

COMMISSION MEETING MINUTES

JUNE 2, 2016

A MEETING OF THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, TENNESSEE was held in the Commission Chambers of the Municipal and Safety Building, 601 East Main Street, Johnson City, Tennessee on Thursday, June 2, 2016.

PRESENT: Mayor Clayton Stout, Vice-Mayor David Tomita, Commissioners Jeff Banyas, Jenny Brock and Ralph Van Brocklin, Pete Peterson, City Manager, and Janet Jennings, City Recorder.

Mayor Clayton Stout called the meeting to order at 6:06 p.m.

At this time, Larry Albrecht, Senior Chaplain, Johnson City Police Department, gave the invocation, which was followed by the pledge of allegiance.

Upon motion by Commissioner Jeff Banyas, seconded by Vice-Mayor David Tomita, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Ralph Van Brocklin was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the **deferral** of the following Consent Agenda items: (1) consideration of a Master Services Agreement with Barge, Waggoner, Sumner and Cannon, and (2) consideration of Task Order #1 for Barge, Waggoner, Sumner and Cannon for the Bunker Hill Tank Replacement, be and the same is hereby approved.

Upon motion by Vice-Mayor David Tomita, seconded by Commissioner Jenny Brock, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Ralph Van Brocklin was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the addition to the agenda of the consideration of a street closure request from Amber Lee to accommodate a neighborhood block party to be held on Saturday, June 11, 2016, from 4:30 p.m. until 10:00 p.m., be and the same is hereby approved.

Upon motion by Commissioner Jeff Banyas, seconded by Vice-Mayor David Tomita, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Ralph Van Brocklin was absent from the Chambers. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the minutes of the regularly scheduled City Commission Meeting held on Thursday, May 19, 2016, be and the same are hereby approved.

At this time, Mayor Clayton Stout presented a proclamation recognizing Blood Donor Day. Mike Patterson, Donor Recruiter, Blood Assurance, and Rick Harbit, Director of Employer Health Services, Mountain States Health Alliance, were present to accept.

**Whereas** Blood Donor Day, established in 2004 by the World Health Organization, serves to raise awareness of the need for safe blood and blood products, and to thank blood donors for their voluntary, lifesaving gifts of blood; and

**Whereas** World Blood Donor Day is celebrated annually on June 14 to honor those who give the gift of life, and this year's theme is *Blood Connects Us All*; and

**Whereas** one pint of blood can save up to three lives, and donating is one way in which we can all help our fellow citizens; and

**Whereas** donations can be made through Blood Assurance, which is the provider of lifesaving blood and blood products at all hospitals in Johnson City.

**Now, Therefore, I,** W. Clayton Stout, Mayor of the City of Johnson City, do hereby proclaim June 14, 2016

## Blood Donor Day

in Johnson City, Tennessee, and urge citizens to thank those who give blood and to consider donating themselves in order to better – or perhaps even save – the lives of their neighbors.

***In Witness Whereof,***  
I have hereunto set my hand and caused the Official Seal of the City of Johnson City, Tennessee, to be affixed this 2nd day of June, 2016.

/s/ Clayton Stout

W. Clayton Stout, Mayor

At this time, Mayor Clayton Stout presented a proclamation recognizing Men's Health Week. Johnson Osazee, Project Director, Tennessee Men's Health Network, was present to accept.

**Whereas** Men's Health Week will focus on a broad range of men's health issues, including prostate, testicular and colon cancer as well as heart disease, diabetes and mental health; and

**Whereas** despite advances in medical technology and research, men continue to live an average of five years less than women with Native American and African-American men having the shortest life expectancy; and

**Whereas** educating the public and health care providers about the importance of a healthy lifestyle and early detection of male health problems will result in reduced rates of mortality from disease; and

**Whereas** men who are educated about the value of preventative health will be more likely to participate in health screening and are encouraged to increase awareness of the importance of a healthy lifestyle, regular exercise, and medical check-ups; and

**Whereas** Men's Health Network worked with Congress to develop Men's Health Week as a special campaign to help educate men, boys, and their families about the importance of positive health attitudes and preventative health practices.

*Now, Therefore, I,* W. Clayton Stout, Mayor of the City of Johnson City, Tennessee, do hereby proclaim June 13-19, 2016

## MEN'S HEALTH WEEK

in Johnson City, Tennessee, and urge our fathers, sons, brothers, uncles, and all male friends to maintain a healthy lifestyle and to learn about the risk factors and warning signs that affect men's health so that we may help prevent and treat specific male diseases.

*In Witness Whereof,* I have hereunto set my hand and caused the Official Seal of the City of Johnson City, Tennessee, to be affixed this 2nd day of June, 2016.

/s/ Clayton Stout

W. Clayton Stout, Mayor

At this time, Chief Mark Scott and Assistant Chief Jerome Palmer presented a plaque of appreciation to Firefighter Kevin Haynes for his success in working on Fire Department Grant Projects.

At this time, Tim Swecker, Unit Sales Manager, Pepsi Beverages Company, presented Pepsi Fireworks Celebration promotional packages to the Board of Commissioners.

At this time, Mayor Clayton Stout opened the public input session. No one spoke.

Upon motion by Vice-Mayor David Tomita, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a Temporary Occasion License to sell beer for Blue Plum, 325 ½ East Main Street, Johnson City, Tennessee, be and the same is hereby approved. Shannon Castillo was present.

Upon motion by Vice-Mayor David Tomita, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a Temporary Occasion License to sell beer for Johnson City Morning Rotary Foundation, P.O. Box 3886, Johnson City, Tennessee (June 10, 2016 Event), be and the same is hereby approved. Bob Swanay was present.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

COMMISSION MEETING MINUTES

JUNE 2, 2016

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a Temporary Occasion License to sell beer for Johnson City Morning Rotary Foundation, P.O. Box 3886, Johnson City, Tennessee (June 17, 2016 Event), be and the same is hereby approved. Bob Swanay was present.

Upon motion by Commissioner Jenny Brock, seconded by Vice-Mayor David Tomita, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a street closing on Saturday, June 11, 2016 from 4:30 p.m. until 10:00 p.m., as requested by Amber Lee, to accommodate a neighborhood block party, be and the same is hereby approved. Amber Lee was present.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Ralph Van Brocklin, the following resolution was offered for adoption. The motion **carried** by four ayes. Mayor Clayton Stout voted nay.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the re-appointment of Jenny Lockmiller and Ed Temple to the Board of Dwelling Standards and Review, be and the same is hereby approved.

Upon motion by Commissioner Ralph Van Brocklin, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the pulling from the Consent Agenda for separate consideration of the following: (1) consideration of a construction retainage escrow account agreement with Mike Smith Pump Service, LLC and First Tennessee Bank (General Item iv) and (2) consideration of the Lease Agreement with Joe Wilson to house the operation of the Johnson City/Washington County Family Justice Center at 196 Montgomery Street (General Item viii), be and the same is hereby approved.

Upon motion by Commissioner Ralph Van Brocklin, seconded by Commissioner Jeff Banyas, the following resolution was offered for adoption. The motion **carried** by four ayes. Vice-Mayor David Tomita abstained from the vote. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a construction retainage escrow account agreement with Mike Smith Pump Service, LLC and First Tennessee Bank, be and the same is hereby approved.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Ralph Van Brocklin, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the remainder of the Consent Agenda for June 2, 2016, be and the same is hereby approved.

**CONSENT AGENDA:**

**A. GENERAL:**

- i. **Special Event Review Committee**  
Consider the approval of six-(6) standard 5K course maps and one-(1) standard 10K course map to be associated with all Special Event Permit applications
  
- ii. **Purchasing Department**  
Consider declaring certain Transit Department vehicles as surplus
  
- iii. **Purchasing Department**  
Authorization for Mayor Stout to execute contract with Summers Taylor for the VA Access Road (ITB #6013)
  
- iv. **Finance Department**  
Consider a construction retainage escrow account agreement with Mike Smith Pump Service, LLC & First Tennessee Bank
  
- v. **Legal Department**  
Consider approval of Interlocal Agreement to establish a Joint Economic & Community Development Board in Carter County, Tennessee
  
- vi. **Police Department**  
Consider approval of a Special Prosecutor Memorandum of Understanding for FY 2017
  
- vii. **Police Department**  
Review & approval of the Interlocal Agreement between the COJC and Washington County, Tennessee to support the creation and operation of the JC/WC Family Justice Center

viii. **Police Department**

Review & approval of the Lease Agreement between the COJC and Mr. Joe Wilson to house the operation of the JC/WD Family Justice Center at 196 Montgomery Street (BACKUP PROVIDED AT AGENDA REVIEW)

ix. **Water & Sewer Services**

Consider a Master Services Agreement with Barge, Waggoner, Sumner & Cannon

x. **Water & Sewer Services**

Consider approval of Task Order #1 for Barge, Waggoner, Sumner & Cannon on the Bunker Hill Tank Replacement

xi. **Public Works Department**

Consider annual lease renewals for the Keystone Community Center and Artz-Cutshall Building

xii. **Public Works Department**

Approval to file Notice of Land Use Restrictions for Founders Park

xiii. **Administration**

Stop-Loss Insurance Coverage Renewal

**B. INVOICES:**

i. Wiedeman & Singleton . . . . . \$6,480.00

Water & Sewer Services ~ Task Order #8  
Watauga Water Plant Hypochlorite Disinfection Conversion  
Funding Source: Bond Funded

ii. LDA Engineering . . . . . \$1,525.00

Water & Sewer Services ~ Work Order #2  
SOF Water Booster Station Addition of Emergency Generator  
Funding Source: Bond Funded

- iii. Littlejohn Engineering ..... \$640.00  
Water & Sewer Services ~ Task Order #3  
Cash Hollow Sewer Rehab Phase I  
Funding Source: Rate Funded
  
- iv. Gresham, Smith & Partners ..... \$8,138.97  
Public Works Department  
Indian Ridge Road Intersection Improvements  
funding Source: STP Funds
  
- v. S&ME / Littlejohn Engineering..... \$5,305.50  
Public Works Department ~ Invoice #733337  
Cobb Creek Stormwater Study  
Funding Source: Stormwater Fund
  
- vi. S&ME / Littlejohn Engineering..... \$12,308.75  
Public Works Department ~ Invoice #737658  
Cobb Creek Stormwater Study  
Funding Source: Stormwater Fund
  
- vii. Stansell Electric ..... \$64,532.88  
Public Works Department  
Signalization Project: 10 Intersections  
Funding Source: 100% Federal Funding
  
- viii. AMEC Foster Wheeler ..... \$2,249.76  
Public Works Department ~ Invoice #N10308728C  
Stormwater Planning Group  
Funding Source: Stormwater Fund
  
- ix. E. Luke Greene (**FINAL PAYMENT**)..... \$5,230.00  
Public Works Department ~ Invoice #214470-02  
Demo of Former Kelly Foods Buildings  
Funding Source: Stormwater Fund

- x. Mechanical Design Services . . . . . \$8,043.10  
Administration ~ Invoice #14-001-10  
Freedom Hall HVAC Replacement  
Funding Source: Bond Funded
  
- xi. HVAC Inc. . . . . \$447,027.01  
Administration ~ Pay Request #9  
Freedom Hall Civic Center Renovations & Additions  
Funding Source: Bond Funded
  
- xii. BurWil Construction Company . . . . . \$67,282.08  
Administration ~ Pay Request #2  
Freedom Hall Civic Center Renovations & Additions  
Funding Source: Bond Funded
  
- xiii. Burleson Construction Company . . . . . \$5,413.78  
Administration ~ Invoice #2734009  
Freedom Hall Civic Center Renovations & Additions  
Funding Source: Bond Funded
  
- xiv. Alley & Associates Inc . . . . . \$2,485.00  
Administration  
Langston Center Boundary & Topographic Survey  
Funding Source: Bond Funded

C. **BIDS**

- i. **ITB #6016**  
Toyne Inc . . . . . \$477,682.00  
Fire Department  
Triple Combination Pumper Truck  
Funding Source: Capital Fund

TABULATION OF BIDS  
CITY OF JOHNSON CITY, TENNESSEE  
MAY 3, 2016 - 2:00 PM  
ITB #6016 TRIPLE COMBINATION PUMPER  
FIRE DEPARTMENT

Vendor	Base Bid	Discount		Proposed Make/Model
		Options	Total	
NAFECO	\$ 406,835.00	N/A	-	2016 KME Predator Panther Challenger WB Pumper, VN 1K3A14356HMS8357, Mileage 1,359 (at bid time) DEMO MODEL *
Emergency Vehicle Specialists	\$ 433,560.00	If both Demo Trucks are Purchased Deduct \$5,000.00	-	2016 Pierce Saber Pumper, Job #29374 Mileage is Less than 2,000 Miles DEMO MODEL *
Emergency Vehicle Specialists	\$ 435,400.00	None	-	2016 Pierce Saber Pumper, Job #29373 DEMO MODEL *
M3 Fire Apparatus	\$ 453,972.00	Prepayment Discount Offered - but not included	-	Make-HME, Model-Custom Cab Pumper 1872-W Cab CUSTOM MODEL *
Toyne Inc.	\$ 482,025.00	\$4,343.00 if Chassis is Paid when Completed	\$ 477,682.00	Toyne/Spartan Custom Pumper (2017) CUSTOM MODEL
CW Williams	\$ 504,686.00	Chassis Prepay Discount: \$8,272.00 50% Prepay Discount: \$9,472.00 100% Prepay Discount: \$13,372.00	\$ 495,214.00	Rosenbauer Commander 4000 Custom Pumper CUSTOM MODEL
Atlantic Coast Fire Trucks	\$ 516,058.00	Chassis Discount \$6,367.00	\$ 509,691.00	Custom Small Pumper CUSTOM MODEL
Cumberland Fire Apparatus	\$ 565,316.11	Down Payment \$141,329.03: \$2,914.91 Down Payment \$282,658.06: \$5,829.82 Down Payment \$423,987.08: \$8,744.73 Full Prepayment: \$11,659.64	\$562,401.20	2016 Stryker Monarch S1, 4 Man Cab, 2000 GPM Pump, 750 Gal Water, Hydraulic Ladder Rack, 30 Gal Williams Foam System CUSTOM MODEL
Emergency Vehicle Specialists	\$ 579,941.00	100% Payment with Contract Deduct \$26,248.00	\$ 553,693.00	2016 Pierce Enforcer Pump CUSTOM MODEL

\* DO NOT MEET SPECIFICATIONS

RECOMMEND ACCEPTANCE OF LOWEST ACCEPTABLE TRUCK, CIRCLED ABOVE. TOTAL \$477,682 INCLUDES A PREPAY DISCOUNT.

ii. **ITB #6031**

Summers Taylor ..... \$1,069,480.50  
Public Works Department ~ Engineering Division  
Boones Street Culvert Extension Project

Funding Source: Stormwater Fund

TABULATION OF BIDS  
CITY OF JOHNSON CITY, TENNESSEE  
MAY 17, 2016  
ITB #6031 BOONE STREET CULVERT EXTENSION  
P/W ENGINEERING

<u>BIDDER</u>	<u>BID AMOUNT</u>	
VENDOR	Summers-Taylor	
License Number:	69	Base Bid: \$ 972,255.00
Bid Bond:	Yes	Contingency:\$ 97,225.50
Addendums Acknowledged:	Yes	Total Bid: \$ 1,069,480.50
VENDOR	Thomas Construction	
License Number:	14124	Base Bid: \$ 1,229,780.00
Bid Bond:	Yes	Contingency: \$ 122,978.00
Addendums Acknowledged:	Yes	Total Bid: \$ 1,352,758.00

RECOMMEND ACCEPTANCE OF LOW BID, CIRCLED ABOVE.

**D. PURCHASES**

- i. Data Driven Software ..... \$69,741.00  
Police Department  
Watson Reporting Renewal  
Funding Source: Police Technology Fund
  
- ii. Triad Freightliner of Tennessee ..... \$87,555.00  
Water & Sewer Services ~ ITB #5997  
2017 Freightliner M2 106  
Funding Source: Rate Funded

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Ralph Van Brocklin, the following resolution was offered for adoption. The motion **carried** by five ayes. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That the moving of the consideration of Ordinances 4605-16 and 4603-16 ahead of Ordinance 4602-16, be and the same is hereby approved.

Upon motion by Commissioner Ralph Van Brocklin, seconded by Commissioner Jeff Banyas, Ordinance No. 4605-16, "AN ORDINANCE FOR THE EXCHANGE OF REAL ESTATE BETWEEN RENASANT BANK AND THE CITY OF JOHNSON CITY," was **passed on second reading**. The motion **carried** by five ayes. There were no nay votes.

Upon motion by Commissioner Jenny Brock, seconded by Commissioner Ralph Van Brocklin, Ordinance No. 4603-16, "AN ORDINANCE FOR THE CONTROL OF EROSION AND SEDIMENT," was **passed on third reading**. The motion **carried** by five ayes. There were no nay votes.

ORDINANCE NO. 4603-16

AN ORDINANCE TO PROTECT, MAINTAIN, AND ENHANCE THE ENVIRONMENT OF THE CITY OF JOHNSON CITY AND THE PUBLIC HEALTH, SAFETY, AND GENERAL WELFARE OF THE CITIZENS OF THE CITY, BY PREVENTING EROSION AND THE DISCHARGE OF SEDIMENT AND CONSTRUCTION RELATED WASTE INTO THE CITY'S STORMWATER SYSTEM AND TO MAINTAIN AND IMPROVE THE QUALITY OF THE RECEIVING WATERS INTO WHICH STORMWATER RUNOFF FLOWS AND TO COMPLY WITH THE STATE OF TENNESSEE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM GENERAL PERMIT FOR DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS, AND TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH

NOW THEREFORE BE IT ORDAINED BY THE CITY OF JOHNSON CITY, as follows:

Section I. This is the erosion and sediment control ordinance for the City of Johnson City, Tennessee. This ordinance updates and revises the provisions of Ordinance 4064-04. Title 18 Chapter 8 of the Code of the City of Johnson City is hereby amended by deleting the provisions therein and substituting the following provisions:

Section 1. Purpose

The purposes of this ordinance are to:

- a. protect, maintain, and enhance the environment of the City of Johnson City and the public health, safety and general welfare of the citizens of the City, by preventing soil erosion and sediment discharges and construction related wastes that occur as a result of residential, commercial,

industrial, and other construction related activities from reaching the City's storm water system.

- b. maintain and improve the quality of the receiving waters into which storm water runoff flows, including without limitation, lakes, rivers, streams, ponds, and wetlands.
- c. comply with the State of Tennessee National Pollutant Discharge Elimination System (NPDES) General permit for discharges from small municipal separate storm sewer systems.

### Section 2. Definitions

For the purposes of this ordinance, the following definitions shall apply. Words used in the singular shall include the plural, and the plural shall include the singular. Words used in the present tense shall include the future tense. The words "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.

*Best Management Practices (BMP):* Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants to the municipal separate storm sewer system. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

*City:* The City of Johnson City, TN.

*Clearing:* In the definition of discharges associated with construction activity, *clearing, grading, and excavation* do not refer to clearing of vegetation along existing or new roadways, highways, dams or power lines for sight distance or other maintenance and/or safety concerns, or cold planing, milling, and/or removal of concrete and/or bituminous asphalt roadway pavement surfaces. *Clearing* typically refers to the removal of vegetation and disturbance of soil prior to grading or excavation in anticipation of construction activities. *Clearing* may also refer to wide area land disturbance in anticipation of non-construction activities; for instance, cleared forested land in order to convert forest land to pasture for wildlife management purposes.

*Commencement of Construction or Commencement of Land Disturbing Activities:* The initial disturbance of soils associated with clearing, grading or excavating activities or other construction activities.

*Construction:* Any placement, assembly, or installation of facilities or equipment (including contractual obligations to purchase such facilities or equipment) at the premises where such equipment will be used, including preparation work at such premises.

*Construction Related Wastes:* Refuse or unused materials that result from construction activities. Construction related wastes can include, but are not limited to, unused building and landscaping materials, chemicals, litter, sanitary waste, and concrete truck washout.

*Construction Support Activities:* Activities such as concrete or asphalt batch plants, equipment staging yards, material storage areas, excavated material disposal areas, or borrow areas provided all of the following are met:

- a) the support activity is primarily related to a construction site that is covered under a grading permit;
- b) the operator of the support activity is the same as the operator of the construction site;
- c) the support activity is not a commercial operation serving multiple unrelated construction projects by different operators;
- d) the support activity does not operate beyond the completion of the construction activity of the last construction project it supports; and
- e) support activities are identified in the Erosion and Sediment Control plan. The appropriate erosion prevention and sediment controls and measures applicable to the support activity shall be described in a comprehensive Erosion and Sediment Control Plan covering the discharges from the support activity areas.

*Development:* Any man-made change to improved or unimproved property including, but not limited to, construction of buildings or other structures, clearing, dredging, drilling operations, filling, grading, paving, excavation, or storage of equipment or materials.

*Director:* The Director of Public Works of the City or his/her designee, who is responsible for the approval of development and redevelopment plans, grading permits, and implementation of the provisions of this ordinance.

*Erosion:* The removal of soil particles by the action of water, wind, ice or other agents, whether naturally occurring or acting in conjunction with or promoted by man-made activities or effects.

*Erosion and sediment control plan:* A written plan required by this ordinance and prepared in accordance with the Tennessee Construction General Permit, as amended, that includes, but not

limited to, site map(s), identification of construction/contractor activities that could cause pollutants in the stormwater, and a description of measures or practices to control these pollutants."

*Exceptional Tennessee Waters:* Surface waters of the State of Tennessee that satisfy characteristics of exceptional Tennessee waters as listed Chapter 1200-4-3-.06 of the official compilation - Rules and Regulations of the State of Tennessee.

*Filling:* Any deposit or stock-piling of dirt, rock, stumps, or other natural or man-made solid waste material.

*Grading:* Any excavation, filling (including hydraulic fill), or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.

*Grading Permit:* A permit issued by the City authorizing the commencement of land disturbing activities.

*Land disturbing activity:* Any activity on a property that results in a change in the existing soil cover (both vegetative and non-vegetative) or the existing soil topography. Land disturbing activities include, but are not limited to, development, re-development, demolition, construction, reconstruction, clearing, grading, filling, land transporting, and excavation.

*Municipal separate storm sewer system (MS4):* A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that is:

- (i.) Owned or operated by a State, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian Tribe or an authorized Indian tribal organization, or a designated and approved management agency under section 208 of the CWA that discharges to waters of the state;
- (ii.) Designed or used for collecting or conveying storm water;
- (iii.) Which is not a combined sewer; and
- (iv.) Which is not part of a Publicly Owned Treatment Works (POTW) as defined at [40 CFR §122.2](#), as amended from time to time.

*Owner or Operator:* Any party associated with a construction project that meets either of the following two criteria:

- i. This person or entity has operational or design control over construction plans and specifications, including the ability to make modifications to those plans and specifications. This

person or entity is typically the owner or developer of the project or a portion of the project, and is considered the primary permittee; or

- ii. This person or entity has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions. This person or entity is typically a contractor or commercial builder who is hired by the primary permittee, and is considered a secondary permittee.

*Plan:* An erosion and sediment control plan, or a small lot erosion and sediment control plan.

*Priority Construction Activity:* Construction activities that discharge directly into or immediately upstream from waters the state recognizes as impaired for siltation or those waters designated as Exceptional Tennessee Waters. A property is considered to have a direct discharge if storm water runoff from the property does not cross any other property before entering the water of the State.

*Sediment:* Solid material, either mineral or organic, that is in suspension, being transported, or has been moved from its site of origin by erosion.

*Small lot erosion and sediment control plan:* A plan that is designed to eliminate and/or reduce erosion and off-site sedimentation from a site during construction activities, applicable to development and redevelopment sites that disturb less than one acre and are not part of a larger plan of development.

*Storm Water Pollution Prevention Plan:* Document describing how an owner or operator intends to provide storm water management during land disturbing or construction activities.

*Subdivision:* The division, subdivision, or resubdivision of any lot or parcel of land as defined in the Subdivision Regulations of the Johnson City Regional Planning Commission and by the State of Tennessee.

*TDEC:* The Tennessee Department of Environment and Conservation.

*Tennessee Construction General Permit:* A permit issued and amended by TDEC titled *General NPDES Permit for Discharges of Storm Water Associated with Construction Activities*. State of Tennessee General Permit No. TNR 100000.

*Transporting:* Any moving of earth materials from one place to another, other than such movement incidental to grading, as authorized on an approved plan.

*Waters or waters of the State:* Any and all water, public or private, on or beneath the surface of the ground, which are contained within, flow through or border upon Tennessee or any portion thereof except those bodies of water confined to and retained within the limits of private property in single ownership which do not combine or effect a junction with natural surface or underground waters.

### Section 3. General Requirements

#### 3.1. Applicability

1. Land disturbing, construction or construction support activities that cause off-site sedimentation or sediment discharges to Waters of the State shall be in violation of this ordinance.
2. No owner or operator of any property within the City shall commence land-disturbing activities unless he/she has obtained all applicable permits from state and federal agencies and an erosion and sediment control plan is submitted to and approved by the Director.
3. For construction resulting in less than one acre of disturbed area, excluding single family residential construction that is part of an approved plan for a larger development or sale where Best Management Practices are continuing to be implemented on site, a small lot erosion and sediment control plan shall be submitted to and approved by the Director prior to commencement of any land disturbing activity.
4. The issuance of a grading permit shall be conditioned upon the approval of the erosion and sediment control plan by the Director. The City shall serve as the plan approval agency only, and in no instance are its regulations to be construed as designing erosion and sediment control or other storm water systems.
5. No building permit shall be issued until the owner or operator has obtained a grading permit and is in compliance with the grading permit, where the same is required by this ordinance.
6. All land disturbing activities including activities exempted from plans submittals shall employ adequate erosion and sediment control best management practices.

#### 3.2. Exemptions from Plans Submittal

1. The following activities shall not require submittal and approval of an erosion and sediment control plan, or small lot erosion and sediment control plan:

- a. Minor land disturbing activities such as home gardens and individual home landscaping, repairs or maintenance work;
  - b. Additions or modifications to existing, individual, single family structures;
  - c. Emergency work to protect life, limb or property, and emergency repairs, provided that the land area disturbed shall be shaped and stabilized in accordance with the requirements of this regulation;
  - d. Nursery and agricultural operations conducted as a permitted main or accessory use; and
  - e. State and federal projects subject to the submission requirements of TDEC.
  - f. Land disturbances comprising an area smaller than the smallest lot allowed in the Zoning Code of the City of Johnson City, Tennessee.
2. All other provisions of this ordinance shall apply to the exemptions noted in 3.2.1 above.

#### **Section 4. Erosion and Sediment Control Design Standards**

##### 4.1. Adoption of Standards

1. The design, installation, operation and maintenance of construction site runoff control design standards and best management practices intended for erosion prevention and the control of sediment and other construction related wastes and/or pollutants shall be performed in accordance with the requirements of the Tennessee Construction General Permit effective at the time of erosion and sediment control plan approval. This requirement also applies to erosion and sediment control plan development and its contents, site inspection and documentation and reporting. Where the provisions of this section conflict or overlap with the Tennessee Construction General Permit, as amended, and the TDEC Erosion & Sediment Control Handbook, as amended, the regulation which is more restrictive or imposes higher standards or requirements shall prevail.
2. The City adopts as its erosion and sediment control design standards and best management practices manual the latest *TDEC Erosion & Sediment Control Handbook*, as amended. This manual is incorporated by reference into this ordinance. This manual includes a list of acceptable BMPs, including the specific design performance criteria and operation and maintenance requirements for each BMP.
3. Requirements for BMP design, installation, operation and maintenance, plan development and contents, site inspection, documentation and reporting presented in the Tennessee Construction General Permit, as amended, and/or the *TDEC Erosion & Sediment Control* handbook, as amended, may be updated and expanded upon, at the discretion of the Director, based on improvements in engineering, science, monitoring, and local maintenance experience.

4. Erosion and sediment control BMPs that are designed, constructed and maintained in accordance with the Tennessee Construction General Permit, as amended and the BMP criteria presented in the *TDEC Erosion & Sediment Control* manual shall be presumed to meet the minimum water quality performance standards required by the City.
  5. Additional requirements for discharges into impaired or exceptional Tennessee waters that are defined in the Tennessee Construction General Permit, as amended, shall be implemented for all priority construction activities. The director has the discretion to require BMPs that conform to a higher than minimum standard for priority construction activities, for Exceptional Tennessee Waters, or where deemed necessary.
- 4.2. Other guidelines
1. No solid materials, including building materials, shall be discharged to waters of the State, except as authorized by a section 404 permit or Tennessee Aquatic Resource Alteration Permit.
  2. Off-site vehicle tracking of sediments is prohibited.
  3. Dust generation shall be minimized.
  4. For installation of any waste disposal systems on site, or sanitary sewer or septic system, the plan shall provide for the necessary sediment controls. Owners/operators must also comply with applicable State and/or local waste disposal, sanitary sewer or septic system regulations for such systems to the extent that these are located within the permitted area.
  5. Erosion and sediment control measures must be in place and functional before commencement of land disturbing activities, and must be constructed and maintained throughout the construction period. Temporary measures may be removed at the beginning of the work day, but must be replaced at the end of the work day or prior to a rain event, whichever is sooner.
  6. Temporary construction riparian buffer zones shall be preserved in accordance with the Tennessee Construction General Permit, as amended.

**Section 5. Erosion and Sediment Control Plans**

- 5.1. Requirements
  1. The erosion and sediment control plan shall present in detail the best management practices that will be employed to reduce erosion and control sedimentation.
  2. The plan shall be sealed in accordance with the Tennessee Construction General Permit, as amended.

3. Best management practices presented in the plan shall conform to the requirements found in the *TDEC Erosion & Sediment Control Handbook*, as amended, and shall meet or exceed the requirements of the *TDEC Construction General Permit*.
4. The plan shall include measures to protect legally protected state or federally listed threatened or endangered aquatic fauna and/or critical habitat (if applicable).
5. The plan submitted shall comply with any additional requirements set forth in the City's subdivision regulations, zoning ordinance, or other City ordinances and regulations.
6. Construction of the site in accordance with the approved plan must commence within one year from the issue date of the grading permit, or the grading permit will become null and void and the plan must be resubmitted for approval.

## 5.2 Plan Contents

Erosion and sediment control plans shall include the components of a Storm Water Pollution Prevention Plan, as required by the Tennessee Construction General Permit, as amended and any other information deemed necessary by the director.

## 5.3 Small lot erosion and sediment control plan contents

### 1. Requirements:

- a) Land disturbing activities that affect less than one acre and are not part of a larger common plan of development with an approved plan shall submit and obtain approval of a small lot erosion and sediment control plan prior to obtaining a building permit.
- b) The plan shall include the following information:
  1. address/location of land disturbing activity;
  2. owner/operator name and contact information;
  3. building permit application number (if available);
  4. locations of streams, wetlands, ponds, sinkholes, easements, existing drainage structures with respect to the site;
  5. a description of other construction related waste controls that are expected to be implemented on-site. Such details should include, but are not limited to: the construction/location of vehicle wash pads; litter and waste materials control; sanitary and chemical waste control, and concrete truck washout areas.
  6. approximate disturbed area limits; and
  7. Location of stabilized construction entrance/egress.
- c) The small site erosion and sediment control plan will be included with the building permit and must be followed by the building permit holder and the owner or operator.

- d) The Director has the discretion to require a fully engineered erosion and sediment control plan as set forth in Section 5.2.

### Section 6. Compliance

#### 6.1 Conformity to approved plan:

1. The owner or operator is responsible for maintaining compliance with the approved plan and grading permit.
2. The approved erosion and sediment control plan shall be followed during the entire duration of construction at the site;
3. The Director may require reports or records from the permittee or person responsible for carrying out the plan to ensure compliance.
4. No land disturbing activity shall be allowed to commence without prior plan approval by the Director.
5. Priority construction activities shall not commence until the owner/operator attends a pre-construction meeting with the director.

#### 6.2 Amendments to the approved plan:

The permittee shall modify and update the plan in accordance with the requirements of the Tennessee Construction General Permit, as amended.

#### 6.3 Inspection and Maintenance

1. Maintenance, site assessments, and inspections of the best management practices shall be implemented in the manner specified by the Tennessee Construction General Permit, as amended and the *TDEC Erosion & Sediment Control Handbook*, as amended, by qualified personnel who are provided by the owner/operator of the land disturbing activity.
2. The owner/operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the owner/operator to achieve compliance with this ordinance. Proper operation and maintenance requires the operation of backup or auxiliary facilities or similar systems, installed by an owner/operator only when necessary to achieve compliance with the conditions of this ordinance.
3. Any inadequate control measures or control measures in disrepair shall be replaced or modified, or repaired as necessary, in accordance with the inspection and maintenance timeframes stated in the Tennessee General Permit, as amended and the maintenance guidance provided in the *TDEC Erosion & Sediment Control Handbook*, as amended.
4. If sediment escapes the permitted property, the permittee shall remove off-site accumulations in accordance with the

requirements of the Tennessee Construction General Permit, as amended.

5. Records shall be retained in accordance with the Tennessee Construction General Permit, as amended.

#### 6.4 Inspections by the City

1. The Director or his/her designee shall have the right to enter onto private properties for the purposes of conducting unrestricted periodic inspections of all land disturbing activities to verify compliance with the approved plan or to determine whether such a plan is necessary.
2. The Director or his/her designee shall have the right to enter onto private properties for the purposes of investigating a suspected violation of this ordinance.
3. Failure on the part of a owner or operator to allow such inspections by the Director or his/her designee shall be cause for the issuance of a stop work order, withholding of a certificate of occupancy, and / or civil penalties.

#### 6.5 Enforcement, Penalties, and Liability

1. Any person failing to have an approved erosion and sediment control plan prior to starting a land disturbing activity violates this ordinance.
2. Any owner or contractor who fails to follow an approved erosion and sediment control plan shall have violated this ordinance and shall be subject to a civil penalty, a stop work order, withholding of a Certificate of Occupancy, and civil damages.
3. If sediment escapes the permitted property, off-site accumulations of sediment that have not reached a stream shall be removed at a frequency sufficient to minimize offsite impacts. For example, fugitive sediment that has escaped the construction site and has collected in the street must be removed so that it is not subsequently washed into storm sewers and streams by the next rain or so that it does not pose a safety hazard to users of public streets. Removal of fugitive sediments shall be done by the owner/operator at the owner/operator's expense. This ordinance does not authorize remediation/restoration of a stream without consultation with TDEC, nor does it authorize access by the owner/operator to other private property.
4. The owner and / or contractor shall allow periodic inspections by the City of all land disturbing activities. Failure to allow such inspections shall be considered a failure to follow the approved plan, and shall be subject to civil penalties, a stop work order, and withholding of a Certificate of Occupancy.
5. In order to gain compliance, the Director may notify other departments to deny service to the property until the site has been brought into compliance with this ordinance.

6. Any person who violates any provision of this ordinance may also be liable to the City in a civil action for damages.
7. The remedies provided for in this ordinance are cumulative and not exclusive, and shall be in addition to any other remedies provided by law.
8. Neither the approval of a plan under the provisions of this ordinance nor compliance with the conditions of such plan shall relieve any person of responsibility for damage to other persons or property or impose any liability upon the city for damage to other persons or property.
9. The City of Johnson City, pursuant to *Tennessee Code Annotated* §68-221-1106, hereby declares that any person who violates this ordinance is subject to a civil penalty of not less than Fifty Dollars (\$50.00) or more than Five Thousand Dollars (\$5000.00) per day for each day of violations. Civil penalties for any person who violates this ordinance involving property used or to be used solely as a single family residence, situated or to be situated on one (1) acre or less, shall be not less than Fifty Dollars (\$50.00) or more than Five Hundred Dollars (\$500.00) per day for each day of violation. Each day of violation constitutes a separate violation.
10. In assessing a civil penalty, the following factors may be considered:
  - (a) the harm done to the public health or the environment;
  - (b) whether or not the civil penalty imposed will be a substantial economic deterrent to the illegal activity;
  - (c) the economic benefit gained by the violator from the violation;
  - (d) the amount of effort put forth by the violator to remedy this violation;
  - (e) any unusual or extraordinary enforcement costs incurred by the City of Johnson City;
  - (f) any equities of the situation which outweigh the benefit of imposing any penalty or damage assessment.
11. The City of Johnson City may also assess damages proximately caused by the violator to the City which may include any reasonable expenses incurred in investigating and enforcing violations of this ordinance or any actual damages caused by the violation.
12. Appeal from any assessment of civil penalty or damages or both shall be to the Board of Commissioners of the City of Johnson City. A written petition for review of such damage assessment or civil penalty shall be filed by the aggrieved party in the office of the City Manager of the City of Johnson City within thirty (30) days after the

damage assessment or civil penalty is served upon the violator either personally or by certified mail, return receipt requested. Failure on part of the violator to file a petition for appeal in the office of the City Manager of the City of Johnson City shall be deemed consent to the damage assessment or civil penalty and shall become final.

- 13. Whenever any damage assessment or civil penalty has become final because of a violator's failure to appeal the City's damage assessment or civil penalty, the City may apply to the Chancery Court for a judgment and seek execution of the same.

SECTION II. BE IT FURTHER ORDAINED that all ordinances and parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION III. BE IT FURTHER ORDAINED that this ordinance shall take effect from and after its passage on third and final reading and publication as required by law, the public welfare requiring it.

PASSED IN OPEN, PUBLIC MEETING

ON THE FIRST READING 5/5/2016  
PASSED IN OPEN, PUBLIC MEETING  
ON THE SECOND READING 5/19/2016  
PASSED IN OPEN, PUBLIC MEETING  
ON THE THIRD READING 6/02/2016  
APPROVED AND SIGNED IN OPEN  
MEETING ON THE 2<sup>nd</sup> DAY OF  
June, 2016  
FOLLOWING PASSAGE ON THIRD  
READING

/s/ W. Clayton Stout  
MAYOR

ATTEST:

/s/ Janet Jennings  
CITY RECORDER

APPROVED AS TO FORM:

/s/ James H. Epps, IV  
CITY ATTORNEY

Upon motion by Commissioner Jenny Brock, seconded by Vice-Mayor David Tomita, the following resolution was offered for adoption. The motion **carried** by four ayes. Commissioner Jeff Banyas abstained from the vote. There were no nay votes.

BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE CITY OF JOHNSON CITY, That a Lease Agreement with Joe Wilson to house the operation of the Johnson City/Washington County Family Justice Center at 196 Montgomery Street with a change in the termination penalty from 20% of the outstanding base rent to 5%, be and the same is hereby approved.

Upon motion by Commissioner Ralph Van Brocklin, seconded by Commissioner Jenny Brock, **Ordinance No. 4602-16**, "AN ORDINANCE TO ESTABLISH PROPERTY TAX RATES, APPROPRIATE FUNDS, AND ADOPT A BUDGET FOR FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017," was **passed on first reading**. The motion **carried** by five ayes. There were no nay votes. Commissioner Ralph Van Brocklin requested a look into prioritizing Performing Arts Center funding and Athletic Fields before second reading. Commissioner Jeff Banyas requested that the capital list be prioritized from #1 to the last item for the General Fund. A workshop will be set for further discussion.

At this time, a public hearing was held regarding Ordinance No. 4602-16. No one spoke for or against this item.

At this time, Janet Jennings, Finance Director, presented the Financial Statement Review.

At this time, City Manager Pete Peterson announced that the City of Johnson City Fire Department ISO rating has been upgraded to a 1. We are one of 3 cities in Tennessee with this rating.

There being no further business or discussion, Mayor Clayton Stout adjourned the meeting at 8:28 p.m.

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CLAYTON STOUT  
MAYOR

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JANET JENNINGS  
CITY RECORDER

ITEMS DEFERRED:

1. Consideration of a Master Services Agreement with Barge, Waggoner, Sumner and Cannon.
2. Consideration of Task Order #1 for Barge, Waggoner, Sumner and Cannon for the Bunker Hill Tank Replacement.

ACTION ITEMS:

1. A workshop will be set for further discussion of Ordinance No. 4602-16. (Commissioner Ralph Van Brocklin requested a look into prioritizing Performing Arts Center funding and Athletic Fields before second reading. Commissioner Jeff Banyas requested that the capital list be prioritized from #1 to the last item for the General Fund).