ordinances**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 060.00, MAP 940, GROUP A, FROM R-1-C, ONE-FAMILY RESIDENTIAL IN THE MANHATTAN DISTRICT OVERLAY, TO B-2/PUD, GENERAL BUSINESS WITH A PLANNED UNIT DEVELOPMENT OVERLAY, AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 060.00, MAP 940, GROUP A, FROM R, RESIDENTIAL TO B, BUSINESS.

Councilman Hensley moved that the ordinance be approved on first reading. The motion was seconded by Councilwoman Smith and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

AN ORDINANCE TO AMEND TITLE 15, TITLED "MOTOR VEHICLES, TRAFFIC AND PARKING," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE," BY AMENDING SECTION 15-505, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – THIRTY-FIVE MILES PER HOUR," SUBSECTION (4); SECTION 15-506, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY MILES PER HOUR," SECTION 15-507, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY-FIVE MILES PER HOUR," SUBSECTION (4); AND SECTION 15-508, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FIFTY MILES PER HOUR," TO SET FORTH NEW SPEED LIMITS ALONG THE OAK RIDGE TURNPIKE (STATE ROUTE 95) AS INDICATED BY THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION.

Councilwoman Miller moved that the ordinance be approved on first reading, seconded by Councilman Hayes.

Councilwoman Smith expressed concerns about the speed limits contained in this ordinance. She proposed that either the existing limits be retained while investigations are made to determine the appropriate speeds or that this ordinance be amended to reflect a 35 mph limit from a point 700 feet west of Jefferson Avenue to a point three hundred feet east of Georgia Avenue, with 45 mph from those points to the appropriate points east and west of the City.

The ensuing discussion was lengthy with the City Manager and the City Attorney responding to the Council's questions and comments in this regard. However, no formal motion was offered to amend the ordinance or to undertake any additional investigations into the matter at this time. However, the City Manager agreed to direct that the staff monitor the situation once the new speed limits have been posted.

The ordinance was approved on first reading by electronic vote with Council members Hayes, Hensley, Miller, Mosby, and Mayor Beehan voting "Aye" and Council members Garcia Garland and Smith voting "Nay."

The City Clerk noted that this ordinance contains a typographical error that will be corrected prior to second reading; namely, the reference to Rarity **Ridge** Parkway will be changed to Rarity **Oaks** Parkway.

AN ORDINANCE TO AMEND ORDINANCE NO. 27-85, TITLED "A PERSONNEL PLAN FOR EMPLOYEES OF THE CITY OF OAK RIDGE, TENNESSEE," AS AMENDED BY DELETING ARTICLE 11, TITLED "LEAVE," IN ITS ENTIRETY AND BY ADDING A NEW ARTICLE 11, TITLED "LEAVE."

Councilwoman Miller moved that the ordinance be approved on first reading. The motion was seconded by Councilwoman Smith and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

#### Adoption of Ordinances (Second Reading)

Ordinance No. 13-10

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 015.00, ANDERSON COUNTY TAX MAP 100A, GROUP C, AND PARCEL 016.00, MAP 100A, GROUP C, FROM IND-1, INDUSTRIAL, TO R-4, HIGH DENSITY RESIDENTIAL; AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF SAID PARCELS FROM B, BUSINESS TO R, RESIDENTIAL.

Councilwoman Smith moved that the ordinance be adopted. The motion was seconded by Councilman Hensley and after brief deliberation, it carried by voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, and Smith voting "Aye." Mayor Beehan recused himself from both the discussion and the vote, his reason being that as a realtor he is the listing agent on the subject property.

### **RESOLUTIONS**

#### General Resolutions

Resolution No. 9-87-10

**A resolution adopting a revised Classification Plan of City Employees for FY 2011.**

Councilwoman Miller moved that the resolution be adopted. The motion was seconded by Councilman Hayes and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

Resolution No. 9-88-10

**A resolution accepting a grant from the State of Tennessee, Department of Economic and Community Development, Energy Policy Office, in the amount of \$100,000.00.**

Councilwoman Smith moved that the resolution be adopted. The motion was seconded by Councilwoman Garcia Garland and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

#### Bids and Contracts

Resolution No. 9-89-10

**A resolution approving a grant agreement with Prevent Child Abuse Tennessee for use in the Healthy Start of Anderson County Program and authorizing the disbursement of budgeted funds in the amount of \$31,850.00 for this purpose.**

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

Deliberation was brief with Ms. Marcia Slagle, the Executive Director of the Healthy Start Program, responding to the Council’s questions and comments.

The resolution was adopted by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

Resolution No. 9-90-10

**A resolution concurring with the “*Bridge*” Memorandum of Agreement Among the U.S. Department of Energy, Oak Ridge Office, The Department of Energy Federal Preservation Officer, The Tennessee State Historic Preservation Office, and The Advisory Council on Historic Preservation, For Continued Compliance with Section 106 of the National Historic Preservation Act for Site Interpretation of the East Tennessee Technology Park (Formerly K-25 Site) on the Oak Ridge Reservation, Roane County, Tennessee to allow for (1) ongoing decontamination, decommissioning, and demolition at ETTP; (2) additional time for the completion of DOE’s feasibility study; and (3) the development of a new, final MOA regarding any mitigation measures, which is anticipated in the fall of 2010.**

Councilwoman Miller moved that the resolution be adopted. The motion was seconded by Councilman Hayes and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting “Aye.”

Resolution No. 9-91-10

**A resolution authorizing the City to enter into the necessary agreements with the Tennessee Valley Authority in order to maintain the City’s participation and the City’s electric customers’ participation in the 5 MR Program and the Time Differentiated Hours Use of Demand (TD-HUD) Program.**

Councilwoman Smith moved that the resolution be adopted. The motion was seconded by Councilman Hayes and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Resolution No. 9-92-10

**A resolution approving the amendment of the contract between the City and the Tennessee Valley Authority for electric power to adopt the new electric rate schedule as developed by the Tennessee Valley Authority, effective with October 2010 electric billings.**

Councilwoman Hayes moved that the resolution be adopted. The motion was seconded by Councilwoman Smith and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Resolution No. 9-93-10

**A resolution awarding a contract in the estimated amount of \$262,700.00 to W & O Construction Company, Inc., 150 Construction Drive, Livingston, Tennessee, for the furnishing of all labor, tools, materials, equipment and supplies necessary for replacement of the 4 million gallon reservoir cover at the Water Treatment Plant.**

Councilwoman Smith moved that the resolution be adopted. The motion was seconded by Councilman Hayes and after brief deliberation, it carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

Resolution No. 9-94-10

**A resolution approving a Professional Services Agreement between the City and Leathers and Associates, Ithaca, New York, for the provision of professional design services to prepare plans and specifications to construct a universally accessible playground at Cedar Hill Park, as well as services relating to construction oversight, in the estimated amount of \$38,500.00.**

Councilwoman Miller moved that the resolution be adopted, seconded by Councilman Hensley.

Deliberation was lengthy with the City Manager; Mr. Josh Collins, the Director of Recreation and Parks; and Mr. John Hetrick, Parks Maintenance Supervisor, responding to the Council's questions and comments. The Council also heard the comments of Mr. Bob Spore, former member of City Council and an active participant in the initial Cedar Hill playground construction effort that was undertaken in 1988 (this proposed project envisions a repeat of that effort which attracted over 1,200 volunteers from the area and received substantial design input from city elementary schools).

The resolution was adopted by unanimous electronic vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

## **ELECTIONS**

**Confirming the appointment of Council Members Thomas W. Hayes, David N. Mosby, and Mayor Thomas L. Beehan to serve as the Committee Structure Review Committee, with Mayor Beehan to serve as the Chair.**

No motion was forthcoming to confirm this committee. The City Manager suggested that the matter of Council committees become a topic for discussion in a work session prior to any Council action in this regard.

Councilman Hensley moved that further consideration of appointing such a committee be postponed indefinitely. The motion was seconded by Councilwoman Smith and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

#### Environmental Quality Advisory Board

Councilwoman Smith moved that Ms. Patricia M. Fain, Ms. Joan B. Nelson, and Mr. Fred Stephens be elected by acclamation to serve on the Environmental Quality Advisory Board for three-year terms of office commencing on September 29, 2010. The motion was seconded by Councilwoman Garcia Garland and carried by unanimous voice vote with Council members Garcia Garland, Hayes, Hensley, Miller, Mosby, Smith, and Mayor Beehan voting "Aye."

A brief discussion then followed with regard to the appointment of a high school student to complete the unexpired two-year term that exists on this board. Councilwoman Smith suggested that the Oak Ridge High School (ORHS) student who is currently serving on this board should be appointed to complete the two-year term with one of the two candidates for this seat to then be appointed to complete that student's one-year term. The question was raised as to whether this would be appropriate in the absence of a public notice in this regard, and it was determined that the Council would proceed with the election as advertised.

On first ballot, Mr. Ben Terpstra was elected to serve as a high school student representative on the Environmental Quality Advisory Board for the balance of an unexpired term of office ending on May 31, 2012. He received the votes of Council members Hayes, Miller, Smith, and Mayor Beehan. Ms. Lindsey Joy Chavez received the votes of Council members Garcia Garland, Hensley, and Mosby. [Note: Mr. Terpstra's term will actually end in 2011 since he is a senior at this time and will become ineligible to serve upon graduation from high school.]

#### Notice of Elections

The Mayor announced that five (5) elections are scheduled for the October 11, 2010 City Council meeting to appoint:

- One (1) member to the Oak Ridge Convention and Visitors Bureau
- Two (2) members to the Highland View Redevelopment Advisory Board
- One (1) member to the Oak Ridge Heritage Railroad Authority
- One (1) member to the Board of Plumbing Examiners
- One (1) member to the Traffic Safety Advisory Board who shall be an Oak Ridge High School student.

The deadline for filing is 5:00 p.m. on Tuesday, September 28, 2010.

#### **COMMUNICATIONS** – None

#### **CITY MANAGER'S REPORT**

The City Manager reported :

- The City is still awaiting the Administrative Order from the U.S. Environmental Protection Agency with reference to the wastewater collection and transmission system.

- He will be distributing to the Council a survey regarding the City's computer services and web site, and the staff is also looking at a Facebook presence which will be unveiled fairly soon.
- A work session will be held on September 27, 2010.

**CITY ATTORNEY'S REPORT**

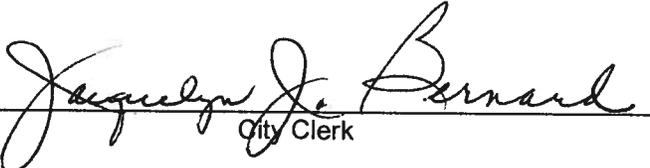
The City Attorney reported that the Anderson County delinquent property tax sale is scheduled for October 16, 2010 at 10:00 a.m. at the Courthouse in Clinton, and the Roane County delinquent property tax sale will be held on October 30, 2010 at 10:00 a.m. at the Courthouse in Kingston.

**MISCELLANEOUS**

Mayor Beehan reported that a delegation from Naka, Japan, Oak Ridge's sister city, will be in Oak Ridge from October 18 – 22, 2010 to celebrate the 20<sup>th</sup> anniversary of the sister-city relationship.

**ADJOURNMENT**

The meeting adjourned at 9:33 p.m.

  
City Clerk

POLICE DEPARTMENT MEMORANDUM  
10-20

DATE: September 28, 2010  
TO: Mark S. Watson, City Manager  
FROM: David H. Beams, Police Chief  
SUBJECT: GOVERNOR'S HIGHWAY SAFETY GRANT

An item for the agenda is a resolution approving a grant contract with the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,597.98.

The City's Police Department has been the recipient of grant funds from the Governor's Highway Safety Office for many years. This year, the Police Department has been notified by the State that it is eligible to receive a \$24,597.98 grant. The grant contract specifies the purposes for which the grant funds may be used: traffic enforcement initiatives to reduce speeding, aggressive driving, driving under the influence, and/or non-seat belt usage for children and passengers; high visibility highway safety campaigns; and/or for use in specialized training programs such as accident investigation and radar training.

Grants funds do not require a local match.

Staff recommends approval of the attached resolution.

Respectfully,



David H. Beams, Chief of Police

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

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

9/28/10  
Date

**RESOLUTION**

WHEREAS, grant monies are available from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office; and

WHEREAS, the City is eligible to receive a \$24,597.98 grant to be used for traffic enforcement initiatives to reduce speeding, aggressive driving, driving under the influence, and/or non-seat belt usage for children and passengers; high visibility highway safety campaigns; and/or for use in specialized training programs such as accident investigation and radar training; and

WHEREAS, said grant requires no matching funds; and

WHEREAS, the City Manager recommends acceptance of the grant.

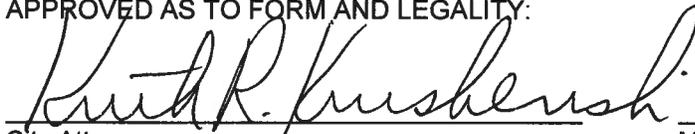
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the City is hereby authorized to accept an enforcement initiative grant from the State of Tennessee, Department of Transportation, Governor's Highway Safety Office, in the amount of \$24,597.98 to be used for authorized traffic enforcement and/or training purposes.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

LEGAL DEPARTMENT MEMORANDUM  
10-43

DATE: September 27, 2010  
TO: Honorable Mayor and Members of City Council  
FROM: Kenneth R. Krushenski, City Attorney  
SUBJECT: HEALTH AND EDUCATION FACILITIES BOARD – AMENDED BYLAWS

An item for the consent agenda is a resolution approving the Amended Bylaws for the Health and Educational Facilities Board that were approved by a unanimous decision of the Board at the Board's meeting held on September 7, 2010. The signed Bylaws are provided for Council along with a strike-through copy of the changes.

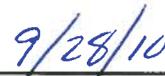
Approval of the attached resolution is recommended.

  
Kenneth R. Krushenski

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date

BYLAWS OF THE  
HEALTH AND EDUCATIONAL  
FACILITIES BOARD  
OF  
OAK RIDGE

ARTICLE I – Office Location

The principal offices of the Health & Educational Facilities Board shall be at a place in the City of Oak Ridge to be designated by a Resolution of the Board of Directors. Meetings of the Board of Directors for the transaction of business, except such as required by law to be transacted at the principal offices, may be held elsewhere in the City of Oak Ridge. All books, journals and records of the Health & Educational Facilities Board shall be kept at the principal offices.

ARTICLE II – Board of Directors

The Board of Directors shall consist of nine (9) members in which all powers of the Health & Educational Facilities Board are vested. All directors shall be duly qualified electors of and taxpayers in the City of Oak Ridge. The directors shall serve as such without compensation except that they shall be reimbursed for their actual expenses incurred in and about the performance of their duties. No director shall be an officer or employee of the City of Oak Ridge.

The directors shall be elected by the City Council of the City of Oak Ridge and they shall be so elected that they shall hold office for staggered terms. At the time of the election of the first Board of Directors, the City Council shall divide the directors into three groups of three (3) each. The first term of the directors included in the first group shall be two (2) years; the first term of the directors included in the second group shall be four (4) years; the first term of the

directors included in the third group shall be six (6) years and thereafter, the terms of all directors shall be six years.

### ARTICLE III – Officers of the Board

The officers of the Board of Directors of the Health & Educational Facilities Board shall consist of a Chairman, a Vice-Chairman, a Secretary and a Treasurer. The Chairman shall preside at all meetings of the Board of Directors. Except as otherwise authorized by Resolution of the Board of Directors, the Chairman shall sign all contracts, bonds, deeds and other instruments made by the Board. At each meeting, the Chairman shall submit such recommendations and information as he/she may consider proper concerning the business affairs and policies of the Board.

The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in case of the resignation or death of the Chairman, the Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as a new Chairman shall be selected.

The Secretary shall keep the records of the Board, shall act as Secretary of the meetings of the Board of Directors and record all votes, and shall keep a record of the proceedings of the Board of Directors in a journal of proceedings to be kept for such purposes, and shall perform all duties incidental to his/her office. He/She shall keep in safe custody the seal of the Board and shall have power to affix such seal to all contracts and instruments authorized to be executed by the Board.

The Treasurer shall have the care and custody of all funds of the Health & Educational Facilities Board and shall deposit the same in the name of the Health & Educational Facilities Board in such bank or banks as the Board of Directors may by Resolution select. The Treasurer

shall sign all orders and checks for the payment of money and shall pay out and disburse such moneys under the direction of the Board of Directors. Except as otherwise authorized by Resolution of the Board of Directors, all such orders and checks shall be countersigned by the Chairman. ~~He~~ The Treasurer shall keep regular books of accounts showing receipts and expenditures and shall render to the Board of Directors, at each regular meeting (or oftener when requested), an account of his/her transactions and also of the financial condition of the Board. He/She shall give such bond for the faithful performance of his/her duties as the Board of Directors may designate.

The offices of Secretary and Treasurer may be combined and occupied by the same person.

The officers of the Board shall perform such other duties and functions as may from time to time be required by the Board of Directors or the bylaws or rules and regulations of the Board.

The Chairman, Vice-Chairman, Secretary and Treasurer shall be elected at the annual meeting of the Board of Directors from among the directors and shall hold office for one year or until their successors are elected and qualified.

Should an office become vacant, the Board of Directors shall elect a successor from its membership at the next regular, and such election shall be for the unexpired term of said office.

The Board may, from time to time, employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Health, Educational and Housing Facility Corporation Act of Tennessee and all other laws of the State of Tennessee applicable thereto. The selection and compensation of such personnel shall be determined by the Board of Directors subject to the laws of the State of Tennessee.

#### ARTICLE IV – Meetings

~~—————The annual meeting of the Board of Directors shall be held on the first Tuesday of June at 8:00 p.m., at the office of the Board.~~

~~—————Quarterly meetings shall be held without notice at the office of the Board at 8:00 p.m., on the first Tuesday of January, March, June, and September, unless the same falls on a legal holiday, in which event said meeting shall be held on the next succeeding secular day; however, the place, date and time of holding regular meetings may be changed from time to time, by Resolution, without the formality of amending this section, provided, however, public notices of any change of meeting date shall be given by publication of the same in the official City Newspaper at least one week in advance of the effective date of the change.~~

~~—————The Chairman of the Board, when he deems it expedient, and shall, upon the written request of two Directors, call a Special Meeting of the Board of Directors for the purpose of transacting any business designated in the call. The call for a Special Meeting may be delivered to each Director or may be mailed to the business or home address of each Director at least five (5) days prior to the day of such Special Meeting. At such Special Meeting no business shall be considered other than as designated in the call, but if all of the Directors are present at a Special Meeting, any and all business may be transacted at such Special Meeting.~~

~~—————The annual meeting of the Board of Directors shall be held on the first Tuesday after Labor Day in September at 3:00 p.m. at the office of the Board.~~

~~—————Meetings shall be held as required at the office of the Board upon notice to the members.~~

Special meetings shall be called by the Chairman at his/her discretion or in response to written request of any two (2) Board Directors by providing each member with at least twenty-four (24) hours written notice served personally, by email, or left at his/her usual place of residence. Business transacted at any special meeting shall be limited to subjects recited in the notice of such meetings. The public shall be given twenty-four (24) hours notice of each Special Meeting consistent with the notification means used by the Oak Ridge City Council.

The powers of the Health & Educational Facilities Board shall be vested in the Directors thereof in office from time-to-time. Five (5) directors shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time-to-time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Board upon a vote of a majority of the Directors present.

The Chairman shall have the power to appoint such committees as he/she, in his/her discretion, may deem advisable; said committees shall have the power to recommend a course of conduct to the Board, but shall have no extraordinary powers to act.

At the ~~regular~~ meetings of the Board of Directors the following shall be the order of business:

1. Roll Call
2. ~~Reading and~~ Approval of the minutes of previous meeting
3. ~~Bills and Communications~~Reports of the Treasurer
4. Reports of ~~the Secretary and Treasurer~~ Committees
5. ~~Reports of Committees~~Consideration of Bids and Contracts
6. ~~Consideration of Bids and Contracts~~Unfinished Business
7. ~~Unfinished~~New Business
8. ~~New Business~~Adjournment

~~9.~~ Adjournment

All Resolutions shall be in writing and shall be copied in a journal of the proceedings of the Board of Directors.

The voting on all questions coming before the Board of Directors shall be by roll call, and the “ayes” and “~~noes~~nays” shall be entered upon the minutes of such meeting.

ARTICLE V – Contracting Powers

The Health & Educational Facilities Board of Oak Ridge was formed under the authority contained in Sections 48-101-301 et seq., Tennessee Code Annotated, and is vested with all of the Power granted therein and subject to all of the regulations contained in said sections. The purpose of the organization of the Health & Educational Facilities Board is to acquire, own, lease and/or dispose of properties to the end that a measure of assistance and an alternative method through and by which facilities may be provided to assist in the development and maintenance of the public health of said city, especially the elderly. With respect to these purposes, the Corporation shall have the powers, duties, privileges and obligations contained in Chapter 48, Health, Educational and Housing Facility Corporations, being Sections 48-101-301 though 48-101-310, Tennessee Code Annotated, under which authority said Corporation is created. It is not intended that this Corporation shall itself operate any such facility.

ARTICLE VI – Adoption and Amendment

The Bylaws of this Health & Educational Facilities Board shall be promulgated and established by the Board of Directors, but in accordance with the provision contained in the Articles of Incorporation, such bylaws and any amendments thereto shall first be submitted to the Mayor and Councilmen of the City of Oak Ridge and approved by Resolution duly adopted.

The bylaws may be amended only with the approval of at least three-fourths of the Directors at a regular meeting or at a Special Meeting called for that purpose provided however, that at least seven (7) days notice in writing shall have been given to all of the Directors of the proposed amendment.

APPROVED AS TO FORM AND LEGALITY: HEALTH & EDUCATIONAL FACILITIES BOARD

\_\_\_\_\_  
[Kenneth R. Krushenski](#)  
City Attorney  
Counsel to the Health & Educational  
Facilities Board

By: \_\_\_\_\_  
Chairman

ADOPTED BY CITY COUNCIL  
RESOLUTION NO. \_\_\_\_\_

FILED BY:  
\_\_\_\_\_  
City Clerk

**BYLAWS OF THE HEALTH AND EDUCATIONAL FACILITIES BOARD  
OF  
OAK RIDGE**

Adopted by Resolution of the Health and Educational Facilities Board on the 29<sup>th</sup> day of  
September \_\_\_\_\_ 2009.

**BOARD MEMBERS:**

\_\_\_\_\_  
Sue Ann Lewis

\_\_\_\_\_  
William J. Biloski

\_\_\_\_\_  
Lynn Cardwell

\_\_\_\_\_  
Louise B. Dunlap

\_\_\_\_\_  
Bruce Ryan LeForce, M.D.

\_\_\_\_\_  
Fay Maureen Martin

\_\_\_\_\_  
David L. Mason

\_\_\_\_\_  
H. D. Osucha

\_\_\_\_\_  
David E. Wilson

BYLAWS OF THE  
HEALTH AND EDUCATIONAL  
FACILITIES BOARD  
OF  
OAK RIDGE

ARTICLE I – Office Location

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The directors shall be elected by the City Council of the City of Oak Ridge and they shall be so elected that they shall hold office for staggered terms. At the time of the election of the first Board of Directors, the City Council shall divide the directors into three groups of three (3) each. The first term of the directors included in the first group shall be two (2) years; the first term of the directors included in the second group shall be four (4) years; the first term of the

directors included in the third group shall be six (6) years and thereafter, the terms of all directors shall be six years.

### ARTICLE III – Officers of the Board

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The Vice-Chairman shall perform the duties of the Chairman in the absence or incapacity of the Chairman; and in case of the resignation or death of the Chairman, the Vice-Chairman shall perform such duties as are imposed on the Chairman until such time as a new Chairman shall be selected.

The Secretary shall keep the records of the Board, shall act as Secretary of the meetings of the Board of Directors and record all votes, and shall keep a record of the proceedings of the Board of Directors in a journal of proceedings to be kept for such purposes, and shall perform all duties incidental to his/her office. He/She shall keep in safe custody the seal of the Board and shall have power to affix such seal to all contracts and instruments authorized to be executed by the Board.

The Treasurer shall have the care and custody of all funds of the Health & Educational Facilities Board and shall deposit the same in the name of the Health & Educational Facilities Board in such bank or banks as the Board of Directors may by Resolution select. The Treasurer

shall sign all orders and checks for the payment of money and shall pay out and disburse such moneys under the direction of the Board of Directors. Except as otherwise authorized by Resolution of the Board of Directors, all such orders and checks shall be countersigned by the Chairman. The Treasurer shall keep regular books of accounts showing receipts and expenditures and shall render to the Board of Directors, at each regular meeting (or oftener when requested), an account of his/her transactions and also of the financial condition of the Board. He/She shall give such bond for the faithful performance of his/her duties as the Board of Directors may designate.

The offices of Secretary and Treasurer may be combined and occupied by the same person.

The officers of the Board shall perform such other duties and functions as may from time to time be required by the Board of Directors or the bylaws or rules and regulations of the Board.

The Chairman, Vice-Chairman, Secretary and Treasurer shall be elected at the annual meeting of the Board of Directors from among the directors and shall hold office for one year or until their successors are elected and qualified.

Should an office become vacant, the Board of Directors shall elect a successor from its membership at the next regular, and such election shall be for the unexpired term of said office.

The Board may, from time to time, employ such personnel as it deems necessary to exercise its powers, duties and functions as prescribed by the Health, Educational and Housing Facility Corporation Act of Tennessee and all other laws of the State of Tennessee applicable thereto. The selection and compensation of such personnel shall be determined by the Board of Directors subject to the laws of the State of Tennessee.

## ARTICLE IV – Meetings

The annual meeting of the Board of Directors shall be held on the first Tuesday after Labor Day in September at 3:00 p.m. at the office of the Board.

Meetings shall be held as required at the office of the Board upon notice to the members.

Special meetings shall be called by the Chairman at his/her discretion or in response to written request of any two (2) Board Directors by providing each member with at least twenty-four (24) hours written notice served personally, by email, or left at his/her usual place of residence. Business transacted at any special meeting shall be limited to subjects recited in the notice of such meetings. The public shall be given twenty-four (24) hours notice of each Special Meeting consistent with the notification means used by the Oak Ridge City Council.

The powers of the Health & Educational Facilities Board shall be vested in the Directors thereof in office from time-to-time. Five (5) directors shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes, but a smaller number may adjourn from time-to-time until a quorum is obtained. When a quorum is in attendance, action may be taken by the Board upon a vote of a majority of the Directors present.

The Chairman shall have the power to appoint such committees as he/she, in his/her discretion, may deem advisable; said committees shall have the power to recommend a course of conduct to the Board, but shall have no extraordinary powers to act.

At the meetings of the Board of Directors the following shall be the order of business:

1. Roll Call
2. Approval of the minutes of previous meeting
3. Reports of the Treasurer
4. Reports of Committees

5. Consideration of Bids and Contracts
6. Unfinished Business
7. New Business
8. Adjournment

All Resolutions shall be in writing and shall be copied in a journal of the proceedings of the Board of Directors.

The voting on all questions coming before the Board of Directors shall be by roll call, and the “ayes” and “nays” shall be entered upon the minutes of such meeting.

#### ARTICLE V – Contracting Powers

The Health & Educational Facilities Board of Oak Ridge was formed under the authority contained in Sections 48-101-301 et seq., Tennessee Code Annotated, and is vested with all of the Power granted therein and subject to all of the regulations contained in said sections. The purpose of the organization of the Health & Educational Facilities Board is to acquire, own, lease and/or dispose of properties to the end that a measure of assistance and an alternative method through and by which facilities may be provided to assist in the development and maintenance of the public health of said city, especially the elderly. With respect to these purposes, the Corporation shall have the powers, duties, privileges and obligations contained in Chapter 48, Health, Educational and Housing Facility Corporations, being Sections 48-101-301 through 48-101-310, Tennessee Code Annotated, under which authority said Corporation is created. It is not intended that this Corporation shall itself operate any such facility.

101-310, Tennessee Code Annotated, under which authority said Corporation is created. It is not intended that this Corporation shall itself operate any such facility.

ARTICLE VI – Adoption and Amendment

The Bylaws of this Health & Educational Facilities Board shall be promulgated and established by the Board of Directors, but in accordance with the provision contained in the Articles of Incorporation, such bylaws and any amendments thereto shall first be submitted to the Mayor and Councilmen of the City of Oak Ridge and approved by Resolution duly adopted.

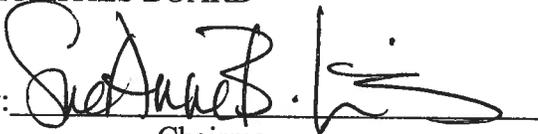
The bylaws may be amended only with the approval of at least three-fourths of the Directors at a regular meeting or at a Special Meeting called for that purpose provided however, that at least seven (7) days notice in writing shall have been given to all of the Directors of the proposed amendment.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski  
City Attorney  
Counsel to the Health & Educational  
Facilities Board

HEALTH & EDUCATIONAL  
FACILITIES BOARD

By:   
Chairman

ADOPTED BY CITY COUNCIL  
RESOLUTION NO. \_\_\_\_\_

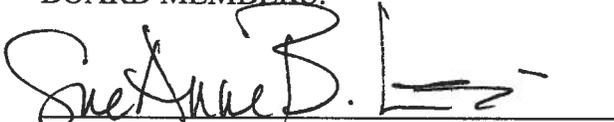
FILED BY:

\_\_\_\_\_  
City Clerk

**BYLAWS OF THE HEALTH AND EDUCATIONAL FACILITIES BOARD  
OF  
OAK RIDGE**

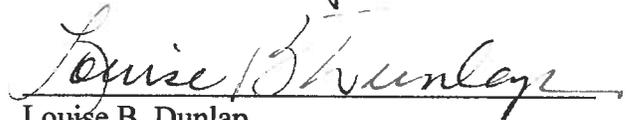
Adopted by Resolution of the Health and Educational Facilities Board on the 7th day of  
September, 2010.

**BOARD MEMBERS:**

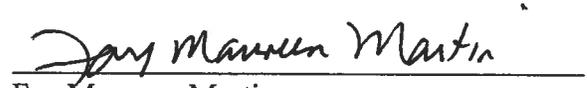
  
Sue Ann Lewis

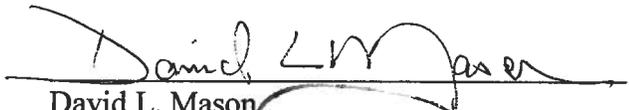
  
William J. Biloski

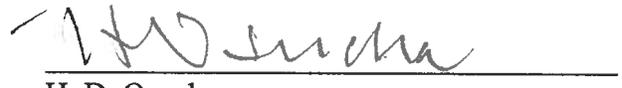
  
Lynn Cardwell

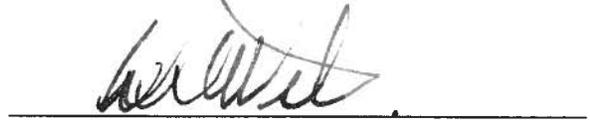
  
Louise B. Dunlap

  
Bruce Ryan LeForce, M.D.

  
Fay Maureen Martin

  
David L. Mason

  
H. D. Osucha

  
David E. Wilson

NUMBER \_\_\_\_\_

**RESOLUTION**

WHEREAS, by Resolution 4-42-77, City Council established the Health and Educational Facilities Board (Board) on April 18, 1977, pursuant to authority contained in Tennessee Code Annotated §48-101-301 et seq.; and

WHEREAS the Board is authorized by Tennessee Code Annotated §48-101-308(a)(13) to establish bylaws; and

WHEREAS, at their September 7, 2010 meeting, the Board unanimously approved amendments to the Board's Bylaws; and

WHEREAS, Article VI of the Bylaws requires approval by resolution of City Council of any amendments thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the attached Bylaws for the Health and Educational Facilities Board are hereby approved and shall become effective immediately.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

POLICE DEPARTMENT MEMORANDUM  
10-21

DATE: September 28, 2010  
TO: Mark S. Watson, City Manager  
FROM: David H. Beams, Police Chief  
SUBJECT: DONATION OF SURPLUS VEHICLE

An item for the agenda is a resolution approving the donation of a surplus vehicle to the LaFollette, Tennessee Police Department.

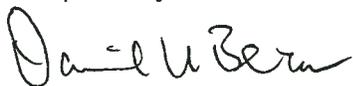
In 1995 the City's Police Department received a 1984 GMC Military Ambulance, Unit 339, from the Department of Defense reutilization program at no cost. This vehicle was used by the Police Department as a SWAT response vehicle. The ex-military ambulance became unreliable due to electrical problems about a year ago. The vehicle was replaced with a used 1997 International Ambulance that is the current SWAT response truck. For the past year the 1984 GMC ex-military ambulance, Unit 339, has been unused.

Chief James Lynch, Police Chief for the LaFollette Police Department has contacted the writer several times and requested the donation of Unit 339 to the LaFollette Police Department. It is Chief Lynch's belief that his staff can repair and use the vehicle as the Oak Ridge Police Department did.

The donation of a surplus police vehicle to another local police agency that needs the vehicle is consistent with past actions.

Staff recommends approval of the attached resolution.

Respectfully,



David H. Beams, Chief of Police

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson  
  
Date

**RESOLUTION**

WHEREAS, in 1995, the City's Police Department obtained a military ambulance vehicle from the United States Department of Defense at no cost for use as a SWAT response vehicle; and

WHEREAS, last year, this vehicle became unreliable due to electrical issues and was replaced;  
and

WHEREAS, the vehicle is now surplus to the needs of the City; and

WHEREAS, the City of LaFollette is in need of and has requested the donation of said surplus vehicle; and

WHEREAS, Tennessee Code Annotated Section 12-3-1005 authorizes municipalities to donate surplus property to other governmental entities without regard to any laws regarding public advertisement and competitive bidding; and

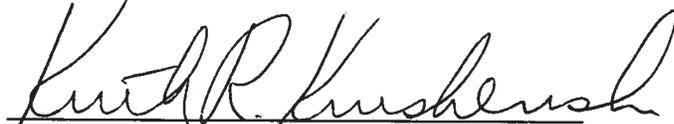
WHEREAS, the City Manager recommends the vehicle be donated to the City of LaFollette for their use.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the donation of one (1) 1984 GMC military ambulance (Unit 339) to the City of LaFollette, Tennessee, as authorized by Tennessee Code Annotated §12-3-1005, is hereby approved.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**PUBLIC WORKS MEMORANDUM**  
**10-26**

**DATE:** September 27, 2010  
**TO:** Mark S. Watson, City Manager  
**FROM:** Gary M. Cinder, Director of Public Works  
**SUBJECT:** **Contract Extension**

The accompanying resolution extends a contract for the City to sell drinking water to the Department of Energy through June 30, 2011.

On April 28, 2000, as part of the City's acquisition of the DOE water plant, a contract, DE-AC05-00OR22777, was jointly executed by both parties which provided for the sale of city produced drinking water to the Department of Energy sites at Y-12 and ORNL. The original duration of this contract was for 10 years. As the end date of April 2010 approached, DOE staff executed a provision in the contract that provided for a one time unilateral extension of up to a six-month period. The purpose was to allow them time to craft a new agreement to be negotiated between DOE and the City. This placed a new end date at October 31, 2010.

As the new end date approached, it became apparent DOE would be unable to develop a new draft agreement and both they and the City staff decided the best course of action would be to extend the contract bilaterally through June 30, 2011. This would provide ample time to develop a mutually satisfactory long-term agreement, as well as, have the contract years mirror the City's fiscal year and simplify our accounting tasks.

Staff is comfortable with the proposed extension and recommends approval.

  
\_\_\_\_\_  
Gary M. Cinder

ks

**City Manager's Comments:**

I have reviewed the above issue and recommend council action as outlined in this document.

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

9/28/10  
\_\_\_\_\_  
Date

**RESOLUTION**

WHEREAS, by Resolution 4-47-98, City Council approved a Memorandum of Understanding between the City and the United States of America Department of Energy (DOE) to transfer the Y-12 Water Plant from DOE to the City; and

WHEREAS, the transfer documents included a water services agreement whereby DOE purchases water from the City; and

WHEREAS, the water services agreement had an original term of ten years (May 1, 2000 through April 30, 2010) with DOE having the option to extend for up to six (6) months; and

WHEREAS, DOE exercised its option to extend and the current water services agreement expires on October 31, 2010; and

WHEREAS, the City and DOE desire to amend the current water services agreement to provide for an extension through June 30, 2011; and

WHEREAS, the requested extension will place the agreement on the City's fiscal year and will allow sufficient time for the parties to draft a new agreement for these services.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the City is hereby authorized to enter into an amendment to the water services agreement between the City and the United States of America Department of Energy to extend the agreement through June 30, 2011.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# CITY OF OAK RIDGE



POST OFFICE BOX 1 • OAK RIDGE, TENNESSEE 37831-0001

September 16, 2010

Honorable Mayor and Members of City Council  
P.O. Box 1  
Oak Ridge, TN 37831

Dear Council Members,

Over the summer months, YAB appointee Emily Gage moved out of town leaving an open spot on the City Youth Advisory Board. YAB members voted unanimously on September 1, 2010 to remove Emily Gage from the position and to seek out another 8<sup>th</sup> grade student to take her place.

The YAB students engaged in much discussion and voted to recommend Lisa to the Panel for approval. Lisa is an 8<sup>th</sup> grade student at Robertsville Middle School and has attended YAB meetings as a guest on many occasions.

The YAB Screening Panel, consisting of City Council member Tom Hayes, ORHS staff member Connie Wilson, and Recreation and Parks Department staff member Matt Reedy, would like to recommend that Lisa Ebeler be appointed to fill the open position on the City Youth Advisory Board.

<u>NAME</u>	<u>ADDRESS</u>	<u>GRADE LEVEL</u>
Lisa Ebeler	103 Beverly Circle	8 <sup>th</sup> Grade RMS

Sincerely,

Matt Reedy  
Liaison to the City Youth Advisory Board

# **SPECIAL REPORTS**

**MAYOR'S MEMORANDUM**  
**10-14**

DATE: September 29, 2010

TO: Fellow Members of City Council

FROM: Intergovernmental Relations Committee  
Mayor Tom Beehan, Chair  
Mayor Pro Tem Jane Miller  
Councilwoman Anne Garcia Garland

SUBJECT: COMMITTEE REPORT AND RECOMMENDATION

The City Council's Intergovernmental Relations Committee convened at 4:05 p.m. on September 14, 2010. All committee members were present. The agenda included (1) the referral from the August 8, 2010 City Council meeting communication regarding *Citizens United vs FEC* decision; (2) status report on state and federal legislative issues; and (3) staff report.

City staff, including the City Manager, the City Attorney, and the Government and Public Affairs Coordinator attended the meeting. Also in attendance was a representative of the local news media; Bill Nolan, President of Bill Nolan and Associates; and Kareem Murphy, Principal with The Ferguson Group (TFG) via teleconference.

The City Attorney summarized the *Citizens United vs FEC* decision, noting that the author of the communication was requesting that the City take a position on a Supreme Court decision. A lengthy discussion ensued focusing on whether it is appropriate for the city to take action on a federal judicial action. Upon motion and second, the committee voted 2-1 to recommend to City Council that the City not take an official position on the issue. Councilwoman Garcia Garland cast the dissenting vote.

Mr. Murphy provided a detailed report on federal legislative and policy issues, as well as federal project requests for the City of Oak Ridge. He noted that Congress has not taken action on much of the legislation introduced this session. Due to congressional elections this year, it is unlikely that much else will happen. His report included a summary of the TIGER II grant work performed by TFG on behalf of the City.

Mr. Nolan provided a status report on activity in Nashville, noting that three study committees of the General Assembly were meeting on issues related to radioactive materials, red light cameras, and gasoline pricing. He added that the most important issues in the next session will be immigration/unfunded mandates, and budget cuts that could have an impact on the City of Oak Ridge.

Staff provided a report including a summary of activities related to the Energy Communities Alliance, and a status of the Oak Ridge Energy Corridor (OREC) Energy Parks initiative. The release of the draft Request for Proposals (RFP) for Y-12 has been delayed. A list of upcoming meetings was announced: the Tennessee Municipal League annual policy meeting is scheduled for October 20<sup>th</sup>, and the Department of Energy's annual intergovernmental meeting is scheduled for November 8-10. The National League of Cities conference will be held November 30-December 4. The meeting adjourned at approximately 5:00 p.m.



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Mayor

Attachments

**Bernard, Jacquelyn**

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**From:** TimHolt39@comcast.net  
**Sent:** Thursday, June 03, 2010 3:26 PM  
**To:** Council, City  
**Cc:** Bernard, Jacquelyn  
**Subject:** Resolution on Citizens United vs FCC  
**Attachments:** OR City Resolution.doc

The attached resolution stems from the US Supreme Court 5/4 decision in *Citizens United vs FEC*. The court declared that corporations had extensive rights as persons in funding election campaigns. Polls indicate that from 75 to 85% of the people disagree with that decision. The decision overturned a hundred years of federal, state, and local campaign finance law. Short term efforts are in work to limit the damage that might occur in near term elections, and long term efforts are currently moving to amend the constitution.

City Council endorsing the resolution would establish it's agreement with the minority on the Supreme Court decision and it's intent to preserve a local government for natural persons.

Please consider endorsing the attached Resolution at the July meeting of City Council.

I live at 1007 W Outer Drive, Oak Ridge, Tn. and can be reached at phone # 482 -1821.

**Resolution on Corporate Personhood  
by the City of Oak Ridge, Tennessee**

Whereas,

- Citizens of the City of Oak Ridge hope to nurture and expand democracy in our community and our nation.
- Corporations, participating as equals to citizens in the democratic process, reduce the democratic rights of citizens.
- Democracy means governance by the people. Only natural persons should be able to participate in the democratic process.
- Corporations are not naturally endowed with consciousness or the rights of natural persons. Corporations are creations of law and are only permitted to do what is authorized under law.
- Corporations are not natural persons.

Therefore be it hereby resolved that:

The City of Oak Ridge supports this opinion stated by US Supreme Court Judge Stevens as part of the minority opinion in the *Citizens United vs FEC* decision.

“In the context of election to public office, the distinction between corporate and human speakers is significant. Although they make enormous contributions to our society, corporations are not actually members of it. They cannot vote or run for office. Because they may be managed and controlled by nonresidents, their interests may conflict in fundamental respects with the interests of eligible voters. The financial resources, legal structure, and instrumental orientation of corporations raise legitimate concerns about their role in the electoral process. Our lawmakers have a compelling constitutional basis, if not also a democratic duty, to take measures designed to guard against the potentially deleterious effects of corporate spending in local and national races.”

"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."

-Allen H. Neuharth, Founder, Sept. 15, 1982

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Today's debate: Campaign finance

## Who's buying this election? Good luck finding out

**Our view:**  
Without disclosure, voters can't tell who's behind political attack ads.

This year, television viewers in Pennsylvania are being bombarded by an ad attacking Senate candidate Joe Sestak for, among other things, gutting Medicare. The ad — which the non-partisan watchdog group FactCheck.org calls "badly misleading" — is funded not by Sestak's opponent but by an independent group called Crossroads GPS.

Such ads have long been common in American politics. But this election season, the amount of money flowing into them is skyrocketing, thanks in part to a Supreme Court ruling earlier this year that gave corporations and labor unions the right to spend unlimited amounts to back or attack individual candidates.

The Center for Responsive Politics, a group that follows political spending, estimates that at least \$3.7 billion will be spent on this year's congressional elections, almost \$1 billion more than was spent in 2006.

Even more troubling than the amount of money is that it is increasingly being channeled through non-profit groups that do not have to disclose their donors.

The group running the Sestak ad, and several ads like it in other states, is affiliated with Karl Rove, a longtime Republican political operative and aide to former president George W. Bush. Because it is structured as a 501(c)(4) organization — similar to non-profit groups that might support education or the arts — it is not required to reveal its funding sources. The same goes for a number of other groups with benign-sounding names — Americans for Job Security and Patriot Majority, to name just a couple — that are littering the political airwaves.

This noxious mix of unlimited money and secrecy means that Americans have no idea

who is trying to buy this year's elections. Some of these ads could be underwritten by a single industry, a single company, or even a single person with a vendetta. Big money can easily promote a big lie. The closer to election day, the less chance the candidate under attack has to expose the truth. As the process is fully exploited, candidates almost certainly will find themselves facing veiled, or not so veiled, threats to vote a certain way or face a possible onslaught of anonymous attacks.

This emerging system is a transparent boon to special interests, a massive barrier to honest politicians and a sure loser for the public. Yet Congress — for reasons that will surprise no one — has so far been unwilling to do anything about it.

With the Supreme Court having struck down limits on the size of corporate and union contributions, megamoney pouring into elections is apparently here to stay. But the court's January decision explicitly invited disclosure rules, so more transparency would be an improvement.

Some states already have fairly good disclosure laws, something that Target Corp. found out when it

had to reveal that it contributed \$150,000 to a Minnesota gubernatorial candidate, prompting a backlash from some Target customers.

But federal legislation is needed as well. Such a measure, called the Disclose Act, is stalled in Congress. Republicans are filibustering the act in the Senate, and Democrats wrecked the House version by allowing exceptions for powerful special interests such as the National Rifle Association, AARP and the Sierra Club.

The irony here is unavoidable. Lawmakers can't rid themselves of anonymous attacks from special interests — because those very same interests won't let them. Until this gets fixed, negative political ads underwritten by shadowy groups deserve to be taken with even bigger grains of salt than usual.

### Growth industry

Total spending on congressional elections in non-presidential years has more than doubled in the past dozen years.

Spending (in billions)

1998	\$1.61
2002	\$2.18
2006	\$2.85
2010	\$3.7

Note: Figure for 2010 is estimate  
Source: Center for Responsive Politics

By Veronica Salazar, USA TODAY

## Hands off political speech

**Opposing view:**  
Government has no business picking which groups to regulate.

By Mitch McConnell

It's an old Washington game to draft a piece of legislation aimed at helping some special interest, then slapping a name on it that no one in his right mind could ever find objectionable.

Such is the case with the so-called Disclose Act, a bill that purports to increase transparency in elections but which ends up putting the federal government in charge of picking and choosing who gets a full right to political speech in elections.

By putting government in charge of regulating the political activities of any one group — whether it be non-profit organizations, for-profit organizations, faith-based organizations, civic groups, or individuals — legislation like the so-called Disclose Act threatens to undermine one of the fundamental rights the U.S. Constitution was established to protect. After all, if the government can limit the speech of one group, then it can limit the speech of any group.

Newspapers seem to understand this as it relates to themselves, but too often miss the point when it comes to others. They defend their own right to free speech tenaciously, regardless of whether they are owned by corporations whose owners embrace a particular political ideology. The question is: Should corporations and non-profits that do not own newspapers be held to a different standard than those that do? Of course not. And that's why groups ranging from the American Civil Liberties Union to the U.S. Chamber of Commerce are united in opposing the Disclose Act.

One of the skills required in a democracy is the ability to tolerate different points of view. It may be easier to shut certain voices out, but democracy was never meant to be easy. The appropriate response to a differing point of view is a better argument. Politicians may not always like it that way, especially at moments when they come under heavy criticism for pushing unpopular policies. But freedom demands it.

*Senate Minority Leader Mitch McConnell, R-Ky., is a longtime critic of efforts to restrict political advertising and campaign contributions.*

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

CITIZENS UNITED v. FEDERAL ELECTION COMMISSION

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

No. 08–205. Argued March 24, 2009—Reargued September 9, 2009—Decided January 21, 2010

As amended by §203 of the Bipartisan Campaign Reform Act of 2002 (BCRA), federal law prohibits corporations and unions from using their general treasury funds to make independent expenditures for speech that is an “electioneering communication” or for speech that expressly advocates the election or defeat of a candidate. 2 U. S. C. §441b. An electioneering communication is “any broadcast, cable, or satellite communication” that “refers to a clearly identified candidate for Federal office” and is made within 30 days of a primary election, §434(f)(3)(A), and that is “publicly distributed,” 11 CFR §100.29(a)(2), which in “the case of a candidate for nomination for President . . . means” that the communication “[c]an be received by 50,000 or more persons in a State where a primary election . . . is being held within 30 days,” §100.29(b)(3)(ii). Corporations and unions may establish a political action committee (PAC) for express advocacy or electioneering communications purposes. 2 U. S. C. §441b(b)(2). In *McConnell v. Federal Election Comm’n*, 540 U. S. 93, 203–209, this Court upheld limits on electioneering communications in a facial challenge, relying on the holding in *Austin v. Michigan Chamber of Commerce*, 494 U. S. 652, that political speech may be banned based on the speaker’s corporate identity.



see pg 3

In January 2008, appellant Citizens United, a nonprofit corporation, released a documentary (hereinafter *Hillary*) critical of then-Senator Hillary Clinton, a candidate for her party’s Presidential nomination. Anticipating that it would make *Hillary* available on cable television through video-on-demand within 30 days of primary elections, Citizens United produced television ads to run on broadcast

## Syllabus

and cable television. Concerned about possible civil and criminal penalties for violating §441b, it sought declaratory and injunctive relief, arguing that (1) §441b is unconstitutional as applied to *Hillary*; and (2) BCRA's disclaimer, disclosure, and reporting requirements, BCRA §§201 and 311, were unconstitutional as applied to *Hillary* and the ads. The District Court denied Citizens United a preliminary injunction and granted appellee Federal Election Commission (FEC) summary judgment.

*Held:*

1. Because the question whether §441b applies to *Hillary* cannot be resolved on other, narrower grounds without chilling political speech, this Court must consider the continuing effect of the speech suppression upheld in *Austin*. Pp. 5–20.

(a) Citizen United's narrower arguments—that *Hillary* is not an “electioneering communication” covered by §441b because it is not “publicly distributed” under 11 CFR §100.29(a)(2); that §441b may not be applied to *Hillary* under *Federal Election Comm'n v. Wisconsin Right to Life, Inc.*, 551 U. S. 449 (*WRTL*), which found §441b unconstitutional as applied to speech that was not “express advocacy or its functional equivalent,” *id.*, at 481 (opinion of ROBERTS, C. J.), determining that a communication “is the functional equivalent of express advocacy only if [it] is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate,” *id.*, at 469–470; that §441b should be invalidated as applied to movies shown through video-on-demand because this delivery system has a lower risk of distorting the political process than do television ads; and that there should be an exception to §441b's ban for nonprofit corporate political speech funded overwhelmingly by individuals—are not sustainable under a fair reading of the statute. Pp. 5–12.

(b) Thus, this case cannot be resolved on a narrower ground without chilling political speech, speech that is central to the First Amendment's meaning and purpose. Citizens United did not waive this challenge to *Austin* when it stipulated to dismissing the facial challenge below, since (1) even if such a challenge could be waived, this Court may reconsider *Austin* and §441b's facial validity here because the District Court “passed upon” the issue, *Lebron v. National Railroad Passenger Corporation*, 513 U. S. 374, 379; (2) throughout the litigation, Citizens United has asserted a claim that the FEC has violated its right to free speech; and (3) the parties cannot enter into a stipulation that prevents the Court from considering remedies necessary to resolve a claim that has been preserved. Because Citizen United's narrower arguments are not sustainable, this Court must, in an exercise of its judicial responsibility, consider §441b's facial validity. Any other course would prolong the substantial, nationwide

## Syllabus

chilling effect caused by §441b's corporate expenditure ban. This conclusion is further supported by the following: (1) the uncertainty caused by the Government's litigating position; (2) substantial time would be required to clarify §441b's application on the points raised by the Government's position in order to avoid any chilling effect caused by an improper interpretation; and (3) because speech itself is of primary importance to the integrity of the election process, any speech arguably within the reach of rules created for regulating political speech is chilled. The regulatory scheme at issue may not be a prior restraint in the strict sense. However, given its complexity and the deference courts show to administrative determinations, a speaker wishing to avoid criminal liability threats and the heavy costs of defending against FEC enforcement must ask a governmental agency for prior permission to speak. The restrictions thus function as the equivalent of a prior restraint, giving the FEC power analogous to the type of government practices that the First Amendment was drawn to prohibit. The ongoing chill on speech makes it necessary to invoke the earlier precedents that a statute that chills speech can and must be invalidated where its facial invalidity has been demonstrated. Pp. 12–20.

2. *Austin* is overruled, and thus provides no basis for allowing the Government to limit corporate independent expenditures. Hence, §441b's restrictions on such expenditures are invalid and cannot be applied to *Hillary*. Given this conclusion, the part of *McConnell* that upheld BCRA §203's extension of §441b's restrictions on independent corporate expenditures is also overruled. Pp. 20–51.

(a) Although the First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech," §441b's prohibition on corporate independent expenditures is an outright ban on speech, backed by criminal sanctions. It is a ban notwithstanding the fact that a PAC created by a corporation can still speak, for a PAC is a separate association from the corporation. Because speech is an essential mechanism of democracy—it is the means to hold officials accountable to the people—political speech must prevail against laws that would suppress it by design or inadvertence. Laws burdening such speech are subject to strict scrutiny, which requires the Government to prove that the restriction "furthers a compelling interest and is narrowly tailored to achieve that interest." *WRITL*, 551 U. S., at 464. This language provides a sufficient framework for protecting the interests in this case. Premised on mistrust of governmental power, the First Amendment stands against attempts to disfavor certain subjects or viewpoints or to distinguish among different speakers, which may be a means to control content. The Government may also commit a constitutional wrong when by law it identifies certain

## Syllabus

preferred speakers. There is no basis for the proposition that, in the political speech context, the Government may impose restrictions on certain disfavored speakers. Both history and logic lead to this conclusion. Pp. 20–25.

(b) The Court has recognized that the First Amendment applies to corporations, e.g., *First Nat. Bank of Boston v. Bellotti*, 435 U. S. 765, 778, n. 14, and extended this protection to the context of political speech, see, e.g., *NAACP v. Button*, 371 U. S. 415, 428–429. Addressing challenges to the Federal Election Campaign Act of 1971, the *Buckley* Court upheld limits on direct contributions to candidates, 18 U. S. C. §608(b), recognizing a governmental interest in preventing *quid pro quo* corruption. 424 U. S., at 25–26. However, the Court invalidated §608(e)'s expenditure ban, which applied to individuals, corporations, and unions, because it “fail[ed] to serve any substantial governmental interest in stemming the reality or appearance of corruption in the electoral process,” *id.*, at 47–48. While *Buckley* did not consider a separate ban on corporate and union independent expenditures found in §610, had that provision been challenged in *Buckley*'s wake, it could not have been squared with the precedent's reasoning and analysis. The *Buckley* Court did not invoke the overbreadth doctrine to suggest that §608(e)'s expenditure ban would have been constitutional had it applied to corporations and unions but not individuals. Notwithstanding this precedent, Congress soon recodified §610's corporate and union expenditure ban at 2 U. S. C. §441b, the provision at issue. Less than two years after *Buckley*, *Bellotti* reaffirmed the First Amendment principle that the Government lacks the power to restrict political speech based on the speaker's corporate identity. 435 U.S., at 784–785. Thus the law stood until *Austin* upheld a corporate independent expenditure restriction, bypassing *Buckley* and *Bellotti* by recognizing a new governmental interest in preventing “the corrosive and distorting effects of immense aggregations of [corporate] wealth . . . that have little or no correlation to the public's support for the corporation's political ideas.” 494 U. S., at 660. Pp. 25–32.

(c) This Court is confronted with conflicting lines of precedent: a pre-*Austin* line forbidding speech restrictions based on the speaker's corporate identity and a post-*Austin* line permitting them. Neither *Austin*'s antidistortion rationale nor the Government's other justifications support §441b's restrictions. Pp. 32–47.

(1) The First Amendment prohibits Congress from fining or jailing citizens, or associations of citizens, for engaging in political speech, but *Austin*'s antidistortion rationale would permit the Government to ban political speech because the speaker is an association with a corporate form. Political speech is “indispensable to decision-

## Syllabus

making in a democracy, and this is no less true because the speech comes from a corporation.” *Bellotti, supra*, at 777 (footnote omitted). This protection is inconsistent with *Austin’s* rationale, which is meant to prevent corporations from obtaining “‘an unfair advantage in the political marketplace’” by using “‘resources amassed in the economic marketplace.’” 494 U. S., at 659. First Amendment protections do not depend on the speaker’s “financial ability to engage in public discussion.” *Buckley, supra*, at 49. These conclusions were reaffirmed when the Court invalidated a BCRA provision that increased the cap on contributions to one candidate if the opponent made certain expenditures from personal funds. *Davis v. Federal Election Comm’n*, 554 U. S. \_\_\_\_, \_\_\_\_. Distinguishing wealthy individuals from corporations based on the latter’s special advantages of, e.g., limited liability, does not suffice to allow laws prohibiting speech. It is irrelevant for First Amendment purposes that corporate funds may “have little or no correlation to the public’s support for the corporation’s political ideas.” *Austin, supra*, at 660. All speakers, including individuals and the media, use money amassed from the economic marketplace to fund their speech, and the First Amendment protects the resulting speech. Under the antidistortion rationale, Congress could also ban political speech of media corporations. Although currently exempt from §441b, they accumulate wealth with the help of their corporate form, may have aggregations of wealth, and may express views “hav[ing] little or no correlation to the public’s support” for those views. Differential treatment of media corporations and other corporations cannot be squared with the First Amendment, and there is no support for the view that the Amendment’s original meaning would permit suppressing media corporations’ political speech. *Austin* interferes with the “open marketplace” of ideas protected by the First Amendment. *New York State Bd. of Elections v. Lopez Torres*, 552 U. S. 196, 208. Its censorship is vast in its reach, suppressing the speech of both for-profit and nonprofit, both small and large, corporations. Pp. 32–40.

(2) This reasoning also shows the invalidity of the Government’s other arguments. It reasons that corporate political speech can be banned to prevent corruption or its appearance. The *Buckley* Court found this rationale “sufficiently important” to allow contribution limits but refused to extend that reasoning to expenditure limits, 424 U.S., at 25, and the Court does not do so here. While a single *Bellotti* footnote purported to leave the question open, 435 U. S., at 788, n. 26, this Court now concludes that independent expenditures, including those made by corporations, do not give rise to corruption or the appearance of corruption. That speakers may have influence over or access to elected officials does not mean that those officials

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are corrupt. And the appearance of influence or access will not cause the electorate to lose faith in this democracy. *Caperton v. A. T. Massey Coal Co.*, 556 U. S. \_\_\_, distinguished. Pp. 40–45.

(3) The Government's asserted interest in protecting shareholders from being compelled to fund corporate speech, like the anti-distortion rationale, would allow the Government to ban political speech even of media corporations. The statute is underinclusive; it only protects a dissenting shareholder's interests in certain media for 30 or 60 days before an election when such interests would be implicated in any media at any time. It is also overinclusive because it covers all corporations, including those with one shareholder. P. 46.

(4) Because §441b is not limited to corporations or associations created in foreign countries or funded predominately by foreign shareholders, it would be overbroad even if the Court were to recognize a compelling governmental interest in limiting foreign influence over the Nation's political process. Pp. 46–47.

(d) The relevant factors in deciding whether to adhere to *stare decisis*, beyond workability—the precedent's antiquity, the reliance interests at stake, and whether the decision was well reasoned—counsel in favor of abandoning *Austin*, which itself contravened the precedents of *Buckley* and *Bellotti*. As already explained, *Austin* was not well reasoned. It is also undermined by experience since its announcement. Political speech is so ingrained in this country's culture that speakers find ways around campaign finance laws. Rapid changes in technology—and the creative dynamic inherent in the concept of free expression—counsel against upholding a law that restricts political speech in certain media or by certain speakers. In addition, no serious reliance issues are at stake. Thus, due consideration leads to the conclusion that *Austin* should be overruled. The Court returns to the principle established in *Buckley* and *Bellotti* that the Government may not suppress political speech based on the speaker's corporate identity. No sufficient governmental interest justifies limits on the political speech of nonprofit or for-profit corporations. Pp. 47–50.

3. BCRA §§201 and 311 are valid as applied to the ads for *Hillary* and to the movie itself. Pp. 50–57.

(a) Disclaimer and disclosure requirements may burden the ability to speak, but they “impose no ceiling on campaign-related activities,” *Buckley*, 424 U. S., at 64, or ““prevent anyone from speaking,”” *McConnell*, *supra*, at 201. The *Buckley* Court explained that disclosure can be justified by a governmental interest in providing “the electorate with information” about election-related spending sources. The *McConnell* Court applied this interest in rejecting facial challenges to §§201 and 311. 540 U. S., at 196. However, the Court

## Syllabus

acknowledged that as-applied challenges would be available if a group could show a “reasonable probability” that disclosing its contributors’ names would “subject them to threats, harassment, or reprisals from either Government officials or private parties.” *Id.*, at 198. Pp. 50–52.

(b) The disclaimer and disclosure requirements are valid as applied to Citizens United’s ads. They fall within BCRA’s “electioneering communication” definition: They referred to then-Senator Clinton by name shortly before a primary and contained pejorative references to her candidacy. Section 311 disclaimers provide information to the electorate, *McConnell*, *supra*, at 196, and “insure that the voters are fully informed” about who is speaking, *Buckley*, *supra*, at 76. At the very least, they avoid confusion by making clear that the ads are not funded by a candidate or political party. Citizens United’s arguments that §311 is underinclusive because it requires disclaimers for broadcast advertisements but not for print or Internet advertising and that §311 decreases the quantity and effectiveness of the group’s speech were rejected in *McConnell*. This Court also rejects their contention that §201’s disclosure requirements must be confined to speech that is the functional equivalent of express advocacy under *WRTL*’s test for restrictions on independent expenditures, 551 U. S., at 469–476 (opinion of ROBERTS, C.J.). Disclosure is the less-restrictive alternative to more comprehensive speech regulations. Such requirements have been upheld in *Buckley* and *McConnell*. Citizens United’s argument that no informational interest justifies applying §201 to its ads is similar to the argument this Court rejected with regard to disclaimers. Citizens United finally claims that disclosure requirements can chill donations by exposing donors to retaliation, but offers no evidence that its members face the type of threats, harassment, or reprisals that might make §201 unconstitutional as applied. Pp. 52–55.

(c) For these same reasons, this Court affirms the application of the §§201 and 311 disclaimer and disclosure requirements to *Hillary*. Pp. 55–56.

Reversed in part, affirmed in part, and remanded.

KENNEDY, J., delivered the opinion of the Court, in which ROBERTS, C. J., and SCALIA and ALITO, JJ., joined, in which THOMAS, J., joined as to all but Part IV, and in which STEVENS, GINSBURG, BREYER, and SOTOMAYOR, JJ., joined as to Part IV. ROBERTS, C. J., filed a concurring opinion, in which ALITO, J., joined. SCALIA, J., filed a concurring opinion, in which ALITO, J., joined, and in which THOMAS, J., joined in part. STEVENS, J., filed an opinion concurring in part and dissenting in part, in which GINSBURG, BREYER, and SOTOMAYOR, JJ., joined. THOMAS, J., filed an opinion concurring in part and dissenting in part.

**ORDINANCES  
FIRST READING**



## Staff Review of Rezoning Request

Location & Approximate Area: Roane County Tax Map 30, Parcels ED-8 A, B, C, D and E, and Parcels 1.01, 1.02, 1.03, 1.07 located within the Heritage Center. Approx. 83.3 acres in area.

Date: September 14, 2010

**Owner:** Heritage Center LLC  
107 Lea Way  
Oak Ridge, TN 37830

JMM Realty LLC, Manhattan Project LLC  
21312 Catawba Avenue  
Cornelius, NC 28301

### **Request Rezoning**

From: F.I.R., Federal Industry and Research  
To: IND-2, Industrial

**Purpose:** Property has been transferred to private ownership and F.I.R. zoning is no longer appropriate. The proposed use is industrial.

**Site Characteristics:** About same elevation as adjacent lands. Site is generally level.

**Existing Land Use:** Industrial, includes buildings K-1007, K-1000, K-1580, K-1320, K-1330

### **Adjacent Land Uses & Zoning:**

North: F.I.R., Federal Industry and Research, Heritage Center industrial area  
East: F.I.R., Federal Industry and Research, open space within Heritage Center  
South: F.I.R. Federal Industry and Research, State Route 58, D.O.E.  
West: IND-2, Industrial, ED-5, site of two industrial spec buildings

**Previous Rezoning Requests:** None

2. **Conformity with 1988 Comprehensive Plan:** The Land Use Plan designates this area as I, Industrial. The proposed zone is in conformance with the Land Use Plan.

Applicable Policies:

Policy E-3: The City will attempt to strengthen a coordinated, business-like, public-private approach to retain, develop and recruit targeted businesses that broaden the tax base, particularly those which maintain or increase per capita and family income.

POLICY E-4: In a joint public-private partnership approach, the City will work with the community to nurture spin-off industries and stimulate the formation of affinity industries in Oak Ridge.

POLICY L-11: The City will locate new industrial and office areas and enforce site design standards to ensure that residential neighborhoods are protected from the adverse effects of those activities.

### 3. **Applicable Regulations:**

Setbacks: IND-2, Industrial setbacks are as follows: Front – 30 feet; Side –25 feet;  
Rear – 25 feet  
Maximum Usable Floor Area to Lot Area Ratio: 60%

#### **Analysis:**

The following criteria were used to evaluate the rezoning request.

1) **Is the proposed zoning district consistent with the City's Comprehensive Plan?**

Yes.

2) **Are there substantial changes in the character of development in or near the area under consideration that support the proposed rezoning.**

The property has become privately owned and made available by D.O.E for economic development.

3) **Is the character of the area suitable for the uses permitted in the proposed zoning district and is the proposed zoning district compatible with surrounding zoning and uses?** Yes, the property is within an industrial area without close proximity to residential uses. There is nearby access to S.R. 58, S.R. 95 and Interstate 40.

4) **Will the proposed rezoning create an isolated district unrelated to adjacent and nearby districts?**

The ED-8 parcels are the second group of parcels within the Heritage Center to be rezoned. ED-5 was rezoned from FIR to IND-2 in September 2009. Additional rezonings from F.I.R. will occur as the redevelopment and privatizing of the Heritage Center continues.

5) **Are public facilities and services adequate to accommodate the proposed zoning district?**

Public utilities and road capacity are adequate.

6) **Would the requested rezoning have environmental impacts?**

The Heritage Center is already an industrial site. Changing the zoning from F.I.R. to IND-2 will not change the environmental impacts.

**Neighborhood Position:** No comments have been received. The surrounding property is held either by Heritage Center LLC or the U.S. D.O.E.

**Landscaping/Buffering requirements:** The landscaping and design standards within Article XIII of the Zoning Ordinance will apply at final site review stage.

**Notification of Property Owners Within 200':** September 14, 2010

**Conclusion and Planning Staff Recommendation:** Staff recommends approval of the rezoning to IND-2, Industrial finding the proposed zoning consistent with existing uses and the character of development within the area and in compliance with the Comprehensive Plan.

**Planning Commission Recommendation:** September 23, 2010 – recommended approval by a vote of 9-0.



CITY OF OAK RIDGE  
ZONING CHANGE REQUEST

Application to Amend Zoning Map

NAMES OF APPLICANTS	ADDRESSES WITH ZIP CODES	DAYTIME PHONE NO'S W/AREA CODE
1. HERITAGE CENTER, LLC	107 LEA WAY, OAK RIDGE, TN 37831	(865) 482-9890
2.		
3.		

Present Zoning Classification of the Area: FIR

Requested Zoning Classification of the Area: IND-2 AND AG

Description of area to be rezoned: (Use Anderson or Roane County tax map numbers where possible as well as City of Oak Ridge Michael Baker Lot and Block numbers.)

TAX MAP # 30, PARCELS 1.01, 1.02, 1.03, 1.07, ~~1.08~~ AND TWO (2) PARCELS THAT CURRENTLY DO NOT HAVE PARCEL NUMBERS BUT ARE REPRESENTED ON THE ATTACHED MAP AS ED-8E AND ED-8A

Reasons why proposed zoning is more appropriate: TRANSFER TO PRIVATE OWNERSHIP

Land use in acres: APPROXIMATELY 84 ACRES

Specific plans for development if rezoned (if known): NOT KNOWN. VACANT PARCELS will be marketed for uses consistent with IND-2

The applicant is is not the fee owner of the property for which application is made. (If applicant is NOT the fee owner, the following is to be signed by the owner.)

The undersigned, as fee owner of the above described property, is aware of the applicant's intent to make application to amend the Zoning Map as stated and is acting in my behalf in making this request.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_  
Owner

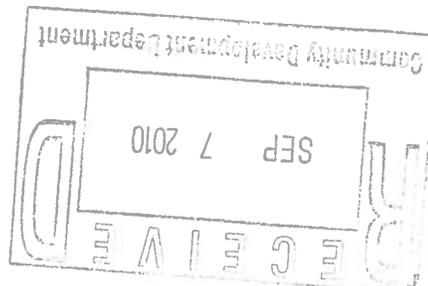
Address \_\_\_\_\_

In making application to amend the Zoning Map, the applicant states that the information given is, to the best of his/her knowledge, true and accurate. It is understood and agreed by the applicant that any error, misstatement or misrepresentation of fact, either with or without intention on his/her part, shall constitute sufficient grounds for denial of this request.

Date of Filing: SEPT 7, 2010

[Signature] Chief Operating Officer  
Heritage Center, LLC  
Signature of Applicant

Area Map: Upon request, this application must be accompanied by a map prepared by a civil engineer, surveyor or other competent person showing all lots and streets in the area requested to be rezoned and the surrounding area within at least 300 feet. Scale of this map is to be 1" equals 100 feet.



**TITLE**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF THE BUILDINGS DESIGNATED AS PARCELS 1.01, 1.02, 1.03, AND 1.07, ROANE COUNTY TAX MAP 30, AND THE REAL PROPERTY DESIGNATED BY THE UNITED STATES DEPARTMENT OF ENERGY AS PARCELS ED-8A, ED-8B, ED-8C, ED-8D, AND ED-8E FROM FIR, FEDERAL INDUSTRY AND RESEARCH, TO IND-2, INDUSTRIAL.

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

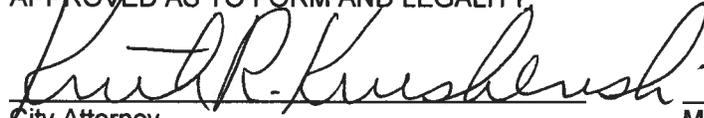
Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
Parcel 1.01, Map 30 (± 0.19 Acres)	North side of State Route 58 west of Victorious Boulevard East	FIR, Federal Industry and Research	IND-2, Industrial
Parcel 1.02, Map 30 (± 0.32 Acres)	North side of State Route 58 east of Americus Avenue	FIR, Federal Industry and Research	IND-2, Industrial
Parcel 1.03, Map 30 (± 2.16 Acres)	North side of State Route 58 east of Meritus Avenue	FIR, Federal Industry and Research	IND-2, Industrial
Parcel 1.07, Map 30 (± 0.11 Acres)	North side of State Route 58 east of Heritage Center Boulevard	FIR, Federal Industry and Research	IND-2, Industrial
Parcel ED-8A (+ 3.79 Acres)	North side of State Route 58 east of Victorious Boulevard East	FIR, Federal Industry and Research	IND-2, Industrial
Parcel ED-8B (+ 18.89 Acres)	North side of State Route 58 east of Americus Avenue	FIR, Federal Industry and Research	IND-2, Industrial
Parcel ED-8C (+ 9.00 Acres)	North side of State Route 58 east of Heritage Center Boulevard	FIR, Federal Industry and Research	IND-2, Industrial
Parcel ED-8D (+ 31.14 Acres)	North side of State Route 58 east of Meritus Avenue	FIR, Federal Industry and Research	IND-2, Industrial
Parcel ED8-E (+ 14.94 Acres)	North side of State Route north of Victorious Boulevard West	FIR, Federal Industry and Research	IND-2, Industrial

Section 2. The changes shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

Public Hearing: \_\_\_\_\_  
First Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

CITY COURT MEMORANDUM  
10-01

DATE: September 24, 2010  
TO: Mark S. Watson, City Manager  
FROM: Robert A. McNees, III, City Judge  
SUBJECT: CITY CODE AMENDMENT – CHANGE COURT DATES AND TIMES

An item for the agenda is an ordinance to amend City Code §3-103 pertaining to city court session dates and times.

City Code §3-103 states that city court sessions shall be at 8:00 a.m. on Mondays and Fridays, and at 6:00 p.m. on Wednesdays. In an effort to address some concerns regarding the current court schedule, it is proposed to change the court dates and times to Mondays and Thursdays at 9:00 a.m. and Wednesdays at 5:00 p.m.

The proposed new court dates and times will help alleviate some concerns. Many people believe in error that city court begins at 9:00 a.m. because the other local courts begin their morning sessions at 9:00 a.m., which results in many people arriving late to court or even missing their court date altogether. Changing the morning session times will also allow greater opportunity for the court clerk to assist individuals who come into court the morning of their court date to post bond in lieu of a court appearance. Changing evening court to 5:00 p.m. will address some complaints currently received by individuals about their work schedule and church attendance. It will also alleviate potential overtime for officers in evening court.

The proposed ordinance specifies that the city judge may change the regular court dates and times and may establish court dates for special hearings, as well as close court for city holidays, conferences, emergencies and other purposes. Any changes to court hearings will, of course, be done with notice to the Police Department.

The proposed changes have been discussed with the departments who will be impacted. The Legal Department and Police Department are agreeable to the changes. In order to transition the proposed new dates and times, the ordinance, if passed, will go into effect on January 1, 2011.

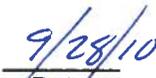
My office recommends approval of the attached ordinance.

  
\_\_\_\_\_  
Robert A. McNees

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

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

  
\_\_\_\_\_  
Date

TITLE

AN ORDINANCE TO AMEND TITLE 3, TITLED "MUNICIPAL COURT," CHAPTER 1, TITLED "CITY COURT," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY DELETING SECTION 3-103, TITLED "TIME FOR SESSIONS," IN ITS ENTIRETY AND SUBSTITUTING THEREFOR A NEW SECTION 3-103, TITLED "TIME FOR SESSIONS," FOR THE PURPOSE OF CHANGING THE DATES AND TIMES FOR SESSIONS OF CITY COURT AS WELL AS ESTABLISHING JUDICIAL AUTHORITY TO HOLD SPECIAL COURT SESSIONS.

WHEREAS, City Court is currently held on Mondays and Fridays at 8:00 a.m. and on Wednesdays at 6:00 p.m.; and

WHEREAS, the city judge proposes to change morning court sessions to Mondays and Thursdays at 9:00 a.m. and evening court sessions to Wednesdays at 5:00 p.m.; and

WHEREAS, changing the time for morning court sessions will potentially cut down on the amount of people who miss their court date due to the misconception that court begins at 9:00 a.m., which is the start time of all other local courts, and will provide time for people to post bond immediately prior to their court date in lieu of coming to court; and

WHEREAS, changing the time for evening court sessions will cut down on the potential for officer overtime for evening court sessions that last over one hour; and

WHEREAS, the city judge proposes to include judicial authority to close court on regular court dates for city holidays and other designated dates, such as judicial conferences and emergencies, as well as to hold court on dates and times outside regular hours for special hearings which will free up the regular docket; and

WHEREAS, the city judge also proposes to provide authority for the city judge to change the dates and times of regular court sessions at his discretion.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 3, titled "Municipal Court," Chapter 1, titled "City Court," of the Code of Ordinances, City of Oak Ridge, Tennessee, Section is hereby amended by deleting Section 3-103, titled "Time for Sessions," in its entirety and substituting therefor a new Section 3-103, titled "Time for Sessions," which new section shall read as follows:

Sec. 3-103. Time for sessions.

Effective January 1, 2011, sessions of city court shall be held at 9:00 a.m. on Monday and Thursday, and at 5:00 p.m. on Wednesday of each week, except on city holidays and other days as designated by the city judge. The city judge is authorized to change the regular court session dates and time and is authorized to establish other court dates and times for special hearings.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

**ORDINANCES**  
**SECOND READING**

**PERSONNEL MEMORANDUM**  
**10-079**

August 30, 2010

TO: Mark S. Watson, City Manager

THROUGH: Steven W. Jenkins, Deputy City Manager 

FROM: Penelope H. Sissom, Personnel Director

SUBJECT: PERSONNEL PLAN/ORDINANCE AMENDMENT

An item for the City Council meeting on September 13, 2010 is the first reading of an Amendment to the Personnel Ordinance/Plan to delete Article 11, "Leave" and substitute a new Article 11, "Leave".

The leave benefits that all regular City employees have are specified in Article 11 of the Personnel Plan/Ordinance. The leave system was significantly changed in July 2005 with the creation of General Leave and Emergency Leave from a system of Annual Leave and Sick Leave. In order to make this transition, several sections of Article 11 dealt with implementation and some sections specified a five years period.

Another necessary change to Article 11 is as a result of the General Assembly modifying T. C. A. § 8-33-109 to provide for an increase from fifteen (15) days to twenty (20) days for which the City is to pay employees with military orders.

Attached is a letter from the Personnel Advisory Board recommending that Article 11 be replaced. Also attached is a strike-through version of Article 11 showing the sections that were modified.

Both Staff and the Personnel Advisory Board recommend adoption of the attached amendment to the Personnel Plan/Ordinance that will delete Article 11, "Leave" in its entirety and add a new Article 11, "Leave".

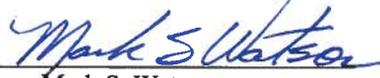
The only cost associated with this amendment is the additional Military Leave payment to those employees with a military commitment and the City has no choice in this matter except to comply with State law. At this time there are only two (2) employees with such a commitment.

  
Penelope H. Sissom

Attachments

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
Mark S. Watson

  
Date



August 27, 2010

The Honorable Mayor and Members of City Council  
City of Oak Ridge  
200 South Tulane Avenue  
Oak Ridge, TN 37830

At our regular meeting on August 4, 2010, the Personnel Advisory Board reviewed revisions to Article 11 - Leave of the Personnel Plan (Ordinance No.27-85 as Amended). In 2005 a new Article 11 was approved with an effective date of July 3, 2005. Several parts of that revision covered the transition from the previous leave plan for employees to the new plan. Since five years have passed, this Article can now be amended to eliminate the implementation and transition wording.

The only substantive change in Article 11 is to bring the City's leave policy in conformance with State law. T. C. A. § 8-33-109 was amended by the General Assembly to increase from fifteen (15) to twenty (20) the number of paid days for public employee military reservists. During this military leave period the employee continues to earn regular pay, service credit, and applicable leave benefits.

All members of the Board were present at the August 4, 2010 meeting and agreed unanimously that the Personnel Plan should be amended by deleting the current Article 11 and adopting a new Article 11.

Members of the Personnel Advisory Board are available to answer any questions you might have about this proposed amendment to the Personnel Plan.

A handwritten signature in cursive script that reads "Mary Frances Tolliver".

Mary Frances Tolliver  
Chair, Personnel Advisory Board

cc: City Manager  
Members of Personnel Advisory Board  
Personnel Director

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 27-85, TITLED "A PERSONNEL PLAN FOR EMPLOYEES OF THE CITY OF OAK RIDGE, TENNESSEE," AS AMENDED, BY DELETING ARTICLE 11, TITLED "LEAVE," IN ITS ENTIRETY AND BY ADDING A NEW ARTICLE 11, TITLED "LEAVE."

WHEREAS, the Personnel Plan was amended effective July 3, 2005 to provide for a new leave system for City employees; and

WHEREAS, several sections of this leave system made reference to implementation of the revised plan; and

WHEREAS, T. C. A. § 8-33-109 has been amended by the General Assembly to increase from fifteen (15) to twenty (20) the number of paid days for public employee military reservists per calendar year; and

WHEREAS, because of these changes it is desirable to replace Article 11, "Leave," in its entirety; and

WHEREAS, the Personnel Advisory Board at its August 4, 2010 meeting reviewed the proposed amendment to the Personnel Plan and unanimously recommended its adoption; and

WHEREAS, the City Manager recommends that the Personnel Plan be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," is hereby amended by deleting Article 11, "Leave," in its entirety, and adding a new Article 11, "Leave," which shall read as attached.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

Mayor

\_\_\_\_\_  
City Clerk

First Reading: 9-13-10  
Publication Date: 9-20-10  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

## ARTICLE 11 - LEAVE

### GENERAL

It is the policy of the City of Oak Ridge to encourage and facilitate an employee's use of accrued leave for the employee's recreational benefit, personal benefit, and the safeguarding of employee health and the health of employee family members, while meeting the professional and service requirements of the City.

To carry out this policy, the following types of leave are recognized:

1. General Leave
2. Emergency Leave
3. Holiday Leave
4. Injury Leave
5. Leave Without Pay
6. Military Leave
7. Civil Leave
8. Administrative Emergency Leave

Pre-approved leave is defined as an authorized absence during regularly scheduled work hours that has been approved by proper authority prior to the leave usage and may include, but not be limited to, vacations, funerals and scheduled medical procedures.

All leave that is not pre-approved is considered unscheduled leave and may include, but not be limited to, leave for emergencies, funerals and sickness.

Leave may be authorized with or without pay. Absence without leave is subject to disciplinary action.

The City Manager may delegate the authority to approve certain types of leave to Heads of Departments, who shall have the power of redelegation. Accurate leave records shall be maintained in a manner prescribed by the City Manager and may be periodically inspected to ensure adherence to the provisions of this Article.

For pre-approved leave, a formal written request indicating the type of leave must normally be submitted and approved prior to taking leave. In the case of unscheduled leave, the approval request shall be completed and submitted immediately upon the employee's return to duty. Unless a designated supervisor approves an absence, an employee shall not be paid.

#### 11.1 GENERAL LEAVE

##### a. General Leave Policy

It is the policy of the City to promote employees' efficiency, health and morale through periodic interruption from their duties. Accordingly, regular employees shall be granted a specified amount of paid General Leave each year, which may be used for vacations, scheduled medical procedures or other personal uses and is used in lieu of holiday leave for shift employees in the Police and Fire Departments.

##### b. Crediting General Leave

Regular full-time employees shall be credited with the following amounts of General Leave and regular part-time employees shall receive a proportionate amount of General Leave. General Leave credit shall not be given if an employee is in a non-pay status for more than one-half of the accrual period or on injury leave for more than one-half of the pay period.

1. During the first year (twenty-six [26] full pay periods) of continuous employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 8.31 hours per pay period

Police Department patrol shift employees: 11.39 hours per pay period

Fire Department station-based shift employees: 15.94 hours per pay period

2. During the next two years (fifty-two [52] full pay periods) of employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 9.31 hours per pay period

Police Department patrol shift employees: 12.39 hours per pay period

Fire Department station-based shift employees: 17.34 hours per pay period

3. Following completion of three years (seventy-eight [78] full pay periods) of employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 10.31 hours per pay period

Police Department patrol shift employees: 13.39 hours per pay period

Fire Department station-based shift employees: 18.74 hours per pay period

4. Following completion of three hundred ninety (390) full pay periods of employment (15 years) and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 11.81 hours per pay period

Police Department patrol shift employees: 14.89 hours per pay period

Fire Department station-based shift employees: 20.84 hours per pay period

c. Granting General Leave

Requests for General Leave shall be formally requested and shall be submitted and approved prior to taking the leave in accordance with Departmental policies. Approval shall be determined on the basis of the work requirements of the City and, whenever possible, the personal wishes of the employee. General Leave granted shall not exceed the total amount credited to an employee at the start of the leave period, and General Leave shall be taken in multiples of one (1) hour. General Leave shall not be granted when it is known that the employee does not expect to return to duty, and terminations shall be effective as of the last day worked except in the case of disability or death.

In the case of unscheduled General Leave, employees, who are absent from duty, except police and fire employees, shall ensure that their respective supervisors are notified within one (1) hour

after the usual reporting time, if physically able to do so. Upon return to work the employee shall immediately submit to the supervisor an authorization for leave form. Police and fire employees shall notify their supervisors at least one hour before their scheduled duty.

Employees will be permitted the use of five (5) workdays [three (3) workdays for Fire Department station-based shift employees and four (4) workdays for Police Department shift employees] of unscheduled leave each calendar year. Leave covered by the Family Medical Leave Act, the Tennessee Maternity Leave Act, leave for which a statement signed by a licensed medical professional is provided and leave for funerals will not count as permitted unscheduled workdays. Use of more than the unscheduled permitted workdays specified may result in disciplinary action.

d. Maximum Accumulation of General Leave

General Leave not used may be accrued from year to year to a maximum each year as indicated below.

During the first five (5) years of continuous employment: 170 hours (238 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the fifth year of continuous employment: 340 hours (476 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the tenth year of continuous employment: 510 hours (714 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the fifteenth year of continuous employment: 680 hours (952 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the twentieth year of continuous employment: 850 hours (1,190 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the twenty-fifth year of continuous employment: 1020 hours (1,428 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Leave credits in excess of these amounts as of the ending date of the pay period in which December 31 falls shall be transferred into the employee's Emergency Leave bank as described in Section 11.2.

e. General Leave Upon Termination

Upon termination of employment, an employee may be paid for up to the maximum amount indicated in Section 11.1 d. above. Any General Leave in excess of the maximum amount will be converted to Emergency Leave where it can be used for Tennessee Consolidated Retirement System credit.

f. Buy-back of Excess General Leave

If it is determined that there are sufficient unused funds after the close of the previous fiscal year, the City may offer a buy-back option to those employees who have at least the minimum of ten workweeks of Emergency Leave and will have three workweeks of General Leave remaining after the buy-back is made. The City may buy back a minimum of twenty (20) hours (twenty-eight (28) hours for Fire Department station-based shift employees and a proportionate amount for regular part-time employees) up to a maximum of one workweek. Any buy-back payments would be made during the month of December.

g. General Leave Sharing

The City permits employees to donate their General Leave to other employees.

## 11.2 EMERGENCY LEAVE

All regular employees must maintain a second major category of leave called Emergency Leave. Leave in this bank serves as a short-term disability program and shall be used only for serious illnesses of the employee, family emergencies and funerals for family members.

a. Emergency Leave Minimum Requirement

Regular fulltime employees must have a minimum of four hundred (400) hours (560 hours for Fire Department station-based employees and a proportionate share for regular part-time employees) of Emergency Leave. If the balance of Emergency Leave is ever below the specified minimum, then two (2) hours of the General Leave accrual each pay period (2.8 hours for Fire Department station-based employees and a proportionate amount for regular part-time employees) shall be added to Emergency Leave until the minimum number of hours is reached.

New regular employees will be granted the equivalent of 140 hours of Emergency Leave with the equivalent of two (2) hours of their General Leave accrual going to Emergency Leave until the minimum is satisfied.

b. Use of Emergency Leave

As described above, the intent of Emergency Leave is to serve as a short-term disability program and its uses are restricted to the following:

1. Upon providing proof acceptable to the head of the department, an employee may be granted Emergency Leave in the event of the death of a member of the immediate family if the employee chooses not to use General Leave for this purpose. A maximum of twenty-four (24) hours may be granted. For purposes of this section, the immediate family shall be defined as spouse, ex-spouse if minor children are involved, child, legal stepchild, parent, legal stepparent, parent-in-law, grandparent, grandparent-in-law, grandchild, brother, sister, brother-in-law or sister-in-law.
2. Emergency Leave may be used in the case of illness of an employee or in the case of family emergencies only after one (1) workweek of General Leave has been used for the same illness or emergency. Written justification will be required for use of

Emergency Leave in either of these circumstances. In the case of employee illness, the employee will be required to provide a certificate of disability signed by a licensed medical professional that indicates when the employee is able to return to duty. Other written justification will be required for use of the leave for a family emergency.

The City may investigate any absence for which Emergency Leave is requested. False or fraudulent use of Emergency Leave shall be cause for dismissal.

c. Advance Emergency Leave

In rare circumstances, advance Emergency Leave, not to exceed four (4) workweeks, may be granted by the City Manager to regular employees after the first five years (130 full pay periods) of employment when it is to the City's advantage to do so. This authority may not be redelegated. Advance Emergency Leave will not be granted if the employee has any accumulated compensatory time, General Leave or Emergency Leave hours remaining.

Requests for Advance Emergency Leave shall be submitted in writing by the employee or a representative to the head of the Department. The request must state the circumstances and the need for such leave, the time and date when all leave and compensatory time will be exhausted, the amount of Advance Emergency Leave requested, and the date to which such leave will extend.

Requests for Advance Emergency Leave shall be evaluated against the employee's past leave record; the nature, seriousness and extent of illness or disability; the probability of return to duty and the prospect for continued employment; and the probability of the employee repaying the leave. An individual who, upon termination from City employment, is indebted for Advance Emergency Leave shall reimburse the City, or appropriate deductions shall be made from any salary and/or leave due the employee. This requirement may be waived by the City Manager in cases of termination for a serious illness or disability that is confirmed by the statement of a medical professional, or in the event of the death of the employee.

d. Transfer of Emergency Leave Credits to General Leave

When an employee is eligible for one of the five-year incremental increases in the maximum amount of General Leave as specified in Section 11.1 d, if the employee has in excess of the specified minimum Emergency Leave (see 11.2a), the employee may make a one-time request that Emergency Leave be transferred to General Leave to bring the balance up to the new maximum. This request must be made within ninety (90) days after meeting the new incremental date.

e. Effect of Termination on Emergency Leave Credits

Emergency Leave credits shall not be paid to an employee upon termination. However, a regular employee who is laid off and returns to City employment within eighteen (18) months shall have former unused Emergency Leave credits restored. In accordance with Tennessee Consolidated Retirement System policies and practices, unused Emergency Leave balances will be counted as service credit for retirement benefit calculation if the employee is vested in TCRS at the time of termination.

### 11.3 HOLIDAY LEAVE

#### Holiday Leave Policy

The following holidays are observed by the City and shall be granted, as provided below, to regular forty hours per week employees with pay, and shall be observed during the calendar year in which they fall or be forfeited. Unless required to be on scheduled duty, provisional, temporary or seasonal employees will not be paid for observed holidays.

- (1) New Year's Day (January 1)
- (2) Martin Luther King, Jr. Day (Third Monday in January)
- (3) Good Friday (Friday before Easter)
- (4) Memorial Day (Last Monday in May)
- (5) Independence Day (July 4)
- (6) Labor Day (First Monday in September)
- (7) Thanksgiving Day (Fourth Thursday in November)
- (8) Friday after Thanksgiving Day
- (9) Christmas Eve (December 24) or Day after Christmas (December 26) to be specified by the City Manager.
- (10) Christmas Day (December 25)

When a holiday falls on Saturday, it shall be observed on the preceding Friday; when a holiday falls on Sunday, the following Monday shall be observed.

#### Granting Holiday Leave

The granting of holidays observed by the City shall be subject to the following provisions:

1. Police Department Patrol Shift Employees  
Time off for holidays for Police Department patrol shift employees is included in their General Leave accrual rate and all usage will be taken in accordance with Section 11.1 c.
2. Fire Department Station-based Shift Employees  
Time off for holidays for Fire Department station-based shift employees is included in their General Leave accrual rate and all usage will be taken in accordance with Section 11.1 c.
3. Holiday on Scheduled Workday  
A flexible holiday schedule may be established for employees, except Police patrol shift employees and Fire Department station-based shift employees, who provide essential community services and cannot observe the regular holiday schedule.

4. Holidays for Regular Part-time Employees

Regular part-time employees shall be granted a proportionate amount of holiday leave if the holiday falls on a day they would normally be scheduled to work.

5. Holiday During Non-pay Status

In order to receive pay for an observed holiday, an employee must be in a work or paid leave status both the scheduled workday immediately preceding and the scheduled workday immediately following the holiday, and must not have been absent without leave either the workday before or after. Suspension, with or without pay, is not considered leave.

6. Appointment or Termination on Holiday

A regular employee shall not be hired or terminated on a day to be observed as a holiday.

#### 11.4 INJURY LEAVE

Leave with pay may be approved for a period determined by the City Manager, upon the recommendation of the head of the department and the Personnel Director, but not to exceed six (6) months for any one disabling injury incurred while performing job-related duties. This would be a total of 1,040 hours for regular full-time employees and 1,456 hours for Fire station-based shift employees. Other leave benefits are not accrued and holiday leave is not granted when an employee is on injury leave. If there is a reoccurrence of the injury after the employee has returned to work, a separate application for injury leave must be submitted each time with supporting documentation.

Application for such leave shall contain a statement by the employee, confirmed by the supervisor, setting forth the nature and extent of the injury, verified and supported by a licensed medical professional's statement indicating the probable period of disability. Application for leave for injury in line of duty shall be made in writing and approved on the appropriate form. Every period of leave granted under the provisions of this rule shall be considered creditable service and shall be indicated on the employee's leave records, but shall not be charged to any other type of leave.

The City reserves the right to obtain other medical opinions regarding the employee's injured condition. Employee refusal to cooperate in the seeking of these opinions or to follow rehabilitation instructions from the licensed medical professional, or the employee changing the date and/or time of a medical appointment without prior approval of the Personnel Department, shall constitute grounds for denying injury leave benefits.

When injury leave is used, an employee shall be protected against loss of pay. The regular salary shall be paid during this leave, but any amount received on behalf of the employee in Worker's Compensation insurance payments (excluding medical and hospitalization payments) shall be returned to the City. Every attempt will be made to return the individual on injury leave to modified or light duty as soon as possible.

If the employee has been granted the maximum for injury leave as specified above and is still not able to return to work, and the attending physician indicates that the employee can eventually return to normal job duties, the City may provide payments that will furnish 75% of the base salary prior to the injury for four additional weeks, then 50% for four more weeks, and then 25% for four more

weeks. As part of any consideration for this salary supplement, the employee's history of job-related injuries and leave usage in general shall be carefully reviewed along with all pertinent information including medical reports relative to the current injury.

Once the employee has been granted the maximum permitted for injury leave and is still not able to return to work, accumulated General Leave or Emergency Leave may be used. If the employee is using accumulated General Leave or Emergency Leave, any amount received on behalf of the employee in Worker's Compensation insurance payments shall be given to the employee.

#### 11.5 LEAVE WITHOUT PAY

Use of leave without pay is discouraged and may be cause for disciplinary action. Under exceptional circumstances, the City Manager may grant a regular employee leave without pay for a period not to exceed six (6) months only when it is in the best interest of the City to do so.

During an approved leave without pay, an employee shall not accumulate service credit, accrue leave benefits, or be eligible for pay increases. Failure on the part of the employee to report promptly at the expiration of a leave without pay shall be cause for dismissal.

#### 11.6 MILITARY LEAVE FOR RESERVE TRAINING OR EMERGENCY STATE SERVICE

In accordance with T.C. A. § 8-33-109, all employees who are members of any reserve component of the United States Armed Forces, upon presentation of official orders, will be allowed paid leave of absence for required training or duty for a period not exceeding twenty (20) working days during a calendar year. This would be a maximum of 160 hours for employees working forty hours per week and 224 hours for Fire Department station-based shift employees. In the event that the time of such training is optional, the time shall be designated at the discretion of the City.

All employees who are members of the Tennessee National Guard, upon presentation of official orders, shall be entitled to the same amounts of paid leave during a calendar year from their respective duties on all days during which they shall be engaged in field training ordered or authorized under military code. TCA § 58-1-106 provides that additional military leave will be granted on all days when they are called into the actual service of the State by the commander-in-chief.

Every request for military leave is to be submitted as far in advance as practical and must be accompanied by official orders. Until the City has received the official orders, any absence for military training or duty will be charged as leave without pay or as General Leave.

#### 11.7 CIVIL LEAVE

Upon providing proof acceptable to the head of the department, an employee shall be given necessary time off without loss of regular pay when performing jury duty or when subpoenaed as a witness.

## 11.8 ADMINISTRATIVE LEAVE

The City Manager may excuse employees from duty in special situations for short periods of time when it is in the best interest of the City. This type of leave would also be granted when an employee is assigned to home pending completion of an investigation.

## 11.9 UNAUTHORIZED ABSENCES

Unless there are extenuating circumstances for unauthorized absence, an employee who is absent from duty without approval shall receive no pay for the duration of the absence and shall be subject to other appropriate disciplinary action. Any employee who has more than twenty-four hours of unauthorized absence during a twelve months period will be subject to dismissal.

Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave or unauthorized absence.

### Tardiness

Under ordinary circumstances, unavoidable or necessary absence from duty of less than one hour or tardiness may be excused without charge to leave if such absence or tardiness can be fully justified by the employee to the supervisor's satisfaction. Otherwise, such absence will be handled administratively by requiring additional work, by charging the time as leave without pay without permission, or by permitting the employee to use General Leave if the absence is over one hour. If an employee is frequently tardy, the supervisor shall take corrective action.

DRAFT

ARTICLE 11 - LEAVE

GENERAL

It is the policy of the City of Oak Ridge to encourage and facilitate an employee's use of accrued leave for the employee's recreational benefit, personal benefit, and the safeguarding of employee health and the health of employee family members, while meeting the professional and service requirements of the City.

To carry out this policy, the following types of leave are recognized:

1. General Leave
2. Emergency Leave
3. Holiday Leave
4. Injury Leave
5. Leave Without Pay
6. Military Leave
7. Civil Leave
8. Administrative Emergency Leave

Pre-approved leave is defined as an authorized absence during regularly scheduled work hours that has been approved by proper authority prior to the leave usage and may include, but not be limited to, vacations, funerals and scheduled medical procedures.

All leave that is not pre-approved is considered unscheduled leave and may include, but not be limited to, leave for emergencies, funerals and sickness.

Leave may be authorized with or without pay. Absence without leave is subject to disciplinary action.

The City Manager may delegate the authority to approve certain types of leave to Heads of Departments, who shall have the power of redelegation. Accurate leave records shall be maintained in a manner prescribed by the City Manager and may be periodically inspected to ensure adherence to the provisions of this Article.

For pre-approved leave, a formal written request indicating the type of leave must normally be submitted and approved prior to taking leave. In the case of unscheduled leave, the approval request shall be completed and submitted immediately upon the employee's return to duty. Unless a designated supervisor approves an absence, an employee shall not be paid.

11.1 GENERAL LEAVE

a. General Leave Policy

It is the policy of the City to promote employees' efficiency, health and morale through periodic interruption from their duties. Accordingly, regular employees shall be granted a specified amount of paid General Leave each year, which may be used for vacations, scheduled medical procedures or other personal uses and is used in lieu of holiday leave for shift employees in the Police and Fire Departments.

b. Implementation

~~Effective July 3, 2005, "annual leave" and "sick leave" will be eliminated and two new~~

~~types of leave, called General Leave and Emergency Leave, will be created. To establish the initial balances of these new leave types, the following procedure will be followed:~~

~~11-4~~

- ~~1. Any annual and sick leave previously lost by any employee due to maximum carryover limits shall be restored to the employee's annual and sick leave balances.~~
- ~~2. Those employees who are entitled to a flexible holiday and have not yet taken that holiday in CY 2005 shall receive an additional eight (8) hours (or a proportionate amount for regular part-time employees) of annual leave.~~
- ~~3. Each employee will be credited with 140 hours of Emergency Leave (196 hours for Fire Department station-based shift employees and a proportionate amount for regular part-time employees.)~~
- ~~4. Up to 260 hours of the sick leave balance will be converted to Emergency Leave to satisfy the required 400 hours minimum of Emergency Leave. Up to 364 hours of the sick leave balance for Fire Department station-based employees will be converted to Emergency Leave to satisfy the required minimum of 560 hours. A proportionate amount of sick leave of regular part-time employees will be converted to Emergency Leave.~~
- ~~5. All annual leave (including the restored annual leave and the flexible holiday leave, if applicable) and all remaining sick leave will be combined and credited as General Leave up to the maximum amounts specified in Section 11.1e of this Article. Any General Leave in excess of the specified maximum amounts will be transferred to the employee's Emergency Leave balance.~~

**eb. Crediting General Leave**

~~Effective July 3, 2005, r~~Regular full-time employees shall be credited with the following~~g~~ amounts of General Leave and regular part-time employees shall receive a proportionate amount of General Leave. General Leave credit shall not be given if an employee is in a nonpay status for more than one-half of the accrual period or on injury leave for more than one-half of the pay period.

1. During the first year (twenty-six [26] full pay periods) of continuous employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 8.31 hours per pay period

Police Department patrol shift employees: 11.39 hours per pay period

Fire Department station-based shift employees: 15.94 hours per pay period

2. During the next two years (fifty-two [52] full pay periods) of employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 9.31 hours per pay period

Police Department patrol shift employees: 12.39 hours per pay period

Fire Department station-based shift employees: 17.34 hours per pay period

11-2

3. Following completion of three years (seventy-eight [78] full pay periods) of employment and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 10.31 hours per pay period

Police Department patrol shift employees: 13.39 hours per pay period

Fire Department station-based shift employees: 18.74 hours per pay period

4. Following completion of three hundred ninety (390) full pay periods of employment (15 years) and subject to the provisions of Section 11.2.a, the following amounts of General Leave will be credited to fulltime employees.

Forty hours per week employees: 11.81 hours per pay period

Police Department patrol shift employees: 14.89 hours per pay period

Fire Department station-based shift employees: 20.84 hours per pay period

d.c. Granting General Leave

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Requests for General Leave shall be formally requested and shall be submitted and approved prior to taking the leave in accordance with Departmental policies. Approval shall be determined on the basis of the work requirements of the City and, whenever possible, the personal wishes of the employee. General Leave granted shall not exceed the total amount credited to an employee at the start of the leave period, and General Leave shall be taken in multiples of one (1) hour. General Leave shall not be granted when it is known that the employee does not expect to return to duty, and terminations shall be effective as of the last day worked except in the case of disability or death.

In the case of unscheduled General Leave, employees, who are absent from duty, except police and fire employees, shall ensure that their respective supervisors are notified within one (1) hour after the usual reporting time, if physically able to do so. Upon return to work the employee shall immediately submit to the supervisor an authorization for leave form. Police and fire employees shall notify their supervisors at least one hour before their scheduled duty.

Employees will be permitted the use of five (5) workdays [three (3) workdays for Fire Department station-based shift employees and four (4) workdays for Police Department shift employees] of unscheduled leave each calendar year. Leave covered by the Family Medical Leave Act, the Tennessee Maternity Leave Act, leave for which a statement signed by a licensed medical professional is provided and leave for funerals will not count as permitted unscheduled workdays. Use of more than the unscheduled permitted workdays specified may result in disciplinary action.

e.d. Maximum Accumulation of General Leave

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General Leave not used may be accrued from year to year to a maximum each year as indicated below.

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~~During the first five (5) years of continuous employment for employees on the payroll as of July 3, 2005: 280 hours (392 for Fire Department station-based and a proportionate amount for regular part-time employees) for employees on the payroll as of the date of implementation~~

During the first five (5) years of continuous employment for employees hired after July 3, 2005: 170 hours (238 for Fire Department station-based employees and a proportionate amount for regular part-time employees) ~~for employees hired after the date of implementation~~

Upon completion of the fifth year of continuous employment: 340 hours (476 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the tenth year of continuous employment: 510 hours (714 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the fifteenth year of continuous employment: 680 hours (952 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the twentieth year of continuous employment: 850 hours (1,190 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Upon completion of the twenty-fifth year of continuous employment: 1020 hours (1,428 for Fire Department station-based employees and a proportionate amount for regular part-time employees)

Leave credits in excess of these amounts as of the ending date of the pay period in which December 31 falls shall be transferred into the employee's Emergency Leave bank as described in Section 11.2.

f.e. General Leave Upon Termination

Upon termination of employment, an employee may be paid for up to the maximum amount indicated in Section 11.1-~~ed~~ above. Any General Leave in excess of the maximum amount will be converted to Emergency Leave where it can be used for Tennessee Consolidated Retirement System credit. ~~if the employee is retiring from the City.~~

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g.f. Buy-back of Excess General Leave

If it is determined that there are sufficient unused funds after the close of the previous fiscal year, the City may offer a buy-back option to those employees who have at least the minimum of ten workweeks of Emergency Leave and will have three workweeks of General Leave remaining after the buy-back is made. The City may buy back a minimum of twenty (20) hours (twenty-eight (28) hours for Fire Department station-based shift employees and a proportionate amount for regular part-time employees) up to a maximum of one workweek. Any buy-back payments would be made during the

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month of December.

g. General Leave Sharing

The City permits employees to donate their General Leave to other employees.

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11.2 EMERGENCY LEAVE

All regular employees must maintain a second major category of leave called Emergency Leave. Leave in this bank serves as a short-term disability program and shall be used only for serious illnesses of the employee, family emergencies and funerals for family members.

a. Emergency Leave Minimum Requirement

Regular fulltime employees must have a minimum of four hundred (400) hours (560 hours for Fire Department station-based employees and a proportionate share for regular part-time employees) of Emergency Leave. If the balance of Emergency Leave is ever below the specified minimum ~~after implementation (See Section 11.1b)~~, then two (2) hours of the General Leave accrual each pay period (2.8 hours for Fire Department station-based employees and a proportionate amount for regular part-time employees) shall be added to Emergency Leave until the minimum number of hours is reached. New regular employees will be granted the equivalent of 140 hours of Emergency Leave with the equivalent of two (2) hours of their General Leave accrual going to Emergency Leave until the minimum is satisfied.

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~~Any time the Emergency Leave balance falls below the specified minimum, then the equivalent of two (2) hours of the General Leave accrual per pay period will be added to the Emergency Leave balance until the specified minimum is again set aside.~~

b. Use of Emergency Leave

As described above, the intent of Emergency Leave is to serve as a short-term disability program and its uses are restricted to the following:

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1. Upon providing proof acceptable to the head of the department, an employee may be granted Emergency Leave in the event of the death of a member of the immediate family if the employee chooses not to use General Leave for this purpose. A maximum of twenty-four (24) hours may be granted. For purposes of this section, the immediate family shall be defined as spouse, ex-spouse if minor children are involved, child, legal stepchild, parent, legal stepparent, parent-in-law, grandparent, grandparent-in-law, grandchild, brother, sister, brother-in-law or sister-in-law.
2. Emergency Leave may be used in the case of illness of an employee or in the case of family emergencies only after one (1) workweek of General Leave has been used for the same illness or emergency. Written justification will be required for use of Emergency Leave in either of these circumstances. In the case of employee illness, the employee will be required to provide a certificate of

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disability signed by a licensed medical professional that indicates when the employee is able to return to duty. Other written justification will be required for use of the leave for a family emergency.

The City may investigate any absence for which Emergency Leave is requested. False or fraudulent use of Emergency Leave shall be cause for dismissal.

11-5

c. Advance Emergency Leave

In rare circumstances, advance Emergency Leave, not to exceed four (4) workweeks, may be granted by the City Manager to regular employees after the first five years (130 full pay periods) of employment when it is to the City's advantage to do so. This authority may not be redelegated. Advance Emergency Leave will not be granted if the employee has any accumulated compensatory time ~~or any~~ General Leave or Emergency Leave hours remaining.

Requests for advance Emergency Leave shall be submitted in writing by the employee or a representative to the head of the Department. The request must state the circumstances and the need for such leave, the time and date when all leave and compensatory time will be exhausted, the amount of advance Emergency Leave requested, and the date to which such leave will extend.

Requests for advance Emergency Leave shall be evaluated against the employee's past leave record; the nature, seriousness and extent of illness or disability; the probability of return to duty and the prospect for continued employment; and the probability of the employee repaying the leave. An individual who, upon termination from City employment, is indebted for advance Emergency Leave shall reimburse the City, or appropriate deductions shall be made from any salary and/or leave due the employee. This requirement may be waived by the City Manager in cases of termination for a serious illness or disability that is confirmed by the statement of a medical professional, or in the event of the death of the employee.

d. Transfer of Emergency Leave Credits to General Leave

When an employee is eligible for one of the five-year incremental increases in the maximum amount of General Leave as specified in Section 11.1 e, if the employee has in excess of the specified minimum Emergency Leave (see 11.2a), the employee may make a one-time request that Emergency Leave be transferred to General Leave to bring the balance up to the new maximum. This request must be made within ninety (90) days after meeting the new incremental date.

e. Effect of Termination on Emergency Leave Credits

Emergency Leave credits shall not be paid to an employee upon termination. However, a regular employee who is laid off and returns to City employment within eighteen (18) months shall have former unused Emergency Leave credits restored. In accordance with Tennessee Consolidated Retirement System policies and practices, unused Emergency Leave balances ~~for those employees retiring from the City~~ will be

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counted as service credit for retirement benefit calculations if the employee is vested in TCRS at the time of termination.

### 11.3 HOLIDAY LEAVE

#### Holiday Leave Policy

The following holidays are observed by the City and shall be granted, as provided below, to regular forty hours per week employees with pay, and shall be observed during the calendar year in which they fall or be forfeited. Unless required to be on scheduled duty, provisional, temporary or seasonal employees will not be paid for observed holidays.

11-6

- (1) New Year's Day (January 1)
- (2) Martin Luther King, Jr. Day (Third Monday in January)
- (3) Good Friday (Friday before Easter)
- (4) Memorial Day (Last Monday in May)
- (5) Independence Day (July 4)
- (6) Labor Day (First Monday in September)
- (7) Thanksgiving Day (Fourth Thursday in November)
- (8) Friday after Thanksgiving Day
- (9) Christmas Eve (December 24) or Day after Christmas (December 26) to be specified by the City Manager.
- (10) Christmas Day (December 25)

When a holiday falls on Saturday, it shall be observed on the preceding Friday; when a holiday falls on Sunday, the following Monday shall be observed.

#### Granting Holiday Leave

The granting of holidays observed by the City shall be subject to the following provisions:

1. **Police Department Patrol Shift Employees**  
Time off for holidays for Police Department patrol shift employees is included in their General Leave accrual rate and all usage will be taken in accordance with Section 11.1 d.
2. **Fire Department Station-based Shift Employees**  
Time off for holidays for Fire Department station-based shift employees is included in their General Leave accrual rate and all usage will be taken in accordance with Section 11.1 d.

3. Holiday on Scheduled Workday

A flexible holiday schedule may be established for employees, except Police patrol shift employees and Fire Department station-based shift employees, who provide essential community services and cannot observe the regular holiday schedule.

4. Holidays for Regular Part-time Employees

Regular part-time employees shall be granted a proportionate amount of holiday leave if the holiday falls on a day they would normally be scheduled to work.

5. Holiday During Non-pay Status <sup>11-7</sup>

In order to receive pay for an observed holiday, an employee must be in a work or paid leave status both the scheduled workday immediately preceding and the scheduled workday immediately following the holiday, and must not have been absent without leave either the workday before or after. Suspension, with or without pay, is not considered leave.

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6. Appointment or Termination on Holiday

A regular employee shall not be hired or terminated on a day to be observed as a holiday.

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11.4 INJURY LEAVE

Leave with pay may be approved for a period determined by the City Manager, upon the recommendation of the head of the department and the Personnel Director, but not to exceed six (6) months for any one disabling injury incurred while performing job-related duties. This would be a total of 1,040 hours for regular full-time employees and 1,456 hours for Fire station-based shift employees. Other leave benefits are not accrued and holiday leave is not granted when an employee is on injury leave. If there is a reoccurrence of the injury after the employee has returned to work, a separate application for injury leave must be submitted each time with supporting documentation.

Application for such leave shall contain a statement by the employee, confirmed by the supervisor, setting forth the nature and extent of the injury, verified and supported by a licensed medical professional's statement indicating the probable period of disability. Application for leave for injury in line of duty shall be made in writing and approved on the appropriate form. Every period of leave granted under the provisions of this rule shall be considered creditable service and shall be indicated on the employee's leave records, but shall not be charged to any other type of leave.

The City reserves the right to obtain other medical opinions regarding the employee's injured condition. Employee refusal to cooperate in the seeking of these opinions or to follow rehabilitation instructions from the licensed medical professional, or the employee changing the date and/or time of a medical appointment without prior approval of the Personnel Department, shall constitute grounds for denying injury leave benefits.

When injury leave is used, an employee shall be protected against loss of pay. The regular salary shall be paid during this leave, but any amount received on behalf of the employee in Worker's Compensation insurance payments (excluding medical and hospitalization payments) shall be returned to the City. Every attempt will be made to return the individual on injury leave to modified or light duty as soon as possible.

If the employee has been granted the maximum for injury leave as specified above and is still not able to return to work, and the attending physician indicates that the employee can eventually return to normal job duties, the City may provide payments that will furnish 75% of the base salary prior to the injury for four additional weeks, then 50% for four more weeks, and then 25% for four more weeks. As part of any consideration for this salary supplement, the employee's history of job-related injuries and leave usage in general shall be carefully reviewed along with all pertinent information including medical reports relative to the current injury.

~~11-8~~

Once the employee has been granted the maximum permitted for injury leave and is still not able to return to work, accumulated General Leave or Emergency Leave may be used. If the employee is using accumulated General Leave or Emergency Leave, any amount received on behalf of the employee in Worker's Compensation insurance payments shall be given to the employee.

#### 11.5 LEAVE WITHOUT PAY

Use of leave without pay is discouraged and may be cause for disciplinary action. Under exceptional circumstances, the City Manager may grant a regular employee leave without pay for a period not to exceed six (6) months only when it is in the best interest of the City to do so.

During an approved leave without pay, an employee shall not accumulate service credit, accrue leave benefits, or be eligible for pay increases. Failure on the part of the employee to report promptly at the expiration of a leave without pay shall be cause for dismissal.

#### 11.6 MILITARY LEAVE FOR RESERVE TRAINING OR EMERGENCY STATE SERVICE

In accordance with TCA § 8-33-109, all employees who are members of any reserve component of the United States Armed Forces, upon presentation of official orders, will be allowed paid leave of absence for required training or duty for a period not exceeding ~~fifteen (15)~~ twenty (20) working days during a calendar year. This would be a maximum of ~~120~~ 160 hours for employees working forty hours per week and ~~168~~ 224 hours for Fire Department station-based shift employees. In the event that the time of such training is optional, the time shall be designated at the discretion of the City.

All employees who are members of the Tennessee National Guard, upon presentation of official orders, shall be entitled to the same amounts of paid leave during a calendar year from their respective duties on all days during which they shall be engaged in field training ordered or authorized under military code. TCA § 58-1-106 provides that additional military leave will be granted on all days when they are called into the actual service of the State by the commander-in-chief.

Every request for military leave is to be submitted as far in advance as practical and must be accompanied by official orders. Until the City has received the official orders, any absence

for military training or duty will be charged as leave without pay or as General Leave.

11.7 CIVIL LEAVE

Upon providing proof acceptable to the head of the department, an employee shall be given necessary time off without loss of regular pay when performing jury duty or when subpoenaed as a witness.

11.8 ADMINISTRATIVE LEAVE

The City Manager may excuse employees from duty in special situations for short periods of time ~~for the benefit~~ when it is in the best interest of the City. This type of leave would also be granted when an employee is assigned to home pending completion of an investigation.

11.9 UNAUTHORIZED ABSENCES

11-9

Unless there are extenuating circumstances for unauthorized absence, an employee who is absent from duty without approval shall receive no pay for the duration of the absence and shall be subject to other appropriate disciplinary action. Any employee who has more than twenty-four hours of unauthorized absence during a twelve months period will be subject to dismissal.

Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave or unauthorized absence.

Tardiness

Under ordinary circumstances, unavoidable or necessary absence from duty of less than one hour or tardiness may be excused without charge to leave if such absence or tardiness can be fully justified by the employee to the supervisor's satisfaction. Otherwise, such absence will be handled administratively by requiring additional work, by charging the time as leave without pay without permission, or by permitting the employee to use General Leave if the absence is over one hour. If an employee is frequently tardy, the supervisor shall take corrective action.

11-10

Revised Effective 06/30/05 (Ordinance 6-05)

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 27-85, TITLED "A PERSONNEL PLAN FOR EMPLOYEES OF THE CITY OF OAK RIDGE, TENNESSEE," AS AMENDED, BY DELETING ARTICLE 11, TITLED "LEAVE," IN ITS ENTIRETY AND BY ADDING A NEW ARTICLE 11, TITLED "LEAVE."

WHEREAS, the Personnel Plan was amended effective July 3, 2005 to provide for a new leave system for City employees; and

WHEREAS, several sections of this leave system made reference to implementation of the revised plan; and

WHEREAS, T. C. A. § 8-33-109 has been amended by the General Assembly to increase from fifteen (15) to twenty (20) the number of paid days for public employee military reservists per calendar year; and

WHEREAS, because of these changes it is desirable to replace Article 11, "Leave," in its entirety; and

WHEREAS, the Personnel Advisory Board at its August 4, 2010 meeting reviewed the proposed amendment to the Personnel Plan and unanimously recommended its adoption; and

WHEREAS, the City Manager recommends that the Personnel Plan be amended.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Ordinance No. 27-85, titled "A Personnel Plan for Employees of the City of Oak Ridge, Tennessee," is hereby amended by deleting Article 11, "Leave," in its entirety, and adding a new Article 11, "Leave," which shall read as attached.

Section 2. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

First Reading: 9-13-10  
Publication Date: 9-21-10  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_

COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM

10-74

DATE: August 30, 2010

TO: Mark Watson, City Manager

THROUGH: Kathryn Baldwin, Community Development Director 

FROM: Kahla Gentry, Senior Planner

SUBJECT: **PUD Preliminary Master Plan, Eddie Hair Tire & Auto Center, 798 Oak Ridge Turnpike. Rezoning from R-1-C/MDO to B-2 PUD and Land Use Plan Amendment from R, Residential to B, General Business for Parcel 60.00, Anderson County Tax Map 94O, Group A at 132 Tyson Road.**

An item for the City Council agenda is a request to rezone Parcel 60.00 Anderson County Tax Map 94O, Group A from R-1-C, One-Family Residential in the Manhattan District Overlay (MDO) to B-2, General Business with a Planned Unit Development (PUD) overlay. A secondary issue is approval of a Land Use Plan amendment from R, Residential to B, General Business for Parcel 60.00. The Planned Unit Development also includes Parcel 61.00, Anderson County Tax Map 94O, Group A, approved in 2008. The property proposed for rezoning has an area of approximately 0.35 acres and is located at 132 Tyson Road. The rezoning is requested in order to include the property in the Planned Unit Development for the Eddie Hair Tire and Auto Center. The Planning Commission recommended approval of the requested rezoning, Land Use Plan amendment and PUD Preliminary Master Plan by a vote of 7-0 at their regular meeting on August 26, 2010.

The rezoning is being requested to allow for improvement and expansion of an existing business, Eddie Hair Tire and Auto Center. The request for approval of a PUD overlay is made in order to address compatibility issues with the residential uses within the area. The Planning Commission approved two variances as part of their recommendation. The first variance is to allow a commercial PUD with an area of 1.92 acres, which is below the required minimum area of five acres. The Planning Commission approved the variance to allow a commercial PUD with an area less than five acres in order to memorialize compatibility issues related to the expansion and improvement of an existing business by mitigating negative offsite impacts to abutting residential property through building materials, vegetative buffers and the placement and character of structures.

The second variance request approved by the Planning Commission is to reduce the width of the landscape buffer between the parking lot and the adjoining residential lot from 20 feet to 10 feet with a fence and increased density of evergreen trees to provide a solid screen. The approval was granted because the density of planting is increased from that of a wider buffer; evergreen plantings must be used, not just deciduous plants and fencing is to be added to the vegetative buffer. By increasing the density and including evergreens and fencing the buffer is in compliance with the screening standard provided for in Section 9.08 of the PUD section of the Zoning Ordinance as well as Section 11.03 (g) of the Zoning Ordinance regarding buffers between commercial parking lots and residential property.

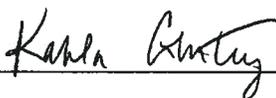
If the rezoning and Preliminary Master Plan is approved the next step would be a resubdivision to combine the residential lot with the business lot, followed by submittal of a site plan for review and approval by staff. Mr. Hair plans to replace the existing gas pump island and to demolish the older service center

building and replace it with a newly constructed building. An improvement to the business access will be provided by closing the existing access to Georgia near the Oak Ridge Turnpike intersection. Rezoning to B-2, General Business with a PUD overlay will provide a specific development plan for the site that addresses landscaping, access, and building design. Placement of landscaping will need adjustment based upon utility requirements and will be finalized at the site plan approval stage. The new service center area will be placed further back on the site and will be less prominent with the garage doors reoriented to face away from the Turnpike.

Staff recommends approval of the rezoning from R-1-C/MDO and amendment to the Land Use Plan Map changing the designation for the property identified on Anderson County Tax Map 94O, Group A, Parcel 60.00 from R, Residential to B, General Business to allow the improvement and expansion of an existing business. In addition staff recommends approval of the revised PUD Preliminary Master Plan based upon:

1. The location is suitable for commercial development being at the intersection of two arterial streets, one of which is a state highway.
2. There are commercial uses with commercial zoning west and south of the site with additional commercial development to the north on Georgia Avenue.
3. The PUD plan shows landscaping along Tyson Road with no access to Tyson Road
4. A dense landscaped buffer is shown between the residential and commercial property.
5. The PUD provides for a unified site design
6. Points of access onto Georgia are decreased and safety is improved by moving a point of access away from the intersection with the Oak Ridge Turnpike.
7. The PUD provides for the improvement of an existing business (new building with architectural character identified, garage doors no longer facing the Oak Ridge Turnpike, improved access and site circulation, improved landscaping)
8. Uses, are specified, reducing the number of uses allowed as compared with the base zoning district, and reducing potential conflicts with residential uses.

The PUD addresses compatibility issues related to the expansion and improvement of an existing business abutting residential property. These compatibility issues include building materials, style and character, and landscaping. In addition, the purpose of the PUD is to memorialize the limited uses proposed for the site. Without the PUD the uses allowed on the property are very broad. Staff finds the requested rezoning with a PUD overlay to be compatible with surrounding uses and zoning and in compliance with PUD requirements and recommends approval.

  
\_\_\_\_\_

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
\_\_\_\_\_

Mark Watson

Date

9/1/10

STAFF REVIEW OF PROPOSED PLANNED UNIT DEVELOPMENT

Owner: Eddie Hair (Parcel 61)  
James T. Normand & Jeffrey Lewis (Parcel 60)

Date: August 19, 2010

Address: 798 Oak Ridge Turnpike  
& 132 Tyson Road

Anderson County Tax Map 94O,  
Group A, Parcels 60, & 61,

**Location:** Located on east side of Georgia  
Ave. between the Oak Ridge  
Tpke. & Tyson Road

**Zoning:** Request rezoning for Parcel  
60, 132 Tyson Road, from R-1-C in  
the Manhattan District Overlay to  
to B-2, Planned Unit Development  
and add to existing B-2 PUD on  
Parcel 61, 798 Oak Ridge Tpke.

**Approximate Area:** 1.92    **Minimum Area for Formation of PUD:** 5 acres – variance  
requested

**Use:** Expansion of existing tire and auto service center/commercial use.

**Maximum Height in B-2 District:** None    **Maximum Height in PUD within 200 feet of R-1,  
Residential** – 35 feet PUD plan shows  
building in compliance

**Setbacks:** Front 20 feet, Side 0 feet, Rear 0 feet    PUD 30 feet from adjoining residential  
property, PUD plan shows building in  
compliance

**Maximum Floor Area to Lot Area Ratio:** 100%

**Existing Land Use:** Tire and Auto Service Center and one single-family housing unit

a. Access: One access located on the Turnpike and two access drives on Georgia Avenue.  
An access drive on Georgia Avenue located near the Oak Ridge Turnpike intersection  
is being reduced in width. There will be no access from Tyson Road

b. Utilities: There is adequate capacity to serve the development.

**Adjacent Land Uses, Type of Development, & Zoning:**

North: The zoning is R-2, Two, Three & Four Family Residential and R-1-C, Single-  
Family Residential in the Manhattan District overlay. Uses include fourplex rental  
units and detached single-family housing units.

West: The zoning is UB-2, Unified General Business and B-2, General Business. The  
use is the Jackson Tower office complex.

South: The zoning is B-3, Roadside Business District. Currently there is a vacant auto  
dealership on the property.

East: The zoning is R-1-C, One-Family Residential within the Manhattan District Overlay with single-family detached housing units.

**Previous Rezoning Requests:**

November 1987: Request to rezone Lot 1, Block 17-CG from R-1-C to B-2 withdrawn after receiving unfavorable recommendation from Planning Commission.

December 1990: Request to rezone Lots 1 & 2, Block 17-CG from R-1-C- to B-2 denied by City Council.

February 1996: Request to rezone Lots 1 & 2, Block 17-CG from R-1-C to B-2 and UB-2 denied by City Council.

November 1997: Request to rezone Lots 1 & 2, Block 17-CG from R-1-C to B-2 and UB-2 approved by City Council.

April 2008: Request to rezone Lots 1, 2, & 3, Block 17-CG (Tax Map 94O, Group A, Parcels 61, 62 & 63) to B-2, Planned Unit Development approved by City Council.

**Comprehensive Plan:** The proposed rezoning requires amending the Land Use Plan Map from R, Residential to B, General Business for Parcel 60.00 on Anderson County Tax Map 94O Group A.

Policy L-8: The City will promote the location of intensively-designed retail, service, office, hotel, multiple-family residential, and civic activities in the Turnpike, Illinois, Rutgers vicinity and in the Jackson Square-Jackson Plaza vicinity . . .

Policy L-9: The City will also allow community-scale retail development on appropriately zoned sites having good traffic access and proper buffering from residential areas.

Policy E-5: The City will promote the use of contemporary architectural design, site planning, access control, sign standards, and landscaping techniques for new and redeveloped commercial and industrial properties so as to protect and improve the aesthetic and natural environment of the City.

Policy E-6: The City will support the growth and diversification of retail and service establishments to better serve resident consumers and broaden the city's regional shopping center function.

**Neighborhood Position:** Two residents spoke in favor of the rezoning and PUD at the Planning Commission meeting. No comments have been received against the PUD and rezoning.

**Notification of Property Owners Within 200':** Letters sent August 13, 2010

**Rezoning Signs Posted:** August 13, 2010

**Analysis:**

This rezoning and PUD Preliminary Master Plan is being submitted in order to expand and make improvements to the Eddie Hair Tire and Auto Center site. Mr. Hair plans to acquire the adjacent residential lot to incorporate into his business site. Mr. Hair wishes to separate the new tire service center from the existing building being used for tire storage. In order to have adequate area for separation of the buildings, Mr. Hair wishes to rezone and add the adjacent residential lot to the existing Planned Unit Development. If the rezoning and Preliminary Master Plan is approved the next steps would be the submittal of a resubdivision plat and a site plan for review and approval by staff. Mr. Hair plans to replace the existing pump island and to demolish the older service center building and replace it with a new building. This is a change to the previously approved PUD Master Plan that showed the new service center as an addition to the tire warehouse instead of a separate new building. Another positive change is that the garage doors are no longer shown facing the Oak Ridge Turnpike. Mr. Hair also plans to convert the tire warehouse into other commercial use. If a parapet wall is added to the building it must extend completely around the building and not partially around the building. An improvement to the business access will be provided by moving the existing access to Georgia near the Oak Ridge Turnpike intersection a greater distance from the intersection. The PUD overlay provides a development plan for the site that addresses landscaping, access, and building design. The PUD plan also lists the allowable uses for the site, omitting several uses that would otherwise be permitted with B-2 zoning.

A variance is requested to allow a commercial PUD with an area less than five acres. Staff recommends approval in order to address design issues related to improvement and expansion of an existing commercial site adjacent to residential development. A second variance is requested to reduce the landscape buffer between the residential lot and the parking lot, a length of approximately 157 feet, from 20 feet to 10 feet with an alternative of providing a privacy fence with evergreen trees and other plantings located between the fence and lot line sufficient to provide a solid landscaped buffer. Staff recommends approval finding the alternative in compliance with the screening standard provided for in Section 9.08 of the PUD section of the Zoning Ordinance as well as Section 11.03 (g) of the Zoning Ordinance regarding buffers between commercial parking lots and residential property.

The provision of screening between residential and commercial uses is a requirement of a PUD plan and as such is part of the PUD Master Plan approval. The note requesting approval of an alternative for street trees will be reviewed as part of the site plan because the number and location of street trees is a detail and requirement specified in the Zoning Ordinance requirements for site plans. Applicants are not required to have a landscape plan to this detail as part of the PUD Master Plan.

**Conclusion & Planning Staff Recommendation:**

Staff recommends approval of an amendment to the Land Use Plan Map changing the designation for the property identified on Anderson County Tax Map 94O, Group A, Parcel 60.00 from R, Residential to B, General Business and rezoning from R-1-C/MDO to B-2, PUD to allow the

improvement and expansion of an existing business as based upon the submitted PUD Preliminary Master Plan and also based upon:

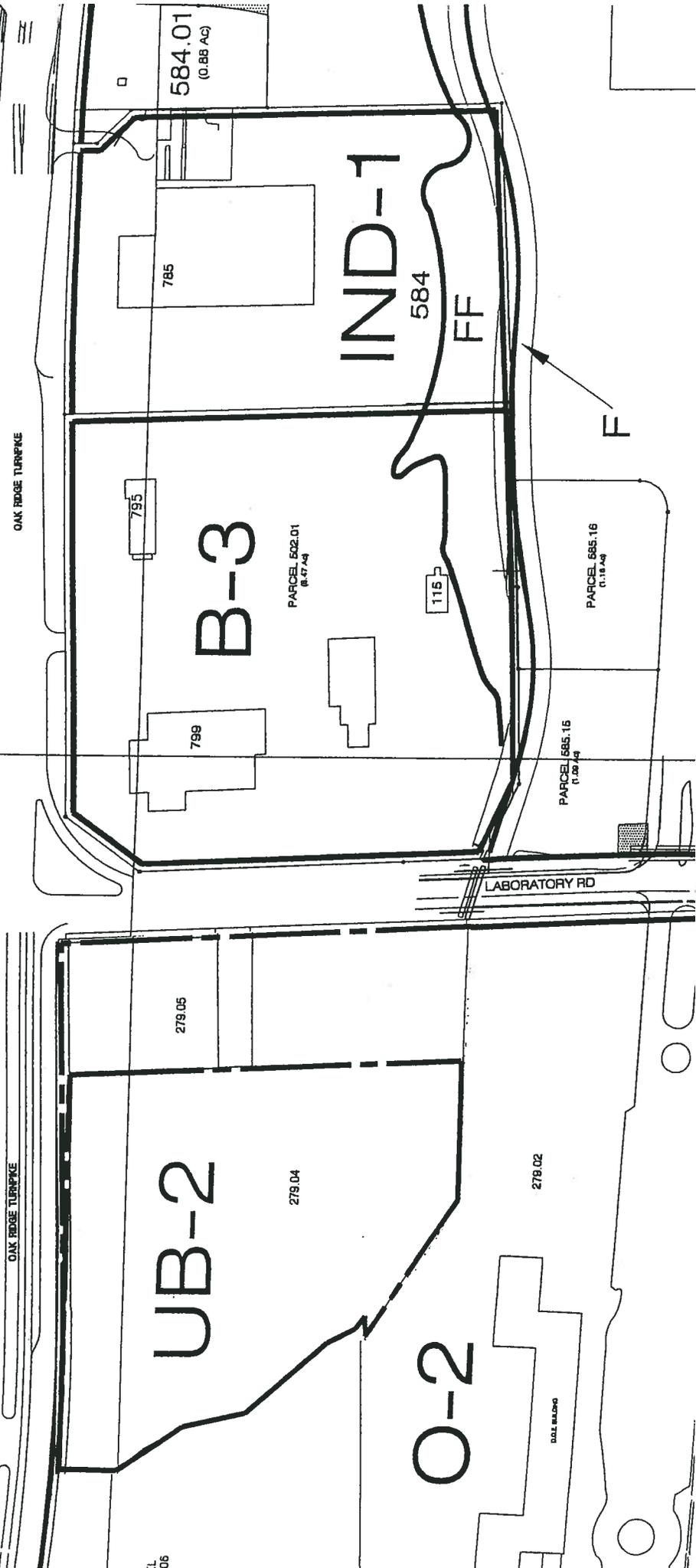
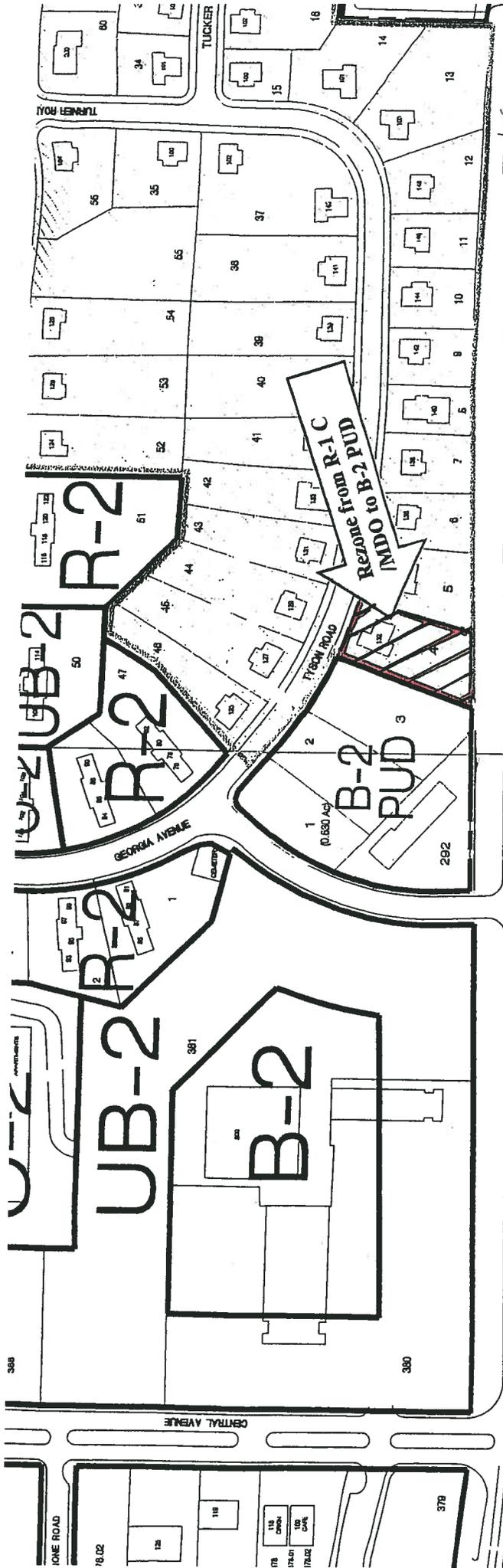
1. The location is suitable for commercial development being at the intersection of two arterial streets, one of which is a state highway.
2. The existing commercial zoning and development west and south of the subject property.

Staff recommends approval of the requested variances as follows:

1. Allow a reduction in the minimum PUD area from 5 acres to 1.92 acres. Staff recommends approval of this variance in order to address compatibility issues related to the expansion and improvement of an existing business abutting residential property. These compatibility issues include building materials, style and character, heavy buffers. In addition, the purpose of the PUD is to memorialize the uses proposed for the site. Without the PUD the uses allowed on the property are very broad. The PUD limits the uses to those identified on the Master Plan. The site is appropriate for a commercial PUD because it is located at the intersection of two arterial roads, one of which is a state highway, and in an area of mixed use including commercial and multi-family as well as single-family.
2. Reduce landscape buffer width between parking lot and adjacent residential property from 20 feet to 10 feet. Staff recommends approval based upon the fence, evergreen trees and other plantings providing a solid landscape buffer between the residential lot and the commercial parking lot.

Staff finds the requested rezoning and revised PUD Master Plan to be compatible with surrounding uses and zoning and in compliance with PUD requirements and recommends approval.

Planning Commission Recommendation: Recommended approval by a vote of 7-0.





**TITLE**

AN ORDINANCE TO AMEND ORDINANCE NO. 2, TITLED "THE ZONING ORDINANCE OF THE CITY OF OAK RIDGE, TENNESSEE," BY AMENDING THE ZONING MAP WHICH IS MADE A PART OF THE ORDINANCE BY CHANGING THE ZONING DISTRICT OF PARCEL 060.00, MAP 940, GROUP A, FROM R-1-C, ONE-FAMILY RESIDENTIAL IN THE MANHATTAN DISTRICT OVERLAY TO B-2/PUD, GENERAL BUSINESS WITH A PLANNED UNIT DEVELOPMENT OVERLAY, AND AMENDING THE COMPREHENSIVE PLAN'S LAND USE PLAN BY CHANGING THE DESIGNATION OF PARCEL 060.00, MAP 940, GROUP A, FROM R, RESIDENTIAL TO B, BUSINESS.

WHEREAS, the following change has been submitted for approval or disapproval to the Oak Ridge Municipal Planning Commission and the Commission has approved the same; and

WHEREAS, a public hearing thereon has been held as required by law.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE TENNESSEE:

Section 1. The district boundaries of the zoning map attached to and made a part of Ordinance No. 2, as amended, are revised in the following particulars:

<u>Property Description</u>	<u>Location</u>	<u>Present Zoning District</u>	<u>New Zoning District</u>
Parcel 060.00, Map 940, Group A	132 Tyson Road	R-1-C, One-Family Residential in the Manhattan District Overlay	B-2/PUD, General Business with a Planned Unit Development Overlay

Section 2. The change shall be imposed upon said map and shall be as much a part of Ordinance No. 2 as if fully described therein.

Section 3. The rezoning requires a major amendment to the Comprehensive Plan's Land Use Plan, and said Plan is hereby amended by changing the designation of Parcel 060.00, Map 940, Group A, to be changed from R, Residential to B, Business.

Section 4. The Planned Unit Development Revised Preliminary Master Plan for *Eddie Hair Tire Store*, as shown on Best and Associates drawings received August 30, 2010, is hereby approved.

Section 5. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
 \_\_\_\_\_  
 City Attorney

\_\_\_\_\_  
 Mayor

\_\_\_\_\_  
 City Clerk

Public Hearing: 9-13-10  
 First Reading: 9-13-10  
 Publication Date: 9-21-10  
 Second Reading: \_\_\_\_\_  
 Publication Date: \_\_\_\_\_  
 Effective Date: \_\_\_\_\_

# CITY OF OAK RIDGE



POST OFFICE BOX 1 • OAK RIDGE, TENNESSEE 37831-0001

To: Mayor and City Council

From: Mark S. Watson, City Manager

A handwritten signature in black ink that reads "Mark S. Watson".

Re: Speed Limit Background Info

Date: October 1, 2010

One of the items on your agenda involves the second reading of an ordinance involving speed limits on the Oak Ridge Turnpike beginning at Illinois Avenue. This past week I asked Gary Cinder, Director of Public Works and Steve Byrd, City Traffic Engineer to provide me the background and history of actions, hearings, and other matters associated with the TDOT project. These summaries are attached as additional information for your use.

You will also find a summary of the statutory language associated with establishing speed limits in Tennessee as prepared by Tammy Dunn. I believe this will help you understand the positions that the City engineers have been trying to outline. Of particular interest will be the report from former City Manager O'Connor identifying in 2008 the ending speed limits for the project. This does not prohibit us from taking the action of analyzing the general speeds of traffic in the future after the road is opened. I think you will find the specifics of the statute will identify the City of Oak Ridge acting outside of accepted practices at our risk should we pursue modified speed limits prior to the studies. However, please keep in mind that the TDOT speeds are established based on the design of the road.

Please give me a call after your review for any follow-up questions.

The following timetable has been established for the adoption of the FY 2009 Budget:

- Monday, May 5, 2008, public hearing and first reading of Budget and Appropriation Ordinance.
- Monday, May 19, 2008, second reading of Budget and Appropriation Ordinance.

✓ III. State Route 95 Construction Project

Council Action Recommended: None, for information only.

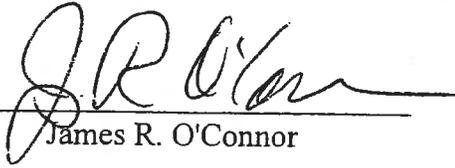
The City has received a request from Rogers Group, Inc., to reduce the existing 45 mph speed limit on State Route 95 (Oak Ridge Turnpike) to 35 mph within the current roadway construction project limits. Under the Oak Ridge Municipal Code, Section 15-512, Reduction of speed limits during periods of street construction or improvement, the City Manager is authorized to reduce speed limits for a period not to exceed three (3) months upon or in the immediate vicinity of any street within the city during periods of construction or improvements to such streets. It also provides that the Council may by resolution extend the period of time for the reduced speed limit past three months for such length of time it deems necessary.

The construction limits for the State Route 95 project begin approximately 200 feet west of the DOE guard station, or approximately 700 feet east of Wisconsin Avenue, and extends to State Route 62 (Illinois Avenue). The existing speed limit along this section of the Turnpike is 45 mph to a point 1,200 feet west of Illinois Avenue. The last 1,200 feet of the Turnpike up to Illinois Avenue has an existing speed limit of 35 mph. Within approximately one to two months the four Turnpike traffic lanes will be reduced and remain at two traffic lanes for approximately two years during construction. The project is scheduled for completion in July 2010.

The City Engineer has reviewed the request for speed limit reduction, and based on improved safety for the traveling public and construction workers, recommends approval of the request by Rogers Group, Inc., to reduce the existing 45 mph speed limit zone on State Route 95 (Oak Ridge Turnpike) to 35 mph between a point approximately 700 feet east of Wisconsin Avenue to a point 1,200 feet west of State Route 62 (Illinois Avenue), an approximate 4.3-mile roadway section. In accordance with the provisions of the Code, Section 15-512, the City Manager is authorizing the reduced speed limit on this section of roadway for a period not to exceed three (3) months. In addition, staff will present to the Council at a future date but prior to the end of the three-month period a resolution extending the period of time for the reduced speed limit past three months to the time that the project is completed.

Upon completion of the project, the permanent speed limit zones, as shown on the design plans, will be 50 mph from near Westover Drive to approximately 600 feet west of Jefferson Avenue, and 40 mph from approximately 600 feet west of Jefferson Avenue to Illinois Avenue. Several months prior to completion of the project and prior to the installation of any permanent speed limit signs, staff will prepare an ordinance for City

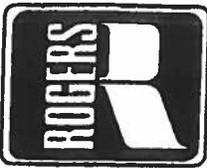
Council's consideration of approval that amends the permanent speed limit changes on the Turnpike within the roadway project limits. Also, at that time the city can address any changes felt to be necessary to any speed limit zone.



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James R. O'Connor

Attachment

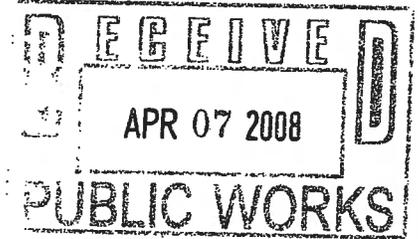


# ROGERS GROUP, INC.

250 Union Valley Rd Oak Ridge, TN 37830 Phone: (865) 483-6306

April 2, 2008

Steven R. Byrd  
City of Oak Ridge  
100 Woodbury Lane  
Oak Ridge, TN. 37830



Re: CNG 017 Roane-Anderson  
Project No. -HPP/NHE-95(6),73017-3220-14, 01013-3224-14

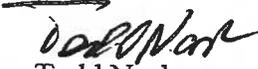
Dear Mr. Byrd,

Rogers Group, Inc. respectfully request that the City of Oak Ridge temporarily allow the speed limit on the above referenced project to be reduced within the project limits. We ask that the speed be reduced from the posted 45 mph to 35 mph for the safety of the traveling public as well construction crews that will be working on the project.

If this request is approved, Rogers Group, Inc. will install "Reduced Speed Ahead" warning signs on both ends of the project. RGI will also install the 35 mph speed limit signs through the project at intervals to be determined by the City of Oak Ridge.

Please review and approve our request for speed reduction. If you have any questions please contact me at 865-206-2902.

Sincerely,

  
Todd Nash  
Project Manager

Cc: John Payne, Construction Manager  
Joe Epley, H.W. Lochner  
File

**PUBLIC WORKS MEMORANDUM**  
**08-30**

**DATE:** July 31, 2008  
**TO:** James R. O'Connor, City Manager  
**THROUGH:** Gary M. Cinder, P.E., Director of Public Works *GMC*  
**FROM:** Steven R. Byrd, P.E., City Engineer  
**SUBJECT: STATE ROUTE 95 (OAK RIDGE TURNPIKE) CONSTRUCTION PROJECT**

The accompanying resolution authorizes approval of extending the temporary 35 MPH speed limit along the State Route 95 (SR 95) construction project to a time near the end of the construction project. The construction contract has a completion date of July 2010.

In April 2008, the roadway contractor, Rogers Group, Inc., requested City permission to reduce the existing 45 MPH speed limit to 35 MPH along SR 95 within the project limits. Under the City Manager's report at the April 2008 City Council meeting, the City Manager authorized a reduced speed limit of 35 MPH beginning at a point approximately 700 feet east of Wisconsin Avenue to a point 1,200 feet west of SR 62 (Illinois Avenue). Under the Oak Ridge Municipal Code, Section 15-512, Reduction of speed limits during periods of street construction or improvement, the City Manager is authorized to reduce speed limits for a period not to exceed three (3) months upon or in the immediate vicinity of any street within the City during periods of construction or improvements to such streets. The reduced speed limit reduction became effective on May 20, 2008 and will expire on August 20, 2008. The Code also provides that the Council may by resolution extend the period of time for the reduced speed limit past three months for such length of time it deems necessary.

To provide improved safety for the traveling public and construction workers along the SR 95 construction project, staff recommends approval of the enclosed Resolution extending the period of the temporary 35 MPH speed limit reduction until such time near the end of the project when the contractor shall install new speed limit signs.

At the end of the project, TDOT will post a permanent 50 MPH speed limit zone from near Westover Drive to approximately 600 feet west of Jefferson Avenue, and a permanent 40 MPH speed limit zone from approximately 600 feet west of Jefferson Avenue to Illinois Avenue. The contractor will post these speed limit zones within the last few months of the project. Several months prior to the speed limit posting, the appropriate City Code Section must be amended to reflect these new speed limit zones as provided in the TDOT design plans or as felt to be otherwise necessary. At that time, staff will recommend one change to the proposed TDOT 40 MPH speed limit zone for the roadway section from Illinois Avenue to a point 1,200 feet west of Illinois Avenue. It is felt that this 1,200 feet section as you approach the Turnpike/Illinois Avenue intersection should remain 35 MPH as previously and currently posted.

Staff recommends approval of the enclosed Resolution.

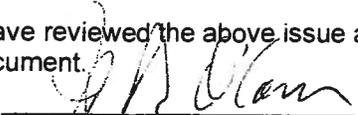
  
\_\_\_\_\_  
Steven R. Byrd

ks

pc: David Beams, Police Chief

**City Manager's Comments:**

I have reviewed the above issue and recommend council action as outlined in this document.

  
\_\_\_\_\_  
James R. O'Connor

*8/6/08*  
\_\_\_\_\_  
Date

**RESOLUTION**

WHEREAS, on May 20, 2008, pursuant to City Code §15-512, the City Manager authorized a three-month reduction in the speed limit for traffic safety purposes on a portion of State Route 95 (the Oak Ridge Turnpike) from 45 miles per hour to 35 miles per hour due to the roadway construction project conducted by the State of Tennessee Department of Transportation (TDOT) on said roadway; and

WHEREAS, in accordance with City Code §15-512, the City Manager notified City Council of the reduced speed limit at the April 21, 2008 meeting; and

WHEREAS, the City Manager authorized speed limit reduction is in effect until August 20, 2008, however, for the safety of the traveling public as well as the construction workers along this roadway, the speed limit reduction is needed for the duration of the TDOT construction project, which is expected to be complete in July 2010; and

WHEREAS, pursuant to City Code §15-512, City Council may by resolution extend the City Manager authorized speed limit reduction for such length of time it deems necessary; and

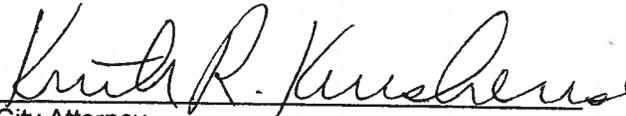
WHEREAS, City Council deems it necessary to extend the speed limit reduction through completion of the TDOT project or until such time as new speed limits are established for the redesigned roadway, whichever occurs first.

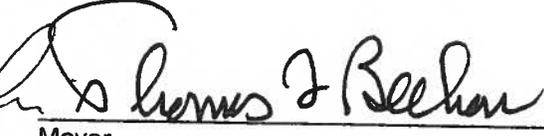
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

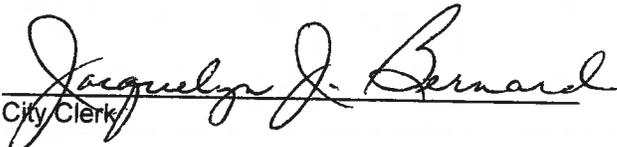
That the speed limit on State Route 95 (the Oak Ridge Turnpike) from a point approximately 700 feet east of Wisconsin Avenue to a point 1,200 feet west of State Route 62 (Illinois Avenue) is hereby reduced from 45 miles per hour to 35 miles per hour until such time as the current roadway construction project is completed by the State of Tennessee Department of Transportation or until such time as new speed limits are established on the redesigned roadway, whichever occurs first.

This the 18th day of August 2008.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

  
\_\_\_\_\_  
Mayor

  
\_\_\_\_\_  
City Clerk

**Bernard, Jacquelyn**

---

**From:** Watson, Mark  
**Sent:** Friday, October 01, 2010 10:41 AM  
**To:** Bernard, Jacquelyn  
**Subject:** FW: Setting Speed Limits on State Highways

---

**From:** Dunn, Tammy  
**Sent:** Thursday, September 30, 2010 10:59 AM  
**To:** Watson, Mark; tbeehan@corn.org  
**Subject:** Setting Speed Limits on State Highways

This is the information I was looking for earlier. I hope this helps.

Tennessee Code Annotated §55-8-152 (a) establishes a maximum speed limit in Tennessee of 65 mph for highways and public roads. (Note – There is a separate provision for a maximum speed of 70 mph on a controlled access highway, which is not applicable here)

Tennessee Code Annotated §55-8-153 sets forth the requirements for establishing speed limits lower than the maximum. Subsection (c) gives authority to municipal legislative bodies to lower the speed limit on state highways in their jurisdiction provided the following criteria are met:

- When, on the basis of an engineering and traffic investigation, it is shown that the public safety requires a lower speed limit. (T.C.A. §55-8-153(c)(1)(A))
- The engineering and traffic investigation shall be in accordance with established traffic engineering practices and in a manner that conforms to the Tennessee Manual on Uniform Traffic Control Devices (MUTCD). The investigations shall be documented. (T.C.A. §55-8-153(c)(1)(B))
- All signs, signals and other forms of public notification of the speed limits shall comply with the MUTCD.

I spoke with Steve Byrd, City Engineer, about this issue and it is his recommendation to wait approximately six (6) months after the new speed limits are in effect before conducting the required investigation. It has been his experience that it takes about that long for traffic to become accustomed to the new speed limits, so that you could then conduct an investigation and determine if the public safety requires a different speed limit.

**PUBLIC WORKS MEMORANDUM**  
**10-22**

**DATE:** August 30, 2010

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

**THROUGH:** Gary M. Cinder, Director of Public Works 

**FROM:** Steven R. Byrd, City Engineer

**SUBJECT: STATE ROUTE 95 (OAK RIDGE TURNPIKE) – SPEED LIMIT CHANGES**

The accompanying Ordinance sections authorize approval of speed limit changes along Oak Ridge Turnpike from Illinois Avenue (State Route 62) to Westover Drive as identified on the enclosed drawing. The project is near completion and the contractor will install new speed limit zones in accordance with the project design plans. The new speed limit zones require amendments to four sections of The Oak Ridge Municipal Code of Ordinance, Title 15, Chapter 5 on Speed Regulations. The four sections include the maximum limits on specific streets for Section 15-505 (35 MPH), Section 15-506 (40 MPH), Section 15-507 (45 MPH) and Section 15-508 (50 MPH).

The Oak Ridge Turnpike project will set new speed limit zones for the following sections:

- 35 MPH from Illinois Avenue to a point 1,300 feet west of Illinois Avenue. This is a five-lane street section with bicycle lanes on each side.
- 40 MPH from a point 1,300 feet west of Illinois Avenue to a point 700 feet west of Jefferson Avenue. This is a five-lane street section with bicycle lanes on each side.
- 50 MPH from a point 700 west of Jefferson Avenue to a point 380 feet west of Oklahoma Avenue. This is a four-lane divided street section with bicycle lanes on each side.
- 45 MPH from a point 380 feet west of Oklahoma Avenue to the end of the project near Westover Drive.

Specific code sections that must be amended due to the new speed zones along Oak Ridge Turnpike include:

- **Chapter 5, Section 15-505 Maximum limits on specific streets – thirty-five miles per hour** - change sub-section (4) to, "Oak Ridge Turnpike from a point thirteen hundred (1,300) feet west of Illinois Avenue to a point three hundred (300) feet east of Georgia Avenue."
- **Chapter 5, Section 15-506 Maximum limits on specific streets – forty miles per hour** - add a new sub-section (5), "Oak Ridge Turnpike from a point thirteen hundred (1,300) feet west of Illinois Avenue to a point seven hundred (700) feet west of Jefferson Avenue."
- **Chapter 5, Section 15-507 Maximum limits on specific streets – forty-five miles per hour** – change sub-section (4) to, "Oak Ridge Turnpike between the L & N Railroad underpass and a point three hundred (300) feet east of Georgia Avenue, and from a point three hundred and eight (380) feet west of Oklahoma Avenue to a point two hundred (200) feet west of the west Rarity Ridge Parkway access; and from a point twenty-eight hundred (2,800) feet west of Blair Road to a point eight thousand (8,000) feet west of Blair Road."
- **Chapter 5, Section 15-508 Maximum limits on specific streets – fifty miles per hour** – Add a new sub-section (2), "Oak Ridge Turnpike from a point seven hundred (700) feet

west of Jefferson Avenue to a point three hundred and eighty (380) feet west of Oklahoma Avenue.”

Staff recommends approval of the enclosed Ordinance amendments.

  
\_\_\_\_\_  
Steven R. Byrd

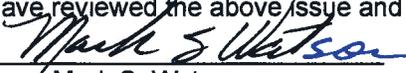
ks

enclosure

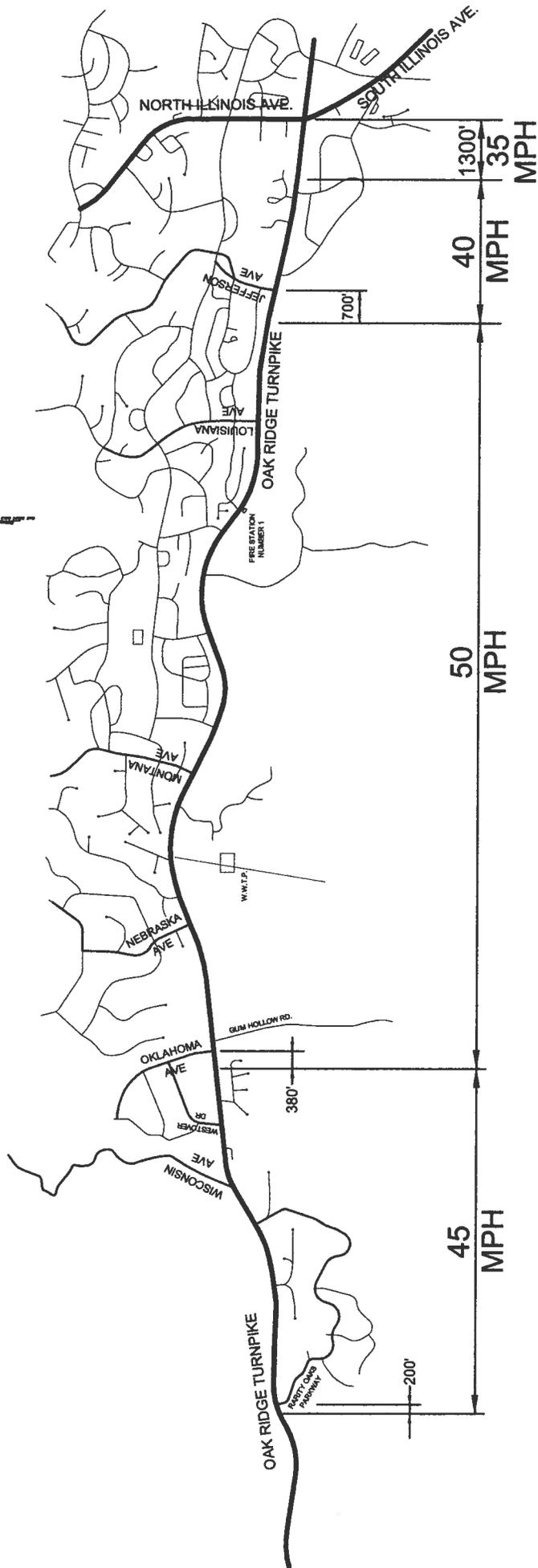
pc: David Beams, Police Chief

**City Manager's Comments:**

I have reviewed the above issue and recommend council action as outlined in this document.

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

9/1/10  
\_\_\_\_\_  
Date



MAXIMUM SPEED LIMITS ON STATE ROUTE 95 (OAK RIDGE TURNPIKE)			
PUBLIC WORKS DEPARTMENT OAK RIDGE, TENNESSEE			
DR. BY: CCB	CHK' BY: SRB	DATE: 8/30/10	SCALE: NTS
		DR. NO.: 1	DIRECTOR: GARY CINDER

TITLE

AN ORDINANCE TO AMEND TITLE 15, TITLED "MOTOR VEHICLES, TRAFFIC AND PARKING," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE," BY AMENDING SECTION 15-505, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – THIRTY-FIVE MILES PER HOUR," SUBSECTION (4); SECTION 15-506, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY MILES PER HOUR," SECTION 15-507, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FORTY-FIVE MILES PER HOUR," SUBSECTION (4); AND SECTION 15-508, TITLED "MAXIMUM SPEED LIMITS ON SPECIFIC STREETS – FIFTY MILES PER HOUR," TO SET FORTH NEW SPEED LIMITS ALONG THE OAK RIDGE TURNPIKE (STATE ROUTE 95) AS INDICATED BY THE STATE OF TENNESSEE DEPARTMENT OF TRANSPORTATION.

WHEREAS, the Code of Ordinances, City of Oak Ridge, Tennessee, specifies a maximum speed limit for all roads, streets and lanes open to public travel within the city limits; and

WHEREAS, the Oak Ridge Turnpike (State Route 95) has recently undergone construction by the State of Tennessee Department of Transportation (TDOT) and the project is nearing completion; and

WHEREAS, TDOT has the authority to set the speed limit on state routes and has supplied project design plans to the City indicating the speed limit along this portion of the Oak Ridge Turnpike.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

Section 1. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 5, titled "Speed Regulations," Section 15-505, titled "Maximum speed limits on specific streets – thirty-five miles per hour," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting subsection (4) in its entirety and substituting therefor a new subsection (4) which shall read as follows:

Sec. 15-505. Maximum speed limits on specific streets – thirty-five miles per hour.

- (4) Oak Ridge Turnpike from a point thirteen hundred (1300) feet west of Illinois Avenue to a point three hundred (300) feet east of Georgia Avenue.

Section 2. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 5, titled "Speed Regulations," Section 15-506, titled "Maximum speed limits on specific streets – forty miles per hour," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by adding a new subsection (5) which shall read as follows:

Sec. 15-506. Maximum speed limits on specific streets – forty miles per hour.

- (5) Oak Ridge Turnpike from a point thirteen hundred (1300) feet west of Illinois Avenue to a point seven hundred (700) feet west of Jefferson Avenue.

Section 3. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 5, titled "Speed Regulations," Section 15-507, titled "Maximum speed limits on specific streets – forty-five miles per hour," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting subsection (4) in its entirety and substituting therefor a new subsection (4) which shall read as follows:

Sec. 15-507. Maximum speed limits on specific streets – forty-five miles per hour.

- (4) Oak Ridge Turnpike between the L & N Railroad underpass and a point three hundred (300) feet east of Georgia Avenue; and from a point three hundred and eighty (380) feet

west of Oklahoma Avenue to a point two hundred (200) feet west of the west Rarity Oaks Parkway access; and from a point twenty-eight hundred (2800) feet west of Blair Road to a point eight thousand feet (8,000) west of Blair Road.

Section 4. Title 15, titled "Motor Vehicles, Traffic and Parking," Chapter 5, titled "Speed Regulations," Section 15-508, titled "Maximum speed limits on specific streets – fifty miles per hour," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting this section in its entirety and substituting therefor a new section which shall read as follows:

Sec. 15-508. Maximum speed limits on specific streets – fifty miles per hour.

A maximum speed limit of fifty (50) miles per hour is hereby established on the following streets or portions thereof, and it shall be unlawful for any person to operate a vehicle at a speed in excess of such limits:

- (1) South Illinois Avenue beginning five hundred and fifty (550) feet south of its intersection with Union Valley Road to a point three thousand five hundred and eighty (3580) feet south of its intersection with Union Valley Road.
- (2) Oak Ridge Turnpike from a point seven hundred (700) feet west of Jefferson Avenue to a point three hundred and eighty (380) feet west of Oklahoma Avenue.

Section 5. This ordinance shall become effective ten (10) days after adoption on second reading, the welfare of the City of Oak Ridge requiring it.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

First Reading:	_____
Publication Date:	9-13-10
Second Reading:	_____
Publication Date:	9-21-10
Effective Date:	_____

# **RESOLUTIONS GENERAL**

CITY COUNCIL MEMORANDUM  
10-27

DATE: September 27, 2010

TO: Honorable Mayor and Members of City Council

FROM: Mark S. Watson, City Manager *MS Watson*  
Susan Fallon, City Staff IDB Representative *S Fallon*

SUBJECT: 2010 PAYMENT IN LIEU OF TAX (PILOT) REAUTHORIZATION

An item for the agenda is a resolution approving the reauthorization of the 2010 Payment in Lieu of Tax (PILOT) Program incentives.

In an effort to generate economic growth within Oak Ridge, economic incentives have been developed for use by the Industrial Development Board (IDB) of the City of Oak Ridge as a guideline for tax abatements for qualifying projects.

The 2010 PILOT Reauthorization represents the third incentive model utilized by Oak Ridge for the provision of tax abatements. The first incentive model, approved by City Council Resolutions 6-81-04 (Anderson County portion) and 9-119-04 (Roane County portion) was for the period of June 2004 through December 2007. The second incentive model, approved by City Council Resolution 12-114-07 has been for the period of December 17, 2007 through the present. The current PILOT Program is set to expire on December 17, 2010.

The 2010 PILOT Reauthorization documents consist of a summary of the review process; the Policies and Procedures complete with Appendices A through E. The attached documents show the unanimously approved IDB edits from the current PILOT documents, with deletions in "strike-through blue" and the additions in "italicized red."

The IDB selected a PILOT team, consisting of IDB Member Hal Osucha and City Staff IDB Representative Susan Fallon, to review the existing PILOT documents and to receive suggested edits for the documents. Prior to the IDB approval during their meeting on September 7, 2010, the IDB members; Kim Denton, IDB Executive Director; City Manager; City Attorney; and Deputy City Manager received draft PILOT documents to review and provide suggested edits to the PILOT team. Once the suggested edits were received, the PILOT team recorded, researched and completed the edited documents.

Upon City Council approval of the attached resolution, the current PILOT program will automatically end and the 2010 Program will begin effective October 12, 2010 through December 31, 2013. Staff recommends approval of the resolution as submitted.

Attachments

**RESOLUTION**

WHEREAS, in an effort to generate economic growth within Oak Ridge, the City developed economic incentives for use by the Industrial Development Board of the City of Oak Ridge (IDB) as a guideline for tax abatements for qualifying entities; and

WHEREAS, by Resolution 12-114-07, City Council approved *Suggested Revisions to Proposed Economic Development Incentives (PILOT) Adjustments* for use by the IDB as a guideline for tax abatements and payments in lieu of taxes for qualifying entities in Oak Ridge for a three-year period; and

WHEREAS, the incentive model is set to expire on December 17, 2010; and

WHEREAS, on September 7, 2010, the IDB unanimously approved 2010 PILOT Reauthorization documents to allow for the continued use of economic incentives, which documents the City Manager recommends be approved as a guideline for the IDB.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the attached 2010 PILOT Reauthorization documents are hereby approved for use by the Industrial Development Board of the City of Oak Ridge (IDB) as a guideline for tax abatements and payments in lieu of taxes for qualifying entities in Oak Ridge through December 31, 2013.

BE IT FURTHER RESOLVED that the *Suggested Revisions to Proposed Economic Development Incentives (PILOT) Adjustments* approved by City Council by Resolution 12-114-07 for use by the IDB as a guideline for tax abatements and payments in lieu of taxes for qualifying entities in Oak Ridge is hereby terminated and replaced with the attached 2010 PILOT Reauthorization documents.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**COMMUNITY DEVELOPMENT MEMORANDUM**  
**10-85**

**DATE:** September 22, 2010

**TO:** Mark Watson, City Manager

**FROM:** Kathryn G. Baldwin, Community Development Director

**SUBJECT:** Sanford Lane Street Abandonment

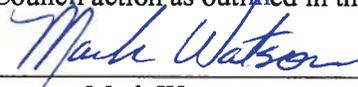
An item for consideration by City Council is the abandonment of a section of dedicated right-of-way (ROW) located between Sanford Lane and Rand Circle. This item was reviewed by the Oak Ridge Planning Commission, which unanimously recommended full abandonment of the ROW to the adjacent property owners (see attached). However, during consideration by City Council the item was referred to Greenways Oak Ridge for a second recommendation. During their meeting in September, Greenways Oak Ridge considered the item and recommended abandonment of the ROW with an 8 –10 foot wide strip retained to accommodate a greenway or walking path.

During review of this item by the Planning Commission and Greenways Oak Ridge, city staff closely examined the request and recommended full abandonment of the ROW. Although ROW had been dedicated with anticipation of street construction, to date no physical improvements have been made. After careful examination it appears there was no need for a connection between Sanford Lane and Rand Circle. Sanford Lane is a short stub street with very few homes located on it. Rand Circle is south of Robertsville Road and again has very few homes located on it. In addition, a wet weather conveyance bisects the location of the ROW, which would make construction difficult and costly as well as driving up potential maintenance costs of any type of public improvement. Another consideration is the lack of adjacent sidewalks on either Sanford Lane or Rand Circle to establish connectivity. The adjacent property owners have maintained this dedicated ROW for many years and requested abandonment. Based on these circumstances, city staff would again like to recommend full abandonment to the adjacent property owners with no remaining encumbrances or access easements or retained ROW.

  
Kathryn G. Baldwin

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

  
\_\_\_\_\_  
Mark Watson

9/28/10  
\_\_\_\_\_  
Date

JUNE 6,2010

CITY MANAGER  
CITY OF OAK RIDGE  
OAK RIDGE, TN. 37830

RECEIVED

2010 JUN -8 A 9:03

OFFICE OF  
CITY MANAGER

MY NAME IS CLARENCE DANIEL. I RESIDE AT 118 SANFORD LANE. I HAVE LIVED HERE FOR 7 YEARS. I HAD MY PROPERTY SURVEYED ABOUT 5 MONTHS AGO AND IT WAS BROUGHT TO MY ATTENTION THAT THERE IS A CITY STREET RIGHT of WAY BETWEEN SANFORD LANE AND RAND CIRCLE. THIS RIGHT of WAY HAS BEEN HERE FOR APPROXIMATELY 50+ YEARS. I WOULD LIKE TO REQUEST THAT THE CITY ABANDON THIS RIGHT of WAY IF POSSIBLE. MY NEIGHBOR ON THE OTHER SIDE OF THE RIGHT of WAY ( DANNY BUSH, 129 SANFORD LANE) AND I BOTH UNDERSTAND THAT WE WOULD HAVE TO INCUR THE COST OF A NEW SURVEY AND THE CHANGING OF THE DEED TO SHOW THE NEW PROPERTY LINES.  
THANKING YOU IN ADVANCE FOR YOUR CONSIDERATION IN THIS MATTER.

  
CLARENCE DANIEL  
118 SANFORD LANE  
OAK RIDGE, TN. 37830

865-483-6545

RECEIVED

2010 SEP 21 AM 8:19

OFFICE OF THE CITY CLERK



September 17, 2010

To the Oak Ridge City Council:

Greenways Oak Ridge (GWOR) wishes to express thanks to the Oak Ridge City Council for referring the information concerning the City Right-of-Way (ROW) between Sanford Lane and Rand Circle for GWOR's consideration and giving the opportunity to provide our input and recommendation to City Council on this issue.

After due consideration - and in accordance with our Greenways Concept (included below for your ready reference) - Greenways Oak Ridge recommends the following regarding the disposition of the City ROW between Sanford Lane and Rand Circle:

That the City retain a 12 foot-wide strip of the ROW to provide public access for pedestrian and bicycle use, giving the Sanford Lane residents a safer way from their street to the Robertsville Road sidewalk by way of Rand Circle. This could also specifically provide a safer alternative route for area children to and from Linden School.

Currently, the only option for pedestrians and bicycles at Sanford Lane is to use Salem Road, which is narrow and curvy. There is no sidewalk there at this time and parking along both sides of the road makes it less safe for pedestrians and cyclists. Salem Road is also heavily used by vehicular traffic, as it connects the Oak Ridge Turnpike with other streets off Mississippi Avenue and Middlebury Road.

Although Greenways Oak Ridge has no near-term plans to develop a path on this route, we do however, suggest that creating such a path could possibly become a neighborhood project.

#### Greenways Concept

The Oak Ridge Greenways project is an effort to weave natural corridors through the City to community resources such as park, schools, cultural centers, shopping areas, and areas of employment. The greenways are founded on three principles. First, where possible, the greenways follow natural corridors such as floodway zones or existing right-of-ways thus reducing conflicts with private land holdings. Second, the greenways are conceived as interconnected loops. Finally, the greenways are conceptually designed to connect those areas and resources which are of value to Oak Ridgers and which distinguish Oak Ridge as a special place in which to live. These areas include the striking natural landscape of the city, its neighborhoods, schools, parks, cultural facilities, and places of work and commerce.

September 7, 2010  
Oak Ridge City Council  
Page 2

Again, thanks to the Oak Ridge City Council for referring the information concerning the City Right-of-Way (ROW) between Sanford Lane and Rand Circle for our consideration.

We look forward to your response concerning the Greenways Oak Ridge input and recommendation to City Council on this issue, which we have provided in this letter.

Sincerely,

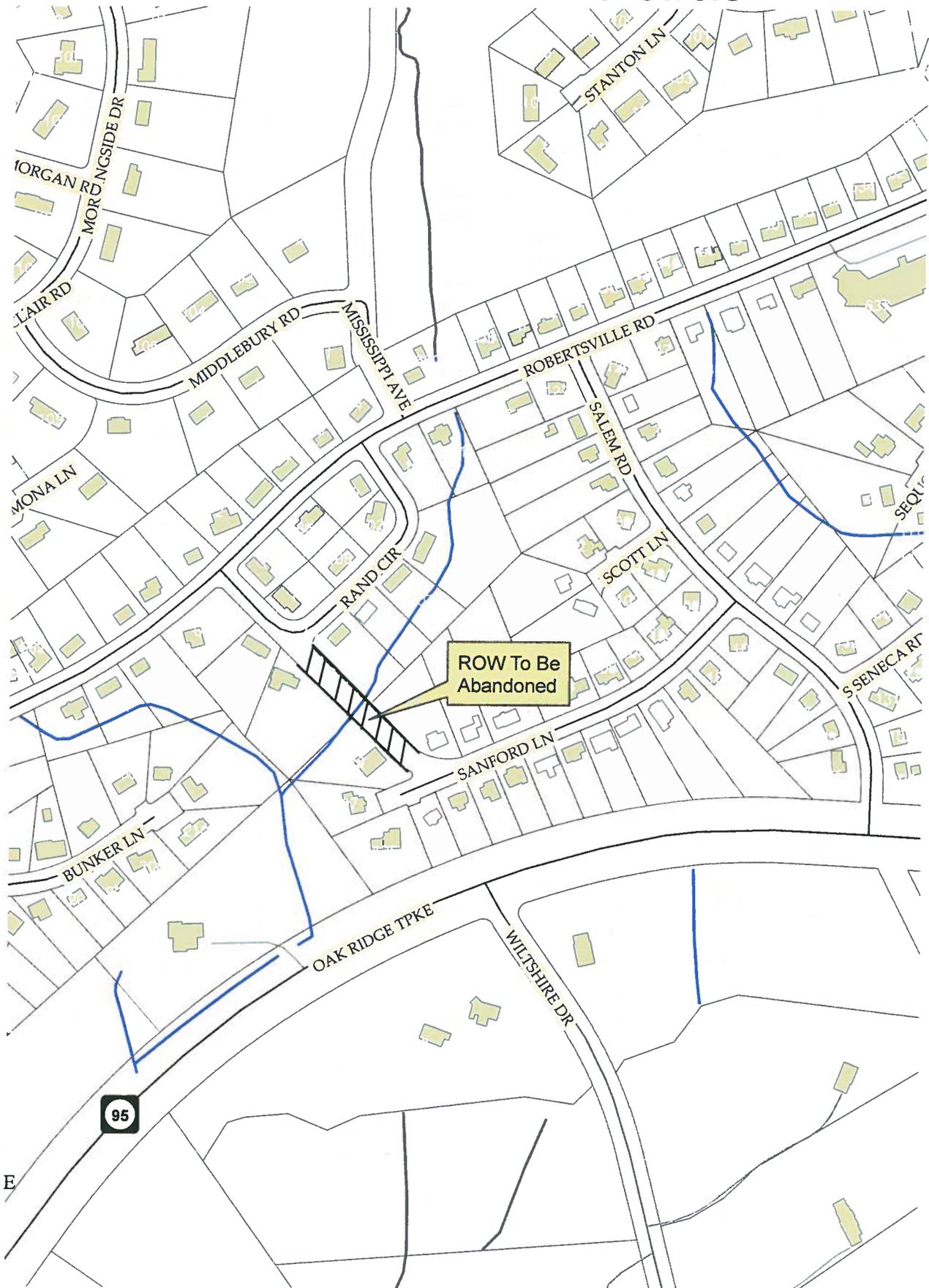
A handwritten signature in black ink that reads "Roger Macklin". The signature is written in a cursive style with a large, prominent initial "R".

Roger Macklin  
Vice President, Greenways Oak Ridge

cc: Mark S. Watson, City Manager  
Kathryn Baldwin, Community Development Dept.  
Josh Collins, Recreation and Parks Dept.

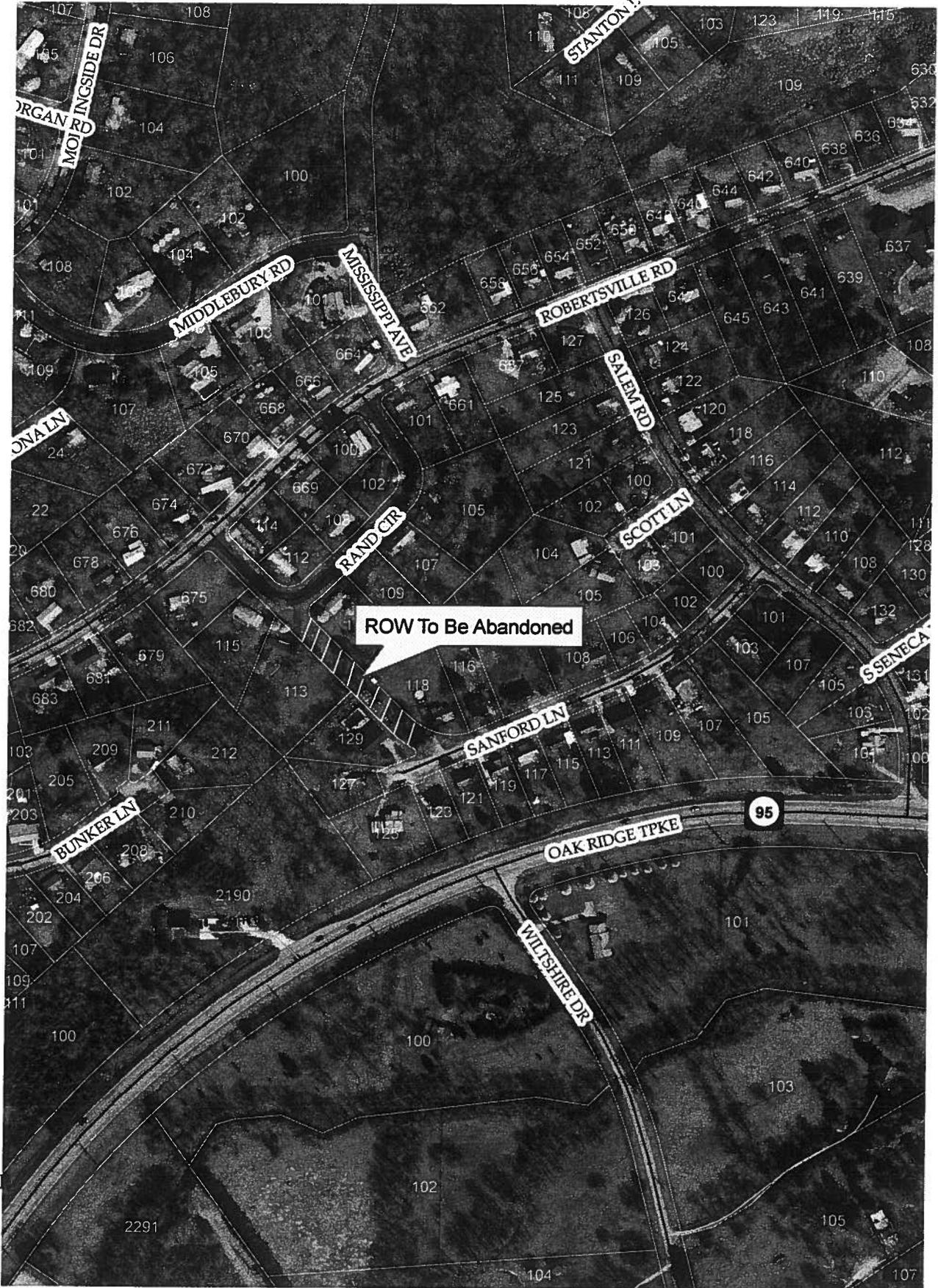
RLM/rlm

# Request to Abandon ROW Between Sanford Lane & Rand Circle



1 inch = 320 feet

# Request to Abandon ROW Between Sanford Lane & Rand Circle



1 inch = 300 feet

**RESOLUTION**

WHEREAS, Clarence Daniel, owner of 118 Sanford Lane, has requested the City to abandon the right-of-way located between Sanford Lane and Rand Circle; and

WHEREAS, this right-of-way does not serve a roadway and there is no expectation that the right-of-way will be necessary for future roadway use; and

WHEREAS, at its June 24, 2010 meeting, the Oak Ridge Municipal Planning Commission recommended approval of the abandonment; and

WHEREAS, the City Manager recommends approval of the owner's request.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendations of the City Manager and the Oak Ridge Municipal Planning Commission are approved and the City hereby abandons the right-of-way located between Sanford Lane and Rand Circle in its entirety and dedicates the same to abutting property owners.

BE IT FURTHER RESOLVED that the City will retain any necessary utility easements that are within the abandoned portion of the right-of-way.

BE IT FURTHER RESOLVED that said abandonment is conditioned upon the abutting property owners being responsible for the costs associated with the required surveys and legal documents, as well as recording costs.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal documents to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**RESOLUTIONS  
BIDS AND  
CONTRACTS**

Personnel Memorandum  
10-089

September 27, 2010

TO: Mark S. Watson, City Manager  
FROM: Penelope H. Sissom, Personnel Director  
THROUGH: Steven W. Jenkins, Deputy City Manager  
SUBJECT: MEDICAL INSURANCE RENEWAL



The attached resolution extends the contract with the State of Tennessee Local Government Health Insurance Program to purchase employee medical insurance for calendar year 2011.

As part of the 2009 renewal materials, the City was notified that there would be significant benefit changes in the future such as preventative care at no cost to the member, differential in coinsurance and deductible amounts, a broader premium structure, enhanced wellness care management programs, etc. Most of these changes will be effective January 1, 2011. Employees have been provided several newsletters from the State and a large packet of written materials and a DVD explaining the new medical insurance options available to them. The Personnel Department has sent out as much additional information as we have received from the State and have conducted four question and answer sessions for employees. This year is considered an open enrollment period and every employee must have completed a new enrollment form between September 15, 2010 and October 8, 2010.

In the past the State program offered each regular employee working at least thirty hours per week a choice of four insurance plans: (1) a Preferred Provider Organization plan (PPO) administered by Blue Cross Blue Shield, (2) a Point of Service plan (POS) administered by Cigna HealthCare, (3) a Health Maintenance Organization plan (HMO) administered by United Healthcare and (4) a PPO Limited (PPO-L) administered by Blue Cross Blue Shield. The employee could then elect either employee (single) or dependent (family) coverage.

The State program that is effective January 1, 2011 offers a much wider variety of choices beginning with different rates for Employee Only, Employee plus Child(ren), Employee plus Spouse, and Employee plus Spouse plus Child(ren) and Employee Dual (both spouses are City employees under one contract). The employee must then choose either a Standard PPO (Preferred Provider Organization), a Partnership PPO or a PPO Limited and all three of these options are offered by both Blue Cross Blue Shield and CIGNA HealthCare. Each of the plans has different coinsurance and different deductible amounts. Another factor in the employee's decision is that not all physicians and hospitals are in every plan.

For many years the City paid the full premium for single medical insurance coverage on employees, a portion of the additional cost for family coverage and the entire premium for family coverage if both spouses worked for the City. However, in consideration of the City's financial situation, the FY 2004 Budget included, as a property tax savings, a policy change in cost allocation that required all employees to pay a portion of the medical insurance premium. Resolution Number 5-44-03, adopted by the City Council at its May 5, 2003 meeting, provided that effective June 22, 2003:

1. the City pays 85% of the highest cost plan for employees choosing single coverage with the employee paying the remaining cost;
2. the City pays 70% of the highest cost plan for employees choosing family coverage with the employee paying the remaining cost; and

- Each spouse of the dual family (both spouses work for the City) pays the applicable single coverage employee rate for the specific plan selected for the dual family coverage.

Because of this policy change, those employees selecting any of the three Limited PPO plans for CY2011 will have no payroll deduction. Staff is advocating that this cost-sharing policy continue as indicated above for calendar year 2011 and fiscal year 2012.

In addition, Resolution Number 6-52-08, adopted by the City Council at its June 16, 2008 meeting, provided that effective with the July 2008 premiums, the City contributes 50% of the medical insurance cost for its retirees and their families until the retiree becomes eligible for Medicare, or has been retired for seven years, whichever comes first.

The charts below reflect the medical insurance premium changes and the impact these premiums will have on employees.

**Total Premiums**

Level of Coverage	Blue Cross Blue Shield		CIGNA HealthCare	
	Monthly	Annual	Monthly	Annual
<b>Partnership PPO</b>				
Employee	\$526.55	\$6,318.60	\$536.55	\$6,438.60
Employee + Child(ren)	\$816.15	\$9,793.80	\$836.15	\$10,033.80
Employee + Spouse	\$1,132.07	\$13,584.84	\$1,152.07	\$13,824.84
Employee + Spouse + Child(ren)	\$1,421.68	\$17,060.16	\$1,441.68	\$17,300.16
<b>Standard PPO</b>				
Employee	\$551.55	\$6,618.60	\$561.55	\$6,738.60
Employee + Child(ren)	\$841.15	\$10,093.80	\$861.15	\$10,333.80
Employee + Spouse	\$1,182.07	\$14,184.84	\$1,202.07	\$14,424.84
Employee + Spouse + Child(ren)	\$1,471.68	\$17,660.16	\$1,491.68	\$17,900.16
<b>PPO-Limited</b>				
Employee	\$337.18	\$4,046.16	\$347.18	\$4,166.16
Employee + Child(ren)	\$522.63	\$6,271.56	\$542.63	\$6,511.56
Employee + Spouse	\$724.94	\$8,699.28	\$744.94	\$8,939.28
Employee + Spouse + Child(ren)	\$910.39	\$10,924.68	\$930.39	\$11,164.68

**Employee Cost**

Level of Coverage	Blue Cross Blue Shield		CIGNA HealthCare	
	Pay Period	Annual	Pay Period	Annual
<b>Partnership PPO</b>				
Employee	\$22.72	\$590.72	\$27.34	\$710.84
Employee + Child(ren)	\$98.47	\$2,560.22	\$107.70	\$2,800.20
Employee + Spouse	\$134.13	\$3,487.38	\$143.36	\$3,727.36
Employee + Spouse + Child(ren)	\$174.23	\$4,529.98	\$183.46	\$4,769.96
Employee Dual	\$45.44	\$1,181.44	\$54.68	\$1,421.68

Standard PPO

Employee	\$34.26	\$890.76	\$38.88	\$1,010.89
Employee + Child(ren)	\$110.01	\$2,860.26	\$119.24	\$3,100.24
Employee + Spouse	\$157.21	\$4,087.46	\$166.44	\$4,327.44
Employee + Spouse + Child(ren)	\$197.31	\$5,130.06	\$206.54	\$5,370.04
Employee Dual	\$68.52	\$1,781.52	\$77.76	\$2,021.76

PPO-Limited – No Charge for Employee with Any Option

Because of the number of changes in the State Plan, some employees may experience a reduction in their premium amounts and others will experience an increase. While we have not conducted a full bid proposal process, we have contacted a couple of other medical providers and the plans they offered did not provide any significant savings to the City or our employees.

On an aggregate basis, the State has advised us that there is a 3.4 percent increase in premiums. "The Kiplinger Newsletter" of September 3, 2010 stated that the average hike in medical care costs for employers for this year is 7.0%.

Sufficient funds are included in the FY2012 Budget for the CY2011 increase. Therefore, Staff recommends adoption of the attached resolution.

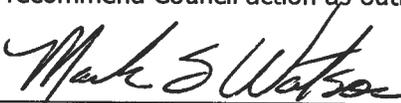


Penelope H. Sissom

Attachment

**City Manager's Comments:**

I have reviewed the above issue and recommend Council action as outlined in this document.

 9/30/10  
 Mark S. Watson Date

**RESOLUTION**

WHEREAS, it is appropriate for the City to ensure that its employees have affordable medical insurance coverage for themselves and their families; and

WHEREAS, it is appropriate for the City to provide medical insurance coverage for its employees that is comparable to that provided by similar cities and employers; and

WHEREAS, it is appropriate for the City to ensure that those who have retired from City employment after having served the City have medical insurance coverage for themselves and their families; and

WHEREAS, it is appropriate for the City to provide for a medical reimbursement account for those employees who elect not to have medical insurance through the City; and

WHEREAS, the State of Tennessee offers to local government employees and retirees a self-insured medical insurance plan and contracts for the administration of said plan; and

WHEREAS, by Resolution 9-148-98, City Council approved a contract with the State of Tennessee for the purchase of employee medical insurance; and

WHEREAS, the City of Oak Ridge has the option to extend said contract for the period of January 1, 2011 through December 31, 2011, at an estimated cost of \$3,600,000.00; and

WHEREAS, the City Manager recommends extension of said contract.

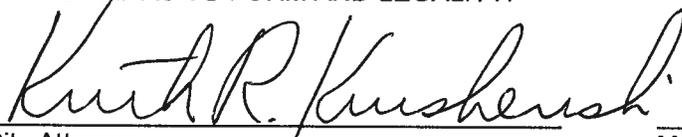
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the contract between the City of Oak Ridge and the State of Tennessee Local Government Health Insurance Program, Nashville, Tennessee, to provide employee medical insurance is hereby extended for the period January 1, 2011 through December 31, 2011 at an estimated cost of \$3,600,000.00.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:



City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**PUBLIC WORKS MEMORANDUM  
10-27**

**DATE:** September 29, 2010  
**TO:** Mark S. Watson, City Manager  
**FROM:** Gary M. Cinder, Director of Public Works  
**SUBJECT: Professional Engineering Services - Administrative Order**

The accompanying resolution awards a contract to Lamar Dunn and Associates, Inc., (LD&A), Knoxville, TN, in the estimated amount of \$1,429,620 to provide professional engineering services for various engineering and technical services to assist the City in complying with the recent Administrative Order from the Environmental Protection Agency (EPA).

As you are aware, EPA has placed an Administrative Order (AO) on the City to assess its wastewater collection system for capacity and condition, report on the findings, present plans to address any deficiencies and implement those repairs with a very compressed timeframe, ending June 2015. The primary purpose of this order is to eliminate all overflows from the city's sewer system and to develop a rigorous and comprehensive program for ongoing management, operations, and maintenance to prevent future overflows.

The tasks being required by EPA are very large and far exceed the city staff's ability to complete without significant engineering and technical assistance. The services provided in this contract with LD&A are a result of many discussions between the city staff and LD&A to divide the numerous work tasks between each entity. The tasks directly follow the many facets of the final Order including the various timeframes for compliance.

Specifically, the various sections and associated fees are as follows:

- I. **General Services:** This section is for those tasks involving program management, regulatory negotiations, meetings, etc., not directly associated with a defined task elsewhere in the contract. These services will be authorized as required by the city staff and will be billed on an hourly basis with an annual budget of \$127,500.
- II. **System Evaluation and Rehabilitation Plans:** These services involve the development of a plan to tell EPA how we propose to assess the capacity and condition of our system. Upon EPA approval of those plans, services are included to complete those plans both in capacity analysis and modeling, as well as, the fieldwork needed to locate and identify the significant breakdowns in the system. The required fieldwork is by far the most onerous of tasks. This work will be summarized with the development of a report on the capacity findings and the condition findings. Preparation of a Remediation Plan will complete this task. This plan will layout all the rehabilitation work needed to address deficiencies in the system identified in the capacity and condition reports including prioritization, cost estimates, and timelines.

The fees for these various tasks are as follows:

A. Capacity Assessment Plan	\$84,680
B. Sewer System Evaluation Survey Work Plan	\$56,140
C. Capacity Assessment Report	\$107,900
D. Sewer System Evaluation Survey	\$792,660
E. Collection System Remediation Plan	\$45,000

- III. **Information Management System Program:** This task is to provide assistance to city staff in evaluating, selecting and implementing an integrated Information Management System which is to be used to provide better integration of operation and maintenance activities,

afford management better knowledge and oversight of system activities, schedules, needs and customer service.

The fee for this task is not to exceed \$20,520.

- IV. Management, Operation and Maintenance Program (MOM) Engineering Program: These services will assist staff in developing the required components of the Engineering Program portion of the required MOM. These relate to developing written procedures to document a mapping program, sewer design program, sewer construction and rehabilitation inspection program, continuing sewer system capacity assessment program, pump station performance and adequacy program, and infrastructure rehabilitation program.

The fees for these tasks are as follows:

A. Mapping Program	\$5,400
B. Sewer Design Program	\$7,640
C. Construction/Rehab Inspection	\$3,600
D. Continuing Capacity Assessment	\$4,320
E. Pump Station Program	\$9,800
F. Rehabilitation Program	\$10,800

- V. MOM Operations Programs: These services assist staff in formulating written procedures and associated documentation for the operation of all pumping stations, both in routine situations, as well as, during emergency situations.

The fee for these tasks is not to exceed \$20,000.

- VI. MOM Maintenance Programs: These tasks will assist staff in the development of written procedures and associated documentation for various routine maintenance procedures.

The tasks and fees are as follows:

A. Maintenance Program	\$48,500
B. Pump Station Preventive Maintenance	\$13,200
Electrical Maintenance	
Mechanical Maintenance	
Physical Maintenance	
Pump Station Repair Program	
C. Gravity Line Preventive Maintenance	\$5,400

- VII. MOM Administrative Programs: In addition to the specific tasks identified in the Order for development of a MOM Program, EPA makes reference to a resource document developed by their Agency detailing a number of other administrative programs required to be developed in a MOM. This task provides assistance to staff in developing these components of the MOM. Some of the tasks in this item include financial administration, development of a program to control fats, oils and grease in the system, develop a program to address private service connections (laterals) and many others.

The lump sum fee for these services is estimated to be \$16,560.

- VIII. Quarterly Progress Reports: The Order requires the submittal of quarterly progress reports to document activities performed toward compliance with the Order. This task provides assistance to staff in documenting all the activities that occur during each quarter.

The budget for this task is not to exceed \$3,500 per quarterly report with a total budget of \$70,000 for the duration of the Order.

As presently proposed, the fees for these services total \$1,429,620. The schedule for the services will align directly with the timelines in the EPA Order. At this time this does not include any future amendments for design and services during bidding or construction. Compliance with this Order will be a huge task for both the City and the Engineer. The City is fortunate that we have had such a close successful working relationship with LD&A for so many years. Significant preliminary work is already underway by both city staff and the engineer and once executed the full work efforts outlined in this contract can begin.

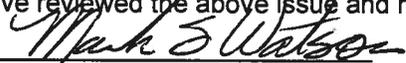
Funds will be paid from the Waterworks Fund. Staff recommends approval of this resolution.

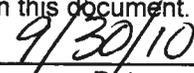
  
\_\_\_\_\_  
Gary M. Cinder

ks

**City Manager's Comments:**

I have reviewed the above issue and recommend council action as outlined in this document.

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

  
\_\_\_\_\_  
Date

**RESOLUTION**

WHEREAS, the City has a need for professional engineering services to assist the City with various tasks required by order of the United States Environmental Protection Agency (EPA) to improve the wastewater collection system; and

WHEREAS, Lamar Dunn & Associates, Inc., Knoxville, Tennessee, has been the City's consultant on prior utility projects and is familiar with the City's needs; and

WHEREAS, Lamar Dunn & Associates, Inc., has been requested by the City to assist the City in its efforts to comply with the EPA order; and

WHEREAS, the City Manager recommends approval of an agreement between the parties for said services.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the City is hereby authorized to enter into an agreement with Lamar Dunn & Associates, Inc., 3305 Maloney Road, Knoxville, Tennessee 37920, for the provision of professional engineering services to assist the City with various tasks required by the United States Environmental Protection Agency (EPA) to improve the wastewater collection system to comply with the Administrative Order by the EPA, in the estimated amount of \$1,429,620.00.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 11th day of October 2010.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

# ELECTIONS

CONVENTION

& VISITORS

BUREAU

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2010 SEP 21 PM 3:18

# GERALD L. COOKSEY

OFFICE OF THE CITY CLERK

## PROFESSIONAL EXPERIENCE

---

2007-Current Business consultant and volunteer work.

1981-2007 Jericol Mining, Inc. Cumberland Gap, TN  
*Investment Manager*

- Management of multi-million dollar investment portfolios.
- Human Resources manager for approximately 200 employees.
- Manager of workers compensation, health and dental insurance plans.
- Contract administrator for all coal contracts.
- Managed multi-million dollar coal sales program, including selling coal and collection of accounts receivable.

1979-1981 American Fidelity Bank Corbin, KY  
*Executive Vice President*

1971-1979 Citizens Fidelity Louisville, KY  
*Bank Card Credit and Collection Manager*

1963-1971 First National Bank Louisville, KY  
*Manager, Retail Banking*

1996-2006 Commercial Bank Harrogate, TN  
*Director, Member of Audit Committee and Asset and Liability Committee*

## POSITIONS CURRENTLY HELD

---

Kentucky Coal Producers Self-Insurance Fund Lexington, KY  
*Trustee, Chairman of Investment Committee*

## EDUCATION

---

Indiana University Southeast Jeffersonville, IN

University of Oklahoma Norman, OK  
*Installment Credit School*

Northwestern University Evanston, IL  
*Bank Card School*

American Institute of Banking Washington, DC  
*Numerous courses*

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2010 SEP 15 AM 8:00

OFFICE OF THE CITY CLERK

*From The Desk of J. Mark Harvey*

14 September 2010

Honorable Mayor and City Council:

Enclosed, please find a copy of my personal resume that I respectfully submit for your review as it relates to my interest in serving the remaining unexpired term on the Oak Ridge Convention and Visitor's Bureau.

I have enjoyed being an active Oak Ridge resident since moving here from Dallas, Texas in 1991 to manage operations for the Cowperwood Company. I am extremely proud of the heritage of Oak Ridge, and would be honored, if selected, to work on behalf of Council to continue the successful promotion of this great heritage. I am also one who takes full advantage of the great recreational opportunities that are available here in Oak Ridge, and I would certainly enjoy working within the structure of the Convention and Visitor's Bureau to promote Oak Ridge as a great place to live, work and play!

If you should have any questions, please do not hesitate to contact me.

Thank you for your consideration,



J. Mark Harvey



101 Park Meade Drive, Oak Ridge, Tennessee 37830 |

# ***J. Mark Harvey***

101 Park Meade Drive,  
Oak Ridge, Tennessee 37830  
865.482.5468

Wife: Teresa R. Harvey  
Children: Meagan, Mandi and Matthew

## ***Education:***

**The University of North Texas**

Bachelor of Business Administration

Major: Finance

Additional course work in architecture, construction management and environmental design.

## ***Employment History:***

**The Cowperwood Company – National Real Estate Development & Management**  
Oak Ridge, Tennessee

Vice President, Operations & Development (Partner) 2000 – Present

Responsible for commercial office building development activities in Tennessee, South Carolina, New Mexico, Texas and Florida. Represent the building partnerships as project director, leading the project from the initial proposal/design phase through completion, insuring that the design, budget and scheduling goals are met. Responsibilities also include regional marketing and recruitment activities and community relations.

Property Manager 1991 – 2000

Responsible for the day to day management of approx. 450,000 square feet of commercial office space in Oak Ridge, Tennessee. Responsibilities included directing the local staff in the administration of all building management and maintenance issues, including marketing and leasing.

**CWEC, Inc. – Regional Commercial/Retail Development**  
Dallas, Texas

Manager of Construction/Design Services 1985 – 1991

Responsible for retail/commercial construction projects throughout Texas, New Mexico and Oklahoma. Responsibilities included securing all pre-construction permitting/zoning approvals from the local jurisdictions, developing construction documents for each new project and performing code compliance reviews.

## **Additional Work Experience**

Worked for a commercial construction company and an architectural firm while completing college.

 101 Park Meade Drive, Oak Ridge, Tennessee 37830 |

J. Mark Harvey

Page 2

### ***Outside Activities:***

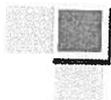
Past member of the Board of Directors – Oak Ridge Chamber of Commerce (Chairman 2008)

Current member of the Board of Directors – Keys Fillauer Invitational Golf Tournament

Past member of the Board of Directors – New Century Alliance

Past member of the Board of Directors – Tanasi Girl Scout Council

Leadership Oak Ridge – 1994



101 Park Meade Drive, Oak Ridge, Tennessee 37830 |

**HIGHLAND VIEW  
REDEVELOPMENT  
ADVISORY  
BOARD**

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2010 SEP 21 PM 3:18

# GERALD L. COOKSEY

OFFICE OF THE CITY CLERK

## PROFESSIONAL EXPERIENCE

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2007-Current Business consultant and volunteer work.

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*Director, Member of Audit Committee and Asset and Liability Committee*

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*Trustee, Chairman of Investment Committee*

## EDUCATION

---

Indiana University Southeast Jeffersonville, IN

University of Oklahoma  
*Installment Credit School* Norman, OK

Northwestern University Evanston, IL  
*Bank Card School*

American Institute of Banking Washington, DC  
*Numerous courses*

**OAK RIDGE  
HERITAGE  
RAILROAD  
AUTHORITY  
BOARD OF  
DIRECTORS**

2004 AUG 20 A 9:24

Gordon G. Fee  
Retired CEO & President  
Lockheed Martin Energy Systems Inc.

Gordon G. Fee, a native of Canonsburg, Pennsylvania, received his bachelor's degree in physics from the Pennsylvania State University and his master's degree in nuclear engineering from the University of Tennessee. In 1996 Penn State named him a Distinguished Alumni.

He came to Oak Ridge in 1956 He served as Y-12 plant manager for 9 years and retired in 1997 as President of Lockheed Martin Energy Systems overseeing all three DOE facilities.

He is very active in Public Education and currently serves on the State P-16 Council, is Chair of the East Tennessee Public Education Forum, Chair's The Education Subcommittee of the Tennessee Business Roundtable, and is on the Board of Visitors for UT's College of Arts and Sciences.

He is on the Board of Directors of ~~(a) SunTrust Bank of East Tennessee, (b) Oak Ridge Associated Universities,~~ (c) Tennessee Tomorrow and (d) The Children's Museum of Oak Ridge. He is also Chairman of The Oak Ridge Heritage Railroad Authority.

Gordon and his wife Miriam live at 1064 West Outer Drive, Oak Ridge, Tennessee; they have two grown children and three grandchildren.

Revised 8/03/07

**NOTICE  
OF  
ELECTIONS**

**CITY CLERK MEMORANDUM**  
10-63

DATE: September 30, 2010

TO: Honorable Mayor and Members of City Council

FROM: Jacquelyn J. Bernard, City Clerk

SUBJECT: ELECTIONS – November 8, 2010

The following elections are scheduled for the November 8, 2010 City Council meeting:

Highland View Redevelopment Advisory Board

One (1) seat remains vacant on the Highland View Redevelopment Advisory Board. This seat is designated for either a social services representative or a realtor; however, if no individual meeting these criteria apply, the Council may appoint a person who does not possess such qualifications. As of this date, there are no candidates. The term of office is three years.

Board of Plumbing Examiners

There is one (1) vacant seat on the Board of Plumbing Examiners due to the resignation of Mr. Gary M. Adkins. There are no special qualifications for this seat and as of this date, there are no candidates. This unexpired term of office will end on March 10, 2012.

Traffic Safety Advisory Board

On May 31, 2010, the seat designated for an Oak Ridge High School student became vacant on the Traffic Safety Advisory Board, and on November 29<sup>th</sup> three of the regular seats will become vacant. Letters have been sent to the incumbent members to determine if they wish to serve again and as of this date one, Mr. Thomas Jelinek, has indicated that he will do so if the Council so desires. As of this date, there are no new candidates for either the student seat or the regular seats. The term of office is one year for the student and three years for the regular members.

Deadline for Filing

The deadline for filing is 5:00 p.m. on Tuesday, October 26, 2010.

  
City Clerk

# **CITY MANAGER'S REPORT**

**CITY COUNCIL MEMORANDUM**  
**10-28**

**DATE:** September 27, 2010  
**TO:** Honorable Mayor and Members of City Council  
**FROM:** Mark S. Watson, City Manager  
**SUBJECT:** CITY MANAGER'S REPORT

2009 Neighborhood Stabilization Program (NSP)

Council Action Recommended: None, for information only.

In August 2009, the City of Oak Ridge was awarded a Neighborhood Stabilization Program (NSP) grant from the Tennessee Housing Development Agency (THDA) in the amount of \$94,631.00. All grant funds have now been obligated by the City as outlined in this memo.

The NSP is funded through the Housing and Economic Recovery Act of 2008 (HERA) and amended by the American Recovery and Reinvestment Act (ARRA) approved in February 2009. The Tennessee Housing Development Agency (THDA) is administering the federally funded NSP through local governments and non-profit organizations on behalf of the U.S. Department of Housing and Urban Development (HUD).

The purpose of the NSP grant awarded to the City was to acquire and redevelop foreclosed, abandoned and/or vacant properties and to demolish blighted structures. The grant term of the NSP began on July 1, 2009 and the City was required to have all funds obligated by September 19, 2010, which was accomplished. The City of Oak Ridge was required to utilize the NSP funds within census tract 205, which encompasses the area west of Highland Avenue and east of Louisiana Avenue, north to West Outer Drive and south to Oak Ridge Turnpike. Using available housing statistics, this census tract was determined by THDA as the City's area of greatest need.

The grant requires that the properties be redeveloped as owner occupied affordable housing. To carry out this aspect of the grant the properties are being transferred to Aid to Distressed Families of Appalachian Counties (ADFAC) for construction of new homes to be purchased by income eligible families.

The following Table provides an overview of the utilization of funds:

Address	Acquisition	Rehabilitation	Demolition	
104 Jay Lane	\$ 5,632.98		Vacant lot	
161 Johnson Rd.	\$ 15,458.50		\$ 3,799.00	
105 Ivy Lane	\$ 18,698.00		\$ 6,700.00	
218-220 Robertsville Rd.	\$ 18,626.99		Vacant lot	
108 Jersey Lane	\$ 19,698.00		\$ 6,972.00	
<b>Total</b>	<b>\$ 78,114.47</b>		<b>\$ 17,471.00</b>	<b>\$ 95,585.47</b>

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