

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

November 14, 2016 —7:00 p.m.

**AGENDA**

**I. INVOCATION**

Pastor Curtis McClane, Highland View Church of Christ

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. APPEARANCE OF CITIZENS**

**V. PROCLAMATIONS AND PUBLIC RECOGNITIONS**

**Public Recognitions**

**Proclamations**

- a. A proclamation designating November 17, 2016 as World Pancreatic Cancer Day
- b. A proclamation designating November 27-December 3, 2016 as Civil Air Patrol Week
- c. A proclamation designating November 29, 2016 as Secret City Gives Day

**VI. SPECIAL REPORTS**

- a. 2016 Annual Report from the Oak Ridge Heritage Railroad Authority – Chairman Gordon Fee

**VII. CONSENT AGENDA**

- a. Approval of the October 10, 2016 City Council regular meeting minutes
- b. Approval of the October 18, 2016 City Council special meeting minutes

**VIII. RESOLUTIONS**

- a. A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN OPERATIONAL AGREEMENT WITH THE OAK RIDGE BOARD OF EDUCATION FOR CERTAIN FACILITIES, INCLUDING BLANKENSHIP FIELD.
- b. A RESOLUTION AUTHORIZING AN AMENDMENT IN THE AMOUNT OF \$15,000.00 TO THE PROFESSIONAL SERVICES AGREEMENT (FY2016-147) WITH LUNA LAW GROUP, PLLC, FOR LEGAL SERVICES RELATED TO AN APPEAL BEFORE THE STATE OF TENNESSEE BOARD OF WATER QUALITY, OIL & GAS IN THE REED CASE.

IX. PUBLIC HEARINGS AND FIRST READING OF ORDINANCES

First Reading of Ordinances

- a. AN ORDINANCE TO AMEND TITLE 13, TITLED "PROPERTY MAINTENANCE REGULATIONS," CHAPTER 6, TITLED "OAK RIDGE LAND BANK CORPORATION," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY AMENDING SECTION 13-604, TITLED "BOARD OF DIRECTORS," SUBSECTION (C), TO GRADUALLY CHANGE THE TERM OF OFFICE FOR DIRECTORS FROM TWO YEARS TO THREE YEARS.

X. FINAL ADOPTION OF ORDINANCES

- a. AN ORDINANCE TO AMEND ORDINANCE NO. 21-82, AS AMENDED, BY DELETING THE PROVISION OF SECTION 13 PERTAINING TO THE SCHEDULE OF WASTEWATER RATES IN ITS ENTIRETY, AND SUBSTITUTING THEREFOR A NEW SCHEDULE OF WASTEWATER RATES.

XI. ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

a. Elections/Appointments

b. Announcements

c. Scheduling

- i. Cancellation of Work Session on November 15, 2016

XII. COUNCIL REQUESTS FOR NEW BUSINESS ITEMS OR FUTURE BRIEFINGS

XIII. SUMMARY OF CURRENT EVENTS

a. CITY MANAGER'S REPORT

b. CITY ATTORNEY'S REPORT

XIV. ADJOURNMENT

**PROCLAMATIONS  
AND  
PUBLIC RECOGNITIONS**

**CITY CLERK MEMORANDUM**  
**16-30**

DATE: November 3, 2016  
TO: Honorable Mayor and Members of City Council  
FROM: Mary Beth Hickman, City Clerk  
SUBJECT: PROCLAMATIONS FOR THE NOVEMBER 14, 2016 CITY COUNCIL MEETING  
AGENDA

The following proclamations are presented for the November 14, 2016 City Council meeting for the City Council's consideration:

A proclamation designating November 17, 2016 as World Pancreatic Cancer Day

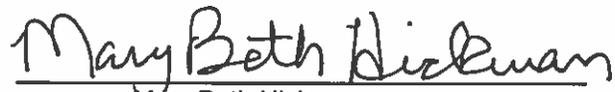
This request was submitted by Mayor Warren Gooch in response to a request from Oak Ridge resident Christy Hembree, who lost her father to pancreatic cancer in 2011.

A proclamation designating November 27-December 3, 2016 as Civil Air Patrol Week

This request was submitted by Major Clarence Juneau, Public Affairs Officer for the Oak Ridge Composite Squadron Civil Air Patrol. December 1<sup>st</sup> marks the 75<sup>th</sup> Anniversary of the Civil Air Patrol. The Oak Ridge squadron was organized on November 6, 1943. Major Juneau has also requested that the Cadets of the Oak Ridge Composite Squadron Color Guard be allowed to present the Colors at the November City Council meeting as well as lead the Pledge of Allegiance.

A proclamation designating November 29, 2016 as Secret City Gives Day

This request was submitted by Naomi Asher, Executive Director of United Way of Anderson County, through Mayor Warren Gooch. United Way has partnered with the nine other organizations listed in the proclamation to promote a day of giving in Oak Ridge. All money donated on that day will be collected into a single fund and distributed among the participating organizations. Ms. Asher will be present at the City Council meeting to accept the proclamation, and she has asked representatives from each of the aforementioned organizations to attend the meeting as well.

  
\_\_\_\_\_  
Mary Beth Hickman

Attachments:

Proclamation designating November 17, 2016 as World Pancreatic Cancer Day  
Proclamation designating November 27-December 3, 2016 as Civil Air Patrol Week  
Proclamation designating November 29, 2016 as Secret City Gives Day

# PROCLAMATION

**WHEREAS**, in 2016, an estimated 53,070 people in the United States will be diagnosed with pancreatic cancer, one of the deadliest cancers, and an estimated 41,780 will die from the disease; and

**WHEREAS**, pancreatic cancer surpassed breast cancer this year to become the third leading cause of cancer deaths in the United States, and it is projected to become the second leading cause by 2020; and

**WHEREAS**, pancreatic cancer is the only major cancer with a five-year relative survival rate in the single digits at just eight percent; and

**WHEREAS**, when symptoms of pancreatic cancer present themselves, it is generally in later stages, and 71 percent of pancreatic cancer patients die within the first year of their diagnosis; and

**WHEREAS**, approximately 870 deaths will occur in Tennessee in 2016; and

**WHEREAS**, pancreatic cancer is the seventh most common cause of cancer-related death in men and women across the world; and

**WHEREAS**, there will be an estimated 418,451 new pancreatic cancer cases diagnosed worldwide in 2020; and

**WHEREAS**, the good health and well-being of the residents of Oak Ridge are enhanced as a direct result of increased awareness about pancreatic cancer and research into early detection, causes and effective treatments.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE**, that November 17, 2016 be proclaimed

## WORLD PANCREATIC CANCER DAY

in the City of Oak Ridge, Tennessee, and encourage all citizens to become more informed about pancreatic cancer and its causes and to practice diligent early detection efforts.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 14<sup>th</sup> day of November in the year 2016.

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**WARREN L. GOOCH, MAYOR**

# PROCLAMATION

**WHEREAS**, Civil Air Patrol was founded on December 1, 1941 to supplement the U.S. military during World War II; and

**WHEREAS**, the Oak Ridge Civil Air Patrol Squadron was organized on November 6, 1943; and

**WHEREAS**, in 1948, the Civil Air Patrol was designated as the U.S. Air Force's official auxiliary with three missions – emergency services, cadet programs and aerospace education; and

**WHEREAS**, since its beginning, the Civil Air Patrol has set itself apart during the country's most tumultuous times – locating enemy submarines during World War II, assisting rescuers and state agencies immediately following the September 11, 2001 terrorist attacks, heavily supporting hurricane relief efforts in 2005, 2008, 2012, and 2016 responding to the 2010 Gulf Coast oil spill, as well as aiding communities during other natural disasters, such as floods, wildfires, ice storms, and tornadoes; and

**WHEREAS**, the Civil Air Patrol further provides vital homeland security missions that help ensure the protection of the nation's capital and the nation as a whole by assisting Air Force pilots with target-intercept training as well as the military with acquiring distant targets; and

**WHEREAS**, the Civil Air Patrol provides exceptional educational and growth opportunities for youth through its nearly 24,000-member strong cadet program, which annually provides access to top national summer flight academies to learn to fly powered or glider aircraft, as well as to more than 30 national programs emphasizing leadership and careers in aviation; and

**WHEREAS**, the Civil Air Patrol's Aerospace Education Program annually touches more than 1,800 educators, more than 150,000 youths – cadets and others in classrooms across America – teaching multidisciplinary aviation concepts that emphasize aviation's connection to history, math, science, government and economics.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE**, that November 27-December 3, 2016 be proclaimed

## CIVIL AIR PATROL WEEK

in the City of Oak Ridge, Tennessee, and encourage all citizens to show appreciation to the Civil Air Patrol for 75 years of outstanding programs which have touched the lives and ensured the safety of our citizens.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 14<sup>th</sup> day of November in the year 2016.

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**WARREN L. GOOCH, MAYOR**

# PROCLAMATION

**WHEREAS**, United Way of Anderson County, Habitat for Humanity, TORCH, the Boys and Girls Clubs of the Clinch Valley, Girls, Inc., CASA, Contact Care Line, Oak Ridge Playhouse, Aid to Distressed Families of the Appalachian Counties and the Family Resource Center have collectively served thousands of families and individuals in Anderson County; and

**WHEREAS**, the collaboration of these ten organizations for the 2016 Giving Tuesday on November 29<sup>th</sup> represents a unified commitment to continued service in Anderson County to further the availability of resources, programs and the arts in the community; and

**WHEREAS**, by supporting the organization of their choice, each resident of the City of Oak Ridge can help to create opportunities for people to improve their quality of life; and

**WHEREAS**, all donated money will be collected into a single fund to be distributed among the participating organizations; and

**WHEREAS**, this unified effort will highlight the generous spirit of our Oak Ridge community; and

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE**, that November 29, 2016 be proclaimed

## SECRET CITY GIVES DAY

in the City of Oak Ridge, Tennessee, and that all citizens be urged to contribute to the community by volunteering their time or making a contribution to a worthy organization that works to improve the quality of life of Oak Ridge residents.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused the Great Seal of the City of Oak Ridge to be affixed, this the 14<sup>th</sup> day of November in the year 2016.

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**WARREN L. GOOCH, MAYOR**

# SPECIAL REPORTS



**Oak Ridge  
Heritage Railroad Authority**

P. O. Box 5163

Oak Ridge, TN 37831-5163

**Phone:** 865.220.1220

**Fax:** 865.220-1561

Authority Members

Gordon G. Fee, Chairman  
Dr. Pete Craven, Secretary/Treasurer

October 18, 2016

NOV 16 2:21 PM  
OFFICE OF THE  
CITY CLERK

Mayor City of Oak Ridge  
P.O. Box 1  
Oak Ridge, TN 37831-0001

Subject: Oak Ridge – Heritage Railroad Authority Annual Report 2016  
(Covers from October 1, 2015 to September 30, 2016)

Dear Mayor:

The Oak Ridge – Heritage Railroad Authority is pleased to submit it's 2015/2016 Annual Report to City Council in accordance with Council's resolution and State Law.

EXECUTIVE SUMMARY: During this year, a number of factors significantly impacted railroad operations at ETPP including,

1. The unilateral decision by EnergySolutions to terminate the operating agreement for the Southern Appalachian Railway Museum and force them to vacate the site.
2. The proposal to locate an airport on the site and to site the runway adjacent to one of the railroad spurs.
3. The birth of the Manhattan Project Historical National Park on the site.
4. The decision by EnergySolutions to significantly curtail storage of rail cars on the site and therefore the deferral of any further upgrading of the rail lines.
5. The unavailability of any State funds to assist in maintenance of the rail line and bridges due to the law suits by the Class I railroads. No change is expected in this situation for at least a year and probably two.

The traffic on the railroad line remains very low and today is almost entirely associated with the owner EnergySolutions. At this time there are no prospective new customers for rail service and therefore the operations must continue to be subsidized by EnergySolutions.

BACKGROUND

The Oak Ridge – Heritage Railroad Authority was established by the Oak Ridge City Council on August 20, 2001. By State Law Railroad Authorities are chartered to assist cities and counties to maintain adequate and safe railroad service. Historically Authorities, in fulfillment of this role, have been eligible to receive State appropriated funds to upgrade short-line railroads that fall in their service area. In this capacity the Oak Ridge – Heritage Railroad Authority has received from the State of Tennessee \$2,282.796.04 from 2002 through June 30, 2013. These funds have been used to upgrade the bridges and track owned by the Heritage Railroad Corporation that services the East Tennessee Technology Park. The actual land which the railroad operates on is still owned by the Department of Energy (A summary of the annual appropriations is provided in Exhibit A.) Heritage Railroad Corporation, which is a wholly owned subsidiary of EnergySolutions, is classified as a public carrier.

Contracts for the actual operations and maintenance of the railroad from Walden's Ridge Railway Corporation. THIS IS THE ONLY RAIL SERVICE AVAILABLE TO THE CITY OF OAK RIDGE. It is important to recognize that the Oak Ridge – Heritage Railroad Authority has no regulatory authority over the railroad and can not obligate or expend any City funds of any kind.

During State fiscal year 2013/2014 and continuing into this fiscal year, no State Funds have been made available to any Railroad Authority or short-line railroad. The reason for this is that the large Class I main line railroads e.g. Norfolk Southern and CSX sued the State of Tennessee on the grounds that the taxing system that funded the short-line railroad upgrade program was unconstitutional. The Federal Judge who heard the case agreed and the case is now on appeal. To fix the problem the State Legislature passed legislation that changed the way the tax funds were collected and the Governor signed it into law. However the Class I railroads immediately filed suit again claiming it was still unconstitutional and that case is now moving forward through the court system. Therefore the State has now advised the Short Line Railroad Association that the earliest any new funds might be available is the fall of 2017 and that if funds are available there may be a change in the way they are distributed to the 18 short-lines across the State.

As a result of the State not providing any new funds to the Heritage Railroad Authority, EnergySolutions paid for all administrative costs created by the Authority e.g. secretarial assistance. EnergySolutions also pays for all maintenance and upgrades to the Heritage Railroad which they own.

Since the Authority had no funds available and as a result no fiscal transactions of any kind were completed, no fiscal audit was done. The State was advised of the situation by letter dated March 3, 2016.

#### Report on the status of rail service

- A. Rail Operations. A number of factors have or will impact Heritage Railroad Company operations and rail service to the City of Oak Ridge in the immediate and long-term future. These include;
  - a. Construction of the Proposed Airport. As Council knows, an airport has been proposed to be built on the ETTP site. It is our understanding that the proposed runway location would be adjacent to the railroad spur that serves the old power house/S-50 area. It is not known at this time whether or not the FAA will allow the railroad to operate at its current location should this be the runway site. If they do not there are several options that would need to be pursued, (1) relocate the spur by moving it west, (2) relocate the runway, or (3) discontinue rail service to the power house/S-50 area. The latter option could result in that area being less attractive to any industry that might locate there and require rail service. Since DOE still owns the land the railroad operates on, any decision to abandon this spur would have to be approved by them.
  - b. EnergySolutions Termination of Southern Appalachian Railroad Museum Operating Permit. The Southern Appalachian Railroad Museum (SARM) has been located at ETTP since 1990 and has operated excursion trains out of the site for almost 25 years. In late May 2016, EnergySolutions, the parent company of Heritage Railroad, made a unilateral decision, without any discussion with any one, to not renew the contract that would allow SARM to

continue to be housed at ETTP and to operate any excursion trains. SARM was given 48 hours to cease operations and to vacate the site by no later than December 31, 2016. The shut-down notice came one day before a holiday weekend and one week before the City's Secret City Festival, both of which were always high ridership days for the excursion train. This precipitous action by EnergySolutions has had some immediate and long-term impact on tourism for the City of Oak Ridge. The alleged reason that EnergySolutions made this decision is that they were concerned about their liability exposure associated with carrying passengers. In their public comments EnergySolutions management also made certain observations about SARM that we the Railroad Authority do not believe to be true. Specifically;

- i. "Since taking over the railroad EnergySolutions has paid all the operating costs associated with SARM". This is categorically false. EnergySolutions has allowed SARM to operate on the railroad without paying any tariff per passenger as they had previously been required to do by CROET. However SARM has always paid for all the operating costs associated with the Museum including parts, fuel, insurance, etc. and operated as its own 501C3 organization. All labor to operate the excursion trains, to maintain them and to refurbish historic cars has been done by the 150 members of SARM on a volunteer basis.
- ii. "SARM has not been a successful Museum and has not built it into a booming business". We would take issue with this statement and point out that SARM, as a not for profit entity, run by volunteers, has a remarkable accomplishment record. Over their 25 year history, they have accumulated ~43 historic railroad cars and preserved them being scrapped. Five to seven of them have been fully restored by volunteers and are operational. Over one hundred thousand people have ridden the excursion trains and learned of the history of the ETTP site or eaten dinner on a train. SARM now has over 150 members who are dedicated to preserving railroad history. SARM never has been designed to be a for profit business who is judged by how much money it makes.
- iii. "There is a risk of having a serious accident. After all there was one derailment". For their 25 year history, SARM has a good safety record. The one derailment, according to the experts, was caused by a defect in rail spacing and not due to any operational error by SARM. One of the factors which have contributed to their safety record is that the State of Tennessee has invested over \$2,000,000 In State funds to assist in maintaining the bridges and rail line and a significant part of justification for this investment was the existence of the passenger excursion train. EnergySolutions admits that SARM carried adequate liability insurance for their operations. It is interesting to note that currently there are four or five excursion trains operating on other short-lines in Tennessee. They are looked upon by their communities, including Knoxville, as a prime tourist attraction that generates revenue for the local economy.

State Representative John Ragan convened a meeting of impacted organizations and encouraged EnergySolutions and SARM to seek a resolution that would allow SARM to stay at ETTP. He and Senator McNally are investigating as to whether or

not there is any possible legislative fix that might help resolve the issue. As of the issuing of this report, there are no signs that EnergySolutions will agree to issue a new operating permit and as a result SARM has begun leasing their restored cars and engines to other short-line railroads that run excursion trains and are seeking alternative solutions to scrapping or relocating the unrestored stock some where else. Once scrapped these historical treasures will be gone forever. Failure to allow SARM to operate or have any presence at ETTP will likely cause the organization to disband.

- B. Storage of Rail Cars at ETTP: For a number of years, it has been a business practice of Heritage Railroad Company to store both empty and full rail road cars on the site for a variety of customers. Since most of the rail line at the site is underutilized this has been done in cooperation with the railroad operator, Walden Ridge, in order to generate revenue. We have been advised that EnergySolutions has made a business decision to stop storing any cars, empty or full, that have been used to haul hazardous materials for any outside customers. This will likely decrease the traffic on the line significantly but will minimize any safety concerns that are associated with storing hazardous chemical cars. EnergySolutions also stores their own rail cars on the site and recently obtained approval from the State to store a small number of radioactive contaminated cars.
- C. Birth of the Manhattan Project Historical Park: In December of 2015, Congress gave birth to the Manhattan Project National Park. The legislation specifically included the 90 acre footprint of the original K-25 building to be part of the National Park. In addition DOE has an agreement to build and open a history center and equipment exhibit hall adjacent to the footprint all of which should bring a significant number of visitors onsite in future years. It had been hoped that the SARM would be an additional draw for visitors to the National Park. Before the Park is opened to the public, a review should be made to determine if any changes should be made to assure safe access during any train movements or loading/unloading operations.
- D. Upgrade Status: As a result of receiving the \$2,000,000 from the State of Tennessee, and funding provided by the Railroad owners i.e. EnergySolutions and previously CROET, approximately 5 miles of the 11.5 miles of track have been upgraded to the 286 standard. (This means that that portion of the line can carry fully loaded freight cars weighing 286,000 pounds.) This is now the standard for all Class I railroads. NOTE: This is a standard and not a requirement. However, as previously stated, we have 5 miles of this standard 286 track. A year ago in this report we reported that EnergySolutions had told us that they intended to complete upgrading all the remaining line to 286 using corporate funds. As a result of shutting down the SARM excursion trains and stopping the storage of some cars for other companies, EnergySolutions no longer intends to upgrade the remaining rail unless a new customer with needs in this area locates on the site.
- E. Bridge Inspection: All bridges on the Heritage Railroad must be inspected each year by a qualified engineering firm. Crouch Engineering completed this annual inspection in May of 2016 and their final report was submitted to TDOT soon thereafter. THEIR INSPECTION INDICATED THAT ALL FIVE BRIDGES ON THE LINE ARE IN SATISFACTORY CONDITION AND THAT THERE WERE NO ISSUES REQUIRING IMMEDIATE REPAIR.

F. Traffic Count: A summary of the traffic carried over last several years is shown below.

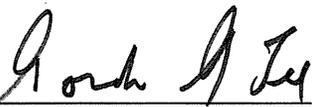
<u>Year</u>	<u>Rail Cars*</u>	<u>Passengers Carried</u>
2012	1,491	6,209
2013	282	3,278
2014	276	3,826
2015	824	4,946
2016 YTD	281	Terminated May 28, 2016

- Rail Car numbers due not include only freight cars and do not include the passenger cars from the excursion train.

WITH THE TERMINATION OF SARM OPERATIONS AND THE DECREASE IN THE NUMBER OF RAILCARS STORED FOR OTHER CUSTOMERS, IT IS EXPECTED THAT THE TRAFFIC COUNT WILL DECREASE. Unless other industries locate at ETPP that require rail service, EnergySolutions will continue to have to subsidize the cost of operating the railroad and maintaining the bridges, track, and rolling stock. .

The Oak Ridge – Heritage Railroad Authority met and approved this report on October 18, 2016. We would be happy to provide any additional information needed by the City of Oak Ridge.

Sincerely,

  
Gordon Fee, Chairman

  
Pete Craver, Secretary/Treasurer

cc: Mike Lahr, Chief Executive Officer  
Ken Krushenski, Oak Ridge City Attorney  
Mark Watson, Oak Ridge City Manager  
George Moss, TDOT

\* Subsidy is not expected to exceed several hundred thousand dollars.

Exhibit A  
 Annual Funding Received From State of Tennessee

Fiscal Year	Engineering	Bridge Upgrade	Track Upgrade	Total Allocation
2002/2003	\$ 44,981.00	\$ 54,942.00	\$ 191,004.00	\$ 290,927.00
2003/2004	\$ 25,915.00	\$ 60,896.00	\$ 191,004.00	\$ 277,815.00
2004/2005	\$ 24,293.00	\$ 48,454.00	\$ 197,721.00	\$ 270,468.00
2005/2006	\$ 19,328.00	\$ 50,661.00	\$ 97,788.00	\$ 167,777.00
2006/2007	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,207.00
2007/2008	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,206.00
2008/2009	\$ 20,197.00	\$ 49,374.00	\$ 119,635.00	\$ 189,206.00
2009/2010	\$ 19,576.00	\$ 52,291.84	\$ 103,176.20	\$ 175,044.04
2010/2011	\$ 25,842.00	\$ 37,368.00	\$ 105,084.00	\$ 168,294.00
2011/2012	\$ 17,743.00	\$ 37,368.00	\$ 107,981.00	\$ 163,092.00
2012/2013*	\$ 20,481.00	\$ 46,427.00	\$ 134,852.00	\$ 201,760.00
2013/2014	\$0	\$0	\$0	\$0
2014/2015	\$0	\$0	\$0	\$0
2015/2016	\$0	\$0	\$0	\$0
Total	\$ 258,750.00	\$ 536,529.84	\$ 1,487,515.20	\$ 2,282,796.04

In order to receive these funds from the State of Tennessee, the Railroad had to provide matching funds that ranged from 10 to 20% in any given year. In all cases, in accordance with the City Ordinance that created the Authority, no City funds were used. All matching funds were provided by the Railroad Owners, i.e. EnergySolutions or CROET.

# CONSENT AGENDA

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

October 10, 2016

Minutes

The regular meeting of the City Council of the City of Oak Ridge, Tennessee convened at 7:00 p.m. on October 10, 2016 in the Courtroom of the Municipal Building with Mayor Warren L. Gooch presiding.

**INVOCATION**

The invocation was given by Aleta Ledendecker, Secretary of the Rationalists of East Tennessee.

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance to the Flag of the United States of America was led by Councilmember Hensley.

**ROLL CALL**

Upon roll call the following councilmembers were present: Councilmember Kelly Callison; Councilmember Rick Chinn, Jr.; Mayor Warren L. Gooch; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr.; and Mayor Pro Tem Ellen D. Smith. Councilmember Trina Baughn was absent.

Also present were Mark S. Watson, City Manager; Mary Beth Hickman, City Clerk; Janice McGinnis, Finance Director and Kenneth R. Krushenski, City Attorney.

**APPEARANCE OF CITIZENS**

Mark Christy, 22 Outer Drive, Oak Ridge, addressed Council regarding the practice of invocations at City Council meetings.

Martin McBride, 954 W. Outer Drive, Oak Ridge, addressed Council regarding his request that an invitation be extended to representatives from the Department of Energy to attend the November City Council meeting.

**PROCLAMATIONS AND PUBLIC RECOGNITIONS**

Public Recognitions

Ms. Jerry Luckmann and Mr. Tom Roe from the Sister City Support Organization addressed the City Council and thanked them for their continued support of the Sister City Exchange Program with students from Naka, Japan. Ms. Luckmann thanked Councilmember Rick Chinn for representing the City in Naka, Japan at the 25<sup>th</sup> Anniversary celebration of the Sister City program. She also thanked Mayor Gooch for spending time with the students at the Municipal Building and allowing them to participate in a mock City Council meeting during their visit to Oak Ridge. Several of the students who participated in the exchange program this year also expressed their thanks to City Council for its support. Councilmember Chinn expressed his gratitude to Council for allowing him to represent the City of Oak Ridge in Naka, and he stated that he could not be more proud of our city and the students who represented it on the trip.

Proclamations

*A proclamation expressing support for members of the National Guard and Reserve.*  
Councilmember Hensley moved for approval, and Councilmember Hope seconded. The proclamation was

approved unanimously by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting “Aye.”

*A proclamation recognizing William Bear Stephenson for receipt of the Aid to Distressed Families of the Appalachian Counties (ADFAC) Bill Wilcox Bow Tie Award.*

Mayor Pro Tem Smith moved for approval, and Councilmember Hope seconded. The proclamation was approved unanimously by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting “Aye.”

*A proclamation designating October, 2016 as Fire Prevention Month.*

Councilmember Hope moved for approval, and Councilmember Hensley seconded. The proclamation was approved unanimously by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting “Aye.”

### **SPECIAL REPORTS**

#### *City Attorney Evaluation Committee Report*

Councilmember Rick Chinn, chair of the City Attorney Evaluation Committee, gave the committee’s report. The Committee recommended a 3% increase consistent with that of other city employees and a one-year contract extension to March 1, 2019. Councilmember Chinn moved for approval of the Committee’s report, and Mayor Gooch seconded. The report and accompanying resolution were unanimously approved by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting “Aye.”

#### *City Manager Evaluation Committee Report*

Councilmember Kelly Callison, chair of the City Manager Evaluation Committee, gave the committee’s report. The Committee recommended a 3% increase consistent with that of other city employees and a two-year contract extension through August 8, 2020. The Committee also recommended that the City Manager be authorized to attend the Senior Executive Institute at the University of Virginia. Councilmember Callison moved for approval of the committee’s report, and Councilmember Hensley seconded. The report and accompanying resolution were unanimously approved by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch, and Mayor Pro Tem Smith voting “Aye.”

### **CONSENT AGENDA**

Councilmember Chinn moved for adoption of the Consent Agenda, and Councilmember Callison seconded.

The Consent Agenda was unanimously adopted by voice vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Pro Tem Smith, and Mayor Gooch voting “Aye.”

Approval of the September 6, 2016 City Council special meeting minutes

Approval of the September 12, 2016 City Council regular meeting minutes

A RESOLUTION RENEWING THE INTERLOCAL AGREEMENT WITH THE GREAT SMOKY MOUNTAINS REGIONAL GREENWAY COUNCIL AND RE-AFFIRMING THE APPOINTMENTS OF JON HETRICK AS THE CITY’S GOVERNMENT REPRESENTATION AND ROGER MACKLIN AS THE CITY’S CITIZEN REPRESENTATIVE ON THE GREENWAY COUNCIL.

### **RESOLUTIONS**

A RESOLUTION GRANTING A PERMIT TO KALPESH TRAMBADIA AND NILAYKUMAR TRAMBADIA TO ENGAGE IN THE RETAIL SALE OF ALCOHOLIC BEVERAGES IN THE CITY OF OAK RIDGE AT TURNPIKE LIQUOR STORE, 331 OAK RIDGE TURNPIKE, AND WAIVING THE RESIDENCY REQUIREMENT FOR BOTH APPLICANTS.

Due to a potential conflict of interest Mayor Gooch removed himself from the dais and turned the chair over to Mayor Pro Tem Ellen Smith. Councilmember Hensley moved for adoption of the resolution, and Councilmember Callison seconded. There was discussion among Council members regarding the residency requirement for liquor store licenses.

Anne Garcia Garland, 120 Outer Drive, stated that the city code should be changed pertaining to the residency requirement for liquor store licenses as she believes there are no other types of businesses limited in this manner.

The resolution failed by board vote with Councilmembers Callison, Hensley, and Mayor Pro Tem Smith voting "Aye," and Councilmembers Chinn and Hope voting "No." Mayor Gooch did not vote.

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AND ISSUE ON BEHALF OF THE CITY OF OAK RIDGE CERTIFICATES OF COMPLIANCE FOR KALPESH TRAMBADIA AND NILAYKUMAR TRAMBADIA TO ENGAGE IN THE RETAIL SALE OF ALCOHOLIC BEVERAGES AT TURNPIKE LIQUOR STORE, 331 OAK RIDGE TURNPIKE.

[The next resolution was skipped and brought up for further discussion at the end of "Resolutions."]

A RESOLUTION APPROVING AN AGREEMENT WITH LDA ENGINEERING TO CONVERT THE CITY'S WATER SYSTEM MAPS FROM COMPUTER-AIDED DESIGN (CAD) TO GEOGRAPHIC INFORMATION SYSTEM (GIS) IN AN AMOUNT NOT TO EXCEED \$125,000.00.

Councilmember Hensley moved for adoption of the resolution, and Councilmember Callison seconded. City Manager Mark Watson provided an overview of the resolution and answered questions from Council.

The resolution was unanimously adopted by board vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting "Aye."

A RESOLUTION AUTHORIZING TRANSMITTAL OF COMMENTS TO THE NATIONAL PARK SERVICE, U.S. DEPARTMENT OF THE INTERIOR, AND THE U.S. DEPARTMENT OF ENERGY ON THE DRAFT FOUNDATION DOCUMENT FOR THE MANHATTAN PROJECT NATIONAL HISTORICAL PARK (TENNESSEE, NEW MEXICO, WASHINGTON) DATED SEPTEMBER 2016.

Councilmember Callison moved for adoption of the resolution, and Councilmember Chinn seconded. Amy Fitzgerald, Director of Government and Information Services, and City Manager Mark Watson provided an overview of the resolution.

The resolution was unanimously adopted by board vote with Councilmembers Callison, Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting "Aye."

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AND ISSUE ON BEHALF OF THE CITY OF OAK RIDGE CERTIFICATES OF COMPLIANCE FOR KALPESH TRAMBADIA AND NILAYKUMAR TRAMBADIA TO ENGAGE IN THE RETAIL SALE OF ALCOHOLIC BEVERAGES AT TURNPIKE LIQUOR STORE, 331 OAK RIDGE TURNPIKE.

Due to a potential conflict of interest, Mayor Gooch removed himself from the dais and turned the chair over to Mayor Pro Tem Smith.

Councilmember Hope moved for adoption of the resolution, and Mayor Pro Tem Smith seconded. City Attorney Ken Krushenski explained that action needs to be taken on the item even though the first resolution pertaining to this issue failed. He stated that under state law, if no action was taken, the certificate would automatically be granted within 60 days.

The resolution failed by board vote with Councilmembers Callison, Hensley, and Mayor Pro Tem Smith

voting “Aye,” and Councilmembers Chinn and Hope voting “No.”

**PUBLIC HEARINGS AND FIRST READING OF ORDINANCES**

**FINAL ADOPTION OF ORDINANCES**

**ELECTIONS/APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING**

**Elections/Appointments**

**Announcements**

**Scheduling**

The City Clerk distributed a tentative calendar for the remainder of the year to members of Council. The dates contained in the calendar are listed below:

Tuesday, October 18th – City Council Work Session, Multipurpose Room, Central Services Complex

Wednesday, October 19th - Budget and Finance Committee (tentative pending discussion with the Committee)

Tuesday, November 8th – Election Day

Monday, November 14th – City Council Regular Meeting

Tuesday, November 15th – Proposed Work Session (One week early due to Thanksgiving holiday)

Monday, December 12th – City Council Regular Meeting and ceremonial swearing-in of new Council members

Tuesday, December 13th – City Council Work Session TBD

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

Councilman Callison asked for a brief report on the current financial status of the City. Finance Director Janice McGinnis stated that the City ended last year higher than expected due to the rebounding of Roane County sales tax revenue. She stated that the tax roll is performing up to expectations.

**SUMMARY OF CURRENT EVENTS**

**CITY MANAGER’S REPORT**

City Manager Mark Watson announced the City Council work session for October 18, which will include a discussion of the report on the water plant, upcoming boards and commissions, and a draft of the legislative agenda.

Mr. Watson also made City Council aware of a letter of support for the Tennessee College of Applied Technology (TCAT) Knoxville “Drive to 55” Project Capacity Grant that was signed by the Mayor and the City Manager pertaining to the location of a College of Applied Technology in Anderson County.

Mr. Watson also informed City Council that the City had received an acknowledgement of approval from the state Comptroller's office of the Waterworks Interfund loan capital outlay note.

**CITY ATTORNEY'S REPORT**

**ADJOURNMENT: 8:17 p.m.**

**OAK RIDGE CITY COUNCIL SPECIAL MEETING**  
Central Service Complex Multi-Purpose Room

October 18, 2016

Minutes

The special meeting of the City Council of the City of Oak Ridge, Tennessee convened at 6:00 p.m. on October 18, 2016 in the Multi-Purpose Room of the Central Services Complex with Mayor Warren L. Gooch presiding.

**ROLL CALL**

Upon roll call the following councilmembers were present: Councilmember Rick Chinn, Jr; Mayor Warren L. Gooch; Councilmember L. Charles Hensley; Councilmember Charles J. Hope, Jr. and Mayor Pro Tem Ellen D. Smith. Councilmembers Trina Baughn and Kelly Callison were absent.

Also present were Mark S. Watson, City Manager; Mary Beth Hickman, City Clerk; and Kenneth R. Krushenski, City Attorney.

**ITEM FOR DISCUSSION**

A PROCLAMATION HONORING PATRICIA IMPERATO AND RECOGNIZING HER SERVICE TO THE CITY OF OAK RIDGE.

Mayor Pro Tem Smith moved for approval of the resolution, and Councilmember Hensley seconded.

Several citizens spoke in honor of Ms. Imperato, including Tom Beehan, Chairman of the Children's Museum Board of Directors, Linda Kimmel and Ruby Miller with Keep Anderson County Beautiful, Robert Kennedy, board member of the Environmental Quality Advisory Board, and Mike Morris with the Westwood Neighborhood Association.

Councilmember Hensley presented a plaque honoring Ms. Imperato to her husband from the Oak Ridge Municipal Planning Commission.

The proclamation was approved unanimously by voice vote with Councilmembers Chinn, Hensley, Hope, Mayor Gooch and Mayor Pro Tem Smith voting "Aye."

**ADJOURNMENT**

The meeting adjourned at 6:15 p.m.

# RESOLUTIONS

**CITY COUNCIL MEMORANDUM**  
**16-32**

DATE: November 9, 2016  
TO: Honorable Mayor and Members of City Council  
FROM: Mark S. Watson, City Manager  
SUBJECT: BLANKENSHIP FIELD

Introduction

An item for City Council's consideration is a resolution authorizing the City to enter into an operational agreement with the Oak Ridge Board of Education for certain facilities, including Blankenship Field.

Background

The City of Oak Ridge and the Board of Education have supported the efforts of local individuals to fund and implement upgrades to Blankenship Field. The City has previously submitted a grant application for synthetic turf at Blankenship Field. During the course of the application process both the City and the Schools became aware that the conditions of grant funding require the opening of the venue to the public. In the case of the Blankenship Field and due to financial sources for field improvements, it is advised that an agreement be in place between the two bodies to clarify the use and availability of the facility to the public.

The attached draft Operational Agreement (Facility Maintenance and Scheduling Agreement for Blankenship Field) has been reviewed by the Superintendent of Schools and is recommended for both approval by the City Council and the Board of Education.

Recommendation

Approval of the attached resolution is recommended.

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

Attachments (2)

# DRAFT

## OPERATIONAL AGREEMENT (FACILITY MAINTENANCE AND SCHEDULING AGREEMENT FOR BLANKENSHIP FIELD)

WHEREAS, the City and the Schools have been working together on programs and projects such as the recent grant application for synthetic turf at Blankenship Field; and

WHEREAS, during this process it was determined that the grant process will often require the recreational facility/improvement to be open to the public in general and not limited to only school or other organizational programs; and

WHEREAS, it has been determined an agreement between the City and Schools to delineate the use of certain facilities, including Blankenship Field, to set forth maintenance, operation, open use, and scheduling responsibilities should be developed.

NOW, THEREFORE, THE PARTIES AGREED AS FOLLOWS:

1. Purpose

The purpose of this Operational Agreement is to establish the roles and responsibilities for maintenance, operation, open use, and scheduling of Blankenship Field in the event the Local Parks and Recreation Fund Grant from the Tennessee Department of Environment and Conservation (TDEC) grant is received by the City from TDEC and synthetic turf is installed on the field. Installation of synthetic turf will enable expansion of the usage of Blankenship Field for a variety of events and venues by creating a multi-use facility for sports, music, and community events, including allowing the community to walk the trail, use the restroom facilities, and utilize the track facilities during daylight hours for recreational purposes. It is the intent of this Operational Agreement to increase the usage of the grant-covered facilities by the Oak Ridge community.

2. Effective Date and Scope

The Effective Date of this Operational Agreement is the date of final installation of synthetic turf at Blankenship Field in accordance with the grant application.

3. Usage of Certain Grant-Covered Property

The field, trailhead, restrooms, and lower concession stand will be available for special event use by groups who provide necessary proof of insurance or bond, and pay a usage fee to cover maintenance and cleanup as determined jointly by the City and Schools to cover projected maintenance costs. Any fees collected for advertisement of any event are the property of the field user. The Oak Ridge Schools' Administration shall be responsible for scheduling the field year round using the Oak Ridge Schools facility scheduling system following Administrative Bulletin No. 94.

Field usage fees will be collected by the High School Administration and will go toward maintenance and cleanup of the field and lower concession stand first, with any remainder going toward the City's Parks and Recreation Capital Replacement Fund specifically targeted for Blankenship Field / Jackson Square area or other joint City/Schools facilities.

User of the field for non-athletic purposes such as concerts, movies, or other special events are responsible to take precautions to protect the field from damage by chairs, platforms, and other structures used for their events. Such users shall be required to pay for any damage caused to the turf as a result of their event.

# DRAFT

## 4. City Responsibilities

The trailhead and restroom facilities will be maintained and cleaned by the City and opened at reasonable hours for community use in accordance with the City's Recreation and Parks Department's recreation use policies for parks. Locking the gates and restroom each day will be the responsibility of the City as will overnight security consisting of routine patrol from on-duty police officers. The City will also maintain the lower parking lot in a manner consistent with maintenance of other City-owned parking lots.

Restrictions for use of the field will be established by the City's Recreation and Parks Department with the intent of protecting the turf to include no smoking, no chewing gum, etc. General rules will be posted at the property.

The City shall maintain insurance coverage for property damage consistent with other City-owned park property.

## 5. School Responsibilities

The Schools are responsible for general maintenance and up-keep year round including maintenance of the lower concession stand.

The Schools are responsible for scheduling use of the field as outlined in Section 3 above, which will also include the creation of a master schedule for the field early each school year. Further, the Schools are responsible for accounting for the fees associated with use of the field and distribution of said fees toward maintenance/cleanup costs and to the City's replacement fund as outlined in Section 3 above.

Maintenance of the home stands, the hill above the home stands, the press box, the locker rooms, the upper concession stand, walk of fame, and the rest of the facility not covered by the grant application will remain the responsibility of the Schools.

## 6. Joint Responsibilities

An annual meeting shall occur between the City's Recreation and Parks Department and the Schools, with the Oak Ridge Convention and Visitors Bureau and other groups as needed, to identify potential events that should be scheduled for the upcoming year(s) at Blankenship Field.

Capital improvements must be jointly agreed to by the City Manager and School Superintendent as part of the Joint CIP process. This includes a decision on replacement of the turf at the end of its usual life.

Security for large events, such as concerts, will be coordinated between the City and the Schools.

## 7. Disputes

The City Manager and School Superintendent shall make good faith efforts to settle any dispute or claim that arises under this Operational Agreement through discussion and negotiation.

## 8. Modification

This Operational Agreement may only be modified in writing signed by both parties and approved by the Oak Ridge City Council and the Oak Ridge Board of Education.

## 9. Governing Law

This Operational Agreement shall be governed by the laws of the State of Tennessee.

DRAFT

ADOPTED AND APPROVED BY THE OAK RIDGE CITY COUNCIL ON NOVEMBER 10, 2016.

APPROVED AS TO FORM AND LEGALITY:

CITY OF OAK RIDGE, TENNESSEE

\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

Approved by Resolution \_\_\_\_\_

ADOPTED AND APPROVED BY THE OAK RIDGE BOARD OF EDUCATION ON \_\_\_\_\_, 2016.

CITY OF OAK RIDGE, TENNESSEE

\_\_\_\_\_  
Chairman of the Board

Approved by Resolution \_\_\_\_\_

**RESOLUTION**

A RESOLUTION AUTHORIZING THE CITY TO ENTER INTO AN OPERATIONAL AGREEMENT WITH THE OAK RIDGE BOARD OF EDUCATION FOR CERTAIN FACILITIES, INCLUDING BLANKENSHIP FIELD.

WHEREAS, the City and the Schools have been working together on programs and projects such as the recent grant application for synthetic turf at Blankenship Field; and

WHEREAS, during this process it was determined that the grant process will often require the recreational facility/improvement to be open to the public in general and not limited to only school or other organizational programs; and

WHEREAS, it has been determined an agreement between the City and Schools to delineate the use of certain facilities, including Blankenship Field, to set forth maintenance, operation, open use, and scheduling responsibilities should be developed.

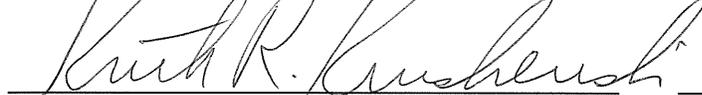
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

The City is authorized to enter into an operational agreement with the Oak Ridge Board of Education setting forth the roles and responsibilities for maintenance, operation, open use, and use of certain facilities, including Blankenship Field, when such facility is part of a City-initiated improvement grant that requires the facility/improvement to be open to the general public.

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

This the 14th day of November 2016.

APPROVED AS TO FORM AND LEGALITY:



\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

\_\_\_\_\_  
Mary Beth Hickman, City Clerk

**LEGAL DEPARTMENT MEMORANDUM  
16-16**

DATE: November 9, 2016  
TO: Honorable Mayor and Members of City Council  
FROM: Kenneth R. Krushenski, City Attorney  
SUBJECT: PROFESSIONAL SERVICES AGREEMENT – THE LUNA LAW GROUP PLLC

Introduction

An item for City Council's consideration is a Resolution to approve a \$15,000.00 amendment to the Professional Services Agreement between the City and the Luna Law Group PLLC, for the provision of legal services in the pending case of Davis Reed and Wife Susan v. Tennessee Department of Environment and Conservation and the City of Oak Ridge.

Funding

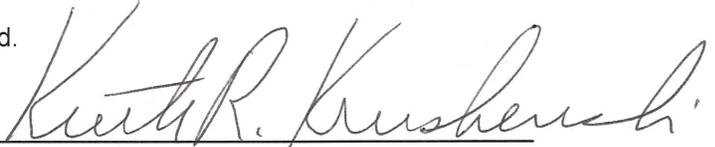
Funding for this agreement is available in the Public Works Capital Fund Account.

Review

The City has been utilizing the services of the Luna Law Group PLLC, for legal services in the above referenced case. Legal Department Memorandum # 16-11 provided Council with the factual background on this matter which is now pending before an Administrative Law Judge for the Tennessee Division of Water Resources, Board of Water Quality, Oil and Gas. A 2-day trial is set for December 15-16<sup>th</sup> in Nashville. The attached Professional Services Agreement was approved by the City Manager on February 11<sup>th</sup>, 2016 under his authority to execute Professional Services Agreement in an amount not to exceed \$25,000.00. Should this case proceed to a full hearing before the Administrative Law Judge it is anticipated the Agreement with Luna will exceed the City Manager's authority of \$25,000.00. The services are provided on an hourly basis at the rate of \$485.00 per hour. It is requested that Council approve a \$15,000.00 contract amendment for a new total compensation amount not to exceed \$40,000.00.

Recommendation

Approval of the attached Resolution is recommended.

  
\_\_\_\_\_  
Kenneth R. Krushenski

Attachments: Current Agreement  
Resolution  
Proposed Amendment

**City Manager's Comments:**

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

  
\_\_\_\_\_  
Mark S. Watson                      11/9/16  
Date

## PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement is entered into by and between the City of Oak Ridge, Tennessee, hereinafter referred to as the City, and Luna Law Group, PLLC, 333 Union Street, Suite 300, Nashville, Tennessee 37201, hereinafter referred to as LUNA.

WHEREAS, the City desires to engage a professional limited liability law firm to provide legal representation and consultation in the area of State Regulatory issues with regard to an appeal pending before the State of Tennessee Board of Water Quality, Oil & Gas filed by Davis Reed and wife, Susan; and

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

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

1. ENGAGEMENT OF LUNA

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

2. SCOPE OF SERVICES

The City desires to engage LUNA to provide legal representation and consultation in the area of State Regulatory issues regarding alleged violations of the Clean Water Act/MS4 and appear on behalf of the City before the State of Tennessee Board of Water Quality, Oil & Gas in an appeal filed by Davis Reed and wife, Susan.

LUNA agrees to keep detailed records of activities conducted on behalf of the City and expenses related to the business of the City. LUNA agrees to report to the City regularly and to advise the City on additional steps to be taken in order to achieve the City's goals and objectives.

3. TERM

This Agreement shall commence on February 11, 2016 and terminate on notice from the City of Oak Ridge.

4. COMPENSATION

For the services provided under this Agreement, the City shall pay LUNA an amount not to exceed \$25,000.00, payable as follows: Upon receipt of invoice.

5. ASSISTANCE FROM CITY

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

6. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement among the parties with respect to the transactions contemplated by this Agreement, and it supersedes all prior oral or written agreements, commitments or understandings with respect to the matters provided for in this

Agreement. No amendment, modification or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification or discharge is sought.

8. INDEPENDENT CONTRACTORS AND INSURANCE COVERAGE

The parties acknowledge that the relationship created under this Agreement is that of independent contracting parties and this Agreement does not create a general agency, joint venture, partnership, employment relationship or franchise between the parties. Neither party shall represent itself to be an agent of the other, nor shall it execute any documents or make any commitments to any contractual or other obligations with third parties. LUNA agrees to maintain all limits of liability insurance required by law including but not limited to Professional Liability Insurance.

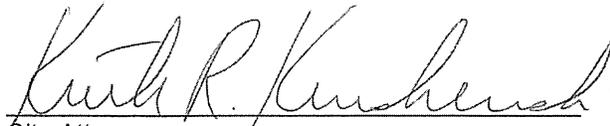
9. GOVERNING LAW

This Agreement, the rights and obligations of the parties and any claims or disputes relating thereto shall be governed and construed in accordance with the laws of the State of Tennessee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on their behalf, as of the day and year first written above.

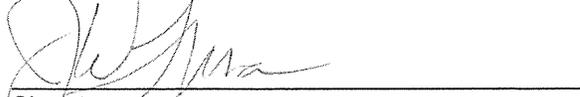
APPROVED AS TO FORM AND LEGALITY:

CITY OF OAK RIDGE, TENNESSEE

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

  
\_\_\_\_\_  
City Manager

LUNA LAW GROUP, PLLC

  
\_\_\_\_\_  
Signature

J.W. Luna  
\_\_\_\_\_  
Printed/Typed Name and Title

  
\_\_\_\_\_  
Tax ID Number/ Social Security Number for Tax Reporting Purposes

February 18, 2016  
\_\_\_\_\_  
Date

**RESOLUTION**

A RESOLUTION AUTHORIZING AN AMENDMENT IN THE AMOUNT OF \$15,000.00 TO THE PROFESSIONAL SERVICES AGREEMENT (FY2016-147) WITH LUNA LAW GROUP, PLLC, FOR LEGAL SERVICES RELATED TO AN APPEAL BEFORE THE STATE OF TENNESSEE BOARD OF WATER QUALITY, OIL & GAS IN THE REED CASE.

WHEREAS, the City Manager approved a Professional Services Agreement with Luna Law Group, PLLC, to provide legal representation and consultation in the area of State Regulatory issues regarding alleged violations of the Clean Water Act/MS4 and to appear on behalf of the City before the State of Tennessee Board of Water Quality, Oil & Gas in an appeal filed by Davis Reed and wife, Susan, in an amount not to exceed \$25,000.00; and

WHEREAS, it is anticipated that additional compensation will be needed should the case proceed to a full hearing before the Administrative Law Judge; and

WHEREAS, the City is requesting City Council approval for a contract amendment in the amount of \$15,000.00, which results in a new not to exceed amount of \$40,000.00.

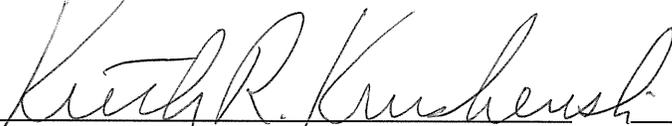
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That an attachment amendment to the Professional Services Agreement (FY2016-147) with Luna Law Group, PLLC, for legal services related to an appeal before the State of Tennessee Board of Water Quality, Oil & Gas is hereby approved in the amount of \$15,000.00, which results in a new not to exceed amount of \$40,000.00 for the Professional Services Agreement.

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

This the 14th day of November 2016.

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

  
\_\_\_\_\_  
Mary Beth Hickman, City Clerk

**AMENDMENT NO. 1  
PROFESSIONAL SERVICES AGREEMENT**

This Amendment No. 1 is entered into as of the 14th day of November, 2016, and amends the Professional Services Agreement dated February 11, 2016, by and between the City of Oak Ridge, Tennessee, hereinafter referred to as the City, and Luna Law Group, PLLC, hereinafter referred to as the LUNA.

WHEREAS, the parties have entered into a Professional Services Agreement (FY2016-147) to provide legal representation and consultation in the area of State Regulatory issues regarding alleged violations of the Clean Water Act/MS4 and appear on behalf of the City before the State of Tennessee Board of Water Quality, Oil & Gas in an appeal filed by Davis Reed and wife, Susan; and

WHEREAS, it is anticipated that additional compensation will be needed should the case proceed to a full hearing before the Administrative Law Judge; and

WHEREAS, the parties desire to amend the Agreement to increase the compensation level by \$15,000.00.

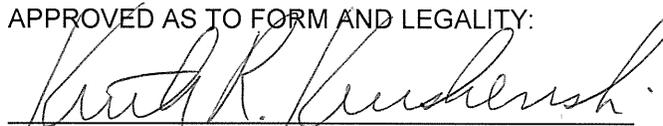
NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties do hereby agree as follows:

1. Section 4, Compensation, is hereby amended effective to provide for additional compensation in the amount of \$15,000.00, for a new not to exceed amount of \$40,000.00.
2. All other terms and conditions not in conflict with this Amendment No. 1 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this Amendment to be duly executed on their behalf, as of the day and year first written above.

APPROVED AS TO FORM AND LEGALITY:

CITY OF OAK RIDGE, TENNESSEE

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

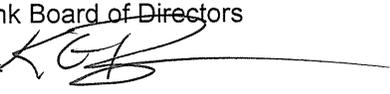
LUNA LAW GROUP, PLLC

\_\_\_\_\_  
J.W. Luna

Approved by Resolution \_\_\_\_\_

PUBLIC HEARINGS  
AND  
FIRST READING OF  
ORDINANCES

**COMMUNITY DEVELOPMENT DEPARTMENT MEMORANDUM  
16-43**

**DATE:** November 7, 2016  
**TO:** Mark S. Watson, City Manager  
**FROM:** Matthew Widner, Staff Liaison, Oak Ridge Land Bank Board of Directors  
**THROUGH:** Kathryn Baldwin, Community Development Director   
**SUBJECT:** AMENDMENT TO CITY CODE CHAPTER 6 SECTION 13-604(C)

Introduction

An item for City Council's consideration is a request for amendment to City Code Chapter 6, Section 13-604 (c) to adjust the current terms of office for the directors of the Land Bank to stagger their terms evenly every two years.

Funding

No funding required.

Background/Analysis/Review/Consideration

This year, with the current ordinance as written, the Oak Ridge Land Bank, Inc. will have a total of four directors (a majority) up for renewal and/or replacement. These include one director from the City Council and three directors that are non-City Council members. The Board would be better served if the six non-City Council directors were on three year terms rotating (staggering) so that no more than two directors would be up for re-appointment each year. Adoption of the proposed ordinance amendment would accommodate this need starting January, 2017.

Recommendation

Approve ordinance amendment request as presented.

Attachments:  
Letter from Charlie Jernigan, Land Bank Board Chair  
Bold Strike-Through  
Ordinance

  
Matthew Widner

**City Manager's Comments:**

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

  
Mark S. Watson

  
Date



August 29, 2016

Subject: ORLB Board of Directors Terms of Office

Charlie Jernigan  
Chair, Oak Ridge Land Bank, Inc.

Mark Watson  
City Manager, City of Oak Ridge, TN

Mark,

I would like to have this matter considered in the upcoming City Council regular meeting so that we can have the second vote, if approved, in time to select ORLB Board Members in January. As I discussed in the last work session, we have 6 board seats selected from Oak Ridge citizens at large and a seventh occupied by a selected City Council member. The 6 citizens serve 2 year terms. This year we have 4 of the 6 (a majority) up for renewal/replacement. This board would be better served if these 6 members had 3 year terms and the rotation was that each year only 2 would be renewable.

Here is a draft of part of this concept:

*Section 13-604. Board of Directors.*

(a) Number and Qualifications of Directors. *The Oak Ridge Land Bank Corporation's Board of Directors shall consist of seven (7) directors, one of which shall be a member of City Council. All directors shall be electors and taxpayers in the City of Oak Ridge. Preference may be given for persons in the following fields: banking, real estate, and legal. [Tennessee Code Annotated §13-30-105]*

(b) Appointment of Directors. *Directors shall be appointed by City Council using the election process for boards and commissions.*

(c) Terms of Directors. *The City Council member shall serve until expiration of his or her current term of office on City Council **at which point City Council will appoint a Councilmember to fill this vacancy.** Of the remaining directors first appointed, three (3) directors shall serve through December 31, 2014, and three (3) directors shall serve through December 31, 2015, and thereafter the term of office shall be two (2) years commencing January 1. **Effective with the appointments commencing January 1, 2017 and thereafter, the non-City Council directors shall serve three (3) years terms.** In case of resignation, death, or removal from office,*



*another appointment will be made to finish out the unexpired term of office. Directors shall continue to serve beyond the end of the director's term until the director's successor has been appointed. [Tennessee Code Annotated §13-30-105]*

The change from this draft that I would like to see involves the process for January, 2017. This would be the transition year where 2 of the 4 would get a two year term and the other 2 get the first 3 year term. This would allow 2 terms ending January, 2018, 2 in January, 2019, and the final two in 2020.

Thank you for your ongoing support of the Oak Ridge Land Bank, Inc.,

A handwritten signature in black ink that reads "Charlie Jernigan". The signature is fluid and cursive, with the first name being the most prominent.

Charlie Jernigan  
118 Claymore Ln  
Oak Ridge, TN

(865) 481-3388

Cc: Ken Krushenski

BOLD-STRIKETHROUGH

Section 13-604. Board of Directors.

- (a) Number and Qualifications of Directors. The Oak Ridge Land Bank Corporation's Board of Directors shall consist of seven (7) directors, one of which shall be a member of City Council. All directors shall be electors and taxpayers in the City of Oak Ridge. Preference may be given for persons in the following fields: banking, real estate, and legal. [Tennessee Code Annotated §13-30-105]
- (b) Appointment of Directors. Directors shall be appointed by City Council using the election process for boards and commissions.
- (c) Terms of Directors. The City Council member shall serve until expiration of his or her current term of office on City Council **at which point City Council will appoint a Councilmember to fill this vacancy.** Of the remaining directors first appointed, three (3) directors shall serve through December 31, 2014, and three (3) directors shall serve through December 31, 2015, and thereafter the term of office shall be two (2) years commencing January 1. **Effective with the appointments commencing January 2017, one (1) director (non-City Council member) shall be appointed to serve a three (3) year term. Effective with the appointments commencing January 2018 two (2) directors (non-City Council member) shall be appointed to serve three (3) year terms. Effective with the appointments commencing January 2019 and thereafter all directors (non-City Council member) shall serve three (3) years terms.** In case of resignation, death, or removal from office, another appointment will be made to finish out the unexpired term of office. Directors shall continue to serve beyond the end of the director's term until the director's successor has been appointed. [Tennessee Code Annotated §13-30-105]

TITLE

AN ORDINANCE TO AMEND TITLE 13, TITLED "PROPERTY MAINTENANCE REGULATIONS," CHAPTER 6, TITLED "OAK RIDGE LAND BANK CORPORATION," OF THE CODE OF ORDINANCES, CITY OF OAK RIDGE, TENNESSEE, BY AMENDING SECTION 13-604, TITLED "BOARD OF DIRECTORS," SUBSECTION (C), TO GRADUALLY CHANGE THE TERM OF OFFICE FOR DIRECTORS FROM TWO YEARS TO THREE YEARS.

WHEREAS, Title 13, Chapter 6, of the City Code created a land bank corporation to provide a tool to support economic revitalization through returning vacant, abandoned, and tax-delinquent properties to productive use; and

WHEREAS, the land bank corporation was created in accordance with Tennessee Code Annotated §13-30-101 et seq.; and

WHEREAS, with the exception of the City Council member who serves until expiration of his or her current term of office on City Council, all other directors of the land bank currently serve two year terms; and

WHEREAS, the land bank has requested that all future appointments serve three year terms, with the exception of the City Council member appointment which shall remain concurrent with his or her term of office on City Council; and

WHEREAS, in order to keep the corporation on staggered terms, the new term length will be implemented gradually.

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

Section 1. Title 13, titled "Property Maintenance Regulations," Chapter 6, titled "Oak Ridge Land Bank Corporation," Section 13-604, titled "Board of Directors," of the Code of Ordinances, City of Oak Ridge, Tennessee, is hereby amended by deleting Subsection (c), titled "Terms of Directors," in its entirety and substituting therefor a new Subsection (c), titled "Terms of Directors," which new subsection shall read as follows:

Section 13-604. Board of Directors.

- (c) Terms of Directors. The City Council member shall serve until expiration of his or her current term of office on City Council at which point City Council will appoint a Councilmember to fill this vacancy. Of the remaining directors first appointed, three (3) directors shall serve through December 31, 2014, and three (3) directors shall serve through December 31, 2015, and thereafter the term of office shall be two (2) years commencing January 1. Effective with the appointments commencing January 2017, one (1) director (non-City Council member) shall be appointed to serve a three (3) year term. Effective with the appointments commencing January 2018 two (2) directors (non-City Council member) shall be appointed to serve three (3) year terms. Effective with the appointments commencing January 2019 and thereafter all directors (non-City Council member) shall serve three (3) years terms. In case of resignation, death, or removal from office, another appointment will be made to finish out the unexpired term of office. Directors shall continue to serve beyond the end of the director's term until the director's successor has been appointed. [Tennessee Code Annotated §13-30-105]

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:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

\_\_\_\_\_  
Mary Beth Hickman, City Clerk

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

**FINAL ADOPTION  
OF  
ORDINANCES**

## FINANCE DEPARTMENT MEMORANDUM

16-16

**DATE:** November 7, 2016  
**TO:** Mark S. Watson, City Manager  
**FROM:** Janice E. McGinnis, Finance Director  
**SUBJECT:** ORDINANCE AMENDMENT TO WASTEWATER RATES

### Introduction

The Water and Wastewater rate ordinance amendments were adopted at first reading of the ordinances at the September 12, 2016 City Council meeting. Due to the ongoing Jacobs Engineering study on the options regarding the status of the water plant, second reading of both the water and wastewater ordinances were delayed. At this time, staff would like to bring forward the wastewater ordinance for final adoption with an effective date of the January 2017 utility billings. The water ordinance remains on a delay status pending ongoing review and negotiations with DOE regarding the water plant contract. It is anticipated that the water ordinance will be brought back to City Council for second reading in the first quarter of 2017.

At the August 26, 2013 City Council work session, Chris Mitchell, Management Consultant, presented a water and wastewater rate study based on a long-term view of those systems through 2019. Mr. Mitchell conducted an updated review of the study in mid-2015 which indicated the continuing need for annual rate increases to both water and wastewater services at the same levels as originally projected. The overall plan outlined in the rate study remains the same with anticipated rate increases from 2017 through 2020.

The primary funding source for the major capital improvements to the wastewater system as mandated by EPA were three State Revolving Loans (SRF) totaling \$21,000,000. In late summer 2016, all of these loans met the threshold for monthly principal payments to begin. In October 2016, the City began paying \$81,238 in monthly principal and interest payments on two of the SRF loans. The City is awaiting receipt of the letter from the State that sets the monthly principal and interest payment schedule on the third loan. The City is currently paying interest only on that loan, with monthly principal and interest payments expected to be \$17,033 once the schedule is received from the State. The wastewater ordinance amendment includes a rate structure effective January 1, 2017 and a rate structure effective January 1, 2018. The applicable wastewater rate increase percentages are the same across all customers. There were no changes to the ordinance at first reading by City Council.

### Wastewater Rate Analysis

The wastewater rates incorporated in the ordinance amendment include a 6% increase effective January 1, 2017 and a 6% increase effective January 1, 2018. The wastewater rate ordinance amendment retains the per gallon tier structure that is incorporated in the current rate structure. Listed below is the summary of the rate changes for the minimum rate bill for the 5/8" meter size and the per thousand gallon rate structure. 95% of all wastewater billings are for the 5/8" meter size. The minimum bill rate for meter sizes larger than 5/8" all increase at the same percentage as the 5/8" meter.

	Current Rates	Proposed Rates January 1, 2017	Proposed Rates January 1, 2018
Minimum Bill 2,000 Gallons 5/8" Meter	\$23.41	\$24.81	\$26.30
Over 2,000 Per Thousand Gallon	\$9.80	\$10.39	\$11.01

As shown above, the monthly bill increase for the residential minimum bill user is \$1.40 effective January 1, 2017 and an additional \$1.49 per month effective January 1, 2018. A residential customer using 5,000 gallons per month would see a \$3.17 per month increase in January 1, 2017 and a \$3.35 per month increase in January 1, 2018.

Recommendation

Staff recommends adoption of the attached wastewater ordinance amendment, which includes the recommended rates for the next two calendar years. The wastewater rate increases are required to continue to operate and maintain the system, perform necessary capital improvements and meet our contractual and debt service obligations. Wastewater rates provide funding to operate and maintain over 262 miles of sewer lines along with related pumping systems and operation of two wastewater treatment plants. In order to continue to meet EPA requirements, annual sewer line replacement and/or system improvements will be required.

An updated rate review status will be conducted in the summer of 2017 and if any adjustments are necessary for the January 2018 rate they will be brought forward for amendment at that time. The two year rate adoption schedule provides customers with the adopted rate for a two-year period for planning purposes. As with any study, actual results will vary from estimates and longer range estimates are less accurate than those in the near term time frames. Low volume customer usage and declining consumption levels due to conservation and technology efficiencies continue to impact rates. Approximately 40% of our customer base is billed at only the minimum bill rate, 70% is billed for only 4,000 gallons usage or less per month and 95% of wastewater billings are for only 10,000 gallons or less usage per month.

Attachment

  
Janice McGinnis

**City Manager's Comments:**

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

Mark S. Watson  
Mark S. Watson

Nov 8 2016  
Date

TITLE

AN ORDINANCE TO AMEND ORDINANCE NO. 21-82, AS AMENDED, BY DELETING THE PROVISION OF SECTION 13 PERTAINING TO THE SCHEDULE OF WASTEWATER RATES IN ITS ENTIRETY, AND SUBSTITUTING THEREFOR A NEW SCHEDULE OF WASTEWATER RATES.

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

Section 1. Ordinance No. 21-82, as amended, is hereby amended by deleting the provisions of Section 13 pertaining to the schedule of wastewater rates in its entirety, as of midnight December 31, 2016, and substituting therefor a new Section 13 which shall read as follows:

Section 13 – Wastewater Rate Schedule – Effective January 1, 2017

All references to usage (gallons) or to meter readings shall mean water meter readings.

The following wastewater rate schedule shall apply to each user of the wastewater facilities, effective with the January 1, 2017 wastewater billings.

- 1. Sanitary sewer disposal charge for all customers except those applicable to subsection 3 below.

First 2,000 gallons or any part thereof, minimum billing as outlined in subsection 2 below.

Over 2,000 gallons at \$10.39 per thousand gallons

- 2. Minimum Monthly Billing includes first 2,000 gallons or any part thereof for all customers except those applicable to subsection 3 below.

For customers using 5/8" meter	\$ 24.81 per month
For customers using 3/4" meter	29.50 per month
For customers using 1" meter	46.94 per month
For customers using 1-1/2" meter	93.86 per month
For customers using 2" meter	174.32 per month
For customers using 3" meter	301.71 per month
For customers using 4" meter	395.57 per month
For customers using 6" meter	558.81 per month
For customers using 8" meter	722.05 per month
For customers using 10" meter	885.29 per month

For customers using meters sizes not specifically listed above, the minimum billing monthly amount will be determined by the City at the time the service is established.

- 3. Customers whose single-meter usage averages over 8,000,000 gallons per month for a contiguous 12 month period will be charged a minimum flat monthly rate of \$127,200.00 each month for the succeeding 12 month period. The minimum flat monthly rate covers usage up to 8,000,000 gallons. Monthly usage over 8,000,000 gallons will be charged an additional \$10.39 per thousand gallons.

Minimum Charge per Month

The total wastewater charge shall be no less than \$24.81 per month.

Maximum Charge per Month

The following terms are defined:

Winter Period – November 2 through May 1.

Summer Period – May 2 through November 1.

Single-family residential meter readings shall be subject to a maximum monthly billable wastewater consumption of 20,000 gallons during the Summer Period. Single-family residential customers that have maintained water service at the metered location continuously during the preceding Winter Period will have a maximum billable monthly wastewater consumption during the Summer Period using the highest monthly meter reading taken during the immediately preceding Winter Period, not to exceed 20,000 gallons per month.

The above rates are net, the gross rate being five percent higher.

Section 13 – Wastewater Rate Schedule – Effective January 1, 2018

All references to usage (gallons) or to meter readings shall mean water meter readings.

The following wastewater rate schedule shall apply to each user of the wastewater facilities, effective with the January 1, 2018 wastewater billings.

1. Sanitary sewer disposal charge for all customers except those applicable to subsection 3 below.

First 2,000 gallons or any part thereof, minimum billing as outlined in subsection 2 below.	
Over 2,000 gallons at	\$11.01 per thousand gallons
  
2. Minimum Monthly Billing includes first 2,000 gallons or any part thereof for all customers except those applicable to subsection 3 below.

For customers using 5/8" meter	\$ 26.30 per month
For customers using 3/4" meter	31.27 per month
For customers using 1" meter	49.76 per month
For customers using 1-1/2" meter	99.49 per month
For customers using 2" meter	184.78 per month
For customers using 3" meter	319.81 per month
For customers using 4" meter	419.30 per month
For customers using 6" meter	592.34 per month
For customers using 8" meter	765.37 per month
For customers using 10" meter	938.41 per month

For customers using meters sizes not specifically listed above, the minimum billing monthly amount will be determined by the City at the time the service is established.

3. Customers whose single-meter usage averages over 8,000,000 gallons per month for a contiguous 12 month period will be charged a minimum flat monthly rate of \$134,835.00 each month for the succeeding 12 month period. The minimum flat monthly rate covers usage up to 8,000,000 gallons. Monthly usage over 8,000,000 gallons will be charged an additional \$11.01 per thousand gallons.

Minimum Charge per Month

The total wastewater charge shall be no less than \$26.30 per month.

Maximum Charge per Month

The following terms are defined:

- Winter Period – November 2 through May 1.
- Summer Period – May 2 through November 1.

Single-family residential meter readings shall be subject to a maximum monthly billable wastewater consumption of 20,000 gallons during the Summer Period. Single-family residential customers that have maintained water service at the metered location continuously during the preceding Winter Period will have a maximum billable monthly wastewater consumption during the Summer Period using the highest monthly meter reading taken during the immediately preceding Winter Period, not to exceed 20,000 gallons per month.

The above rates are net, the gross rate being five percent higher.

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:

  
\_\_\_\_\_  
Kenneth R. Krushenski, City Attorney

\_\_\_\_\_  
Warren L. Gooch, Mayor

\_\_\_\_\_  
Mary Beth Hickman, City Clerk

First Reading: 9/12/2016  
Publication Date: 9/15/2016  
Second Reading: \_\_\_\_\_  
Publication Date: \_\_\_\_\_  
Effective Date: \_\_\_\_\_