

**City Council Building
Chattanooga, Tennessee
May 8, 2007
6:00 p.m.**

Chairman Page called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Gaines, Pierce, Rico, Robinson and Rutherford present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilwoman Gaines introduced Rev. Oscar L. Lockhart, Sr., Pastor of Thankful Missionary Baptist Church, who gave invocation.

MINUTE APPROVAL

On motion of Councilman Franklin, seconded by Councilwoman Gaines, the minutes of the previous meeting were approved as published and signed in open meeting.

PROCLAMATION: WIDOWS HARVEST MINISTRY

Mayor Littlefield stated that he wanted to recognize one of his favorite organizations tonight and noted that the ladies and Andy Mendosa were present representing the Widows Harvest Ministry. He stated that he had been going to their special functions for years and has met with them on a regular basis. He stated he has recognized them every year with a proclamation. At this point he read the proclamation which has been spread upon the minutes.

PROCLAMATION: WIDOWS HARVEST MINISTRY
(Continued)

WHEREAS: The City of Chattanooga wishes to pay respect and honor to those distinguished women who have dedicated their time and lives to their families and the service of others; and

WHEREAS: Through their grief and resilience, the widows of our community have taught us innumerable lessons in life, civility, and charity; and

WHEREAS: Widows Harvest Ministries, a religious ministry dedicated to helping and serving our cherished widows, has truly followed the mandate listed in James, Chapter 1, verse 27, which states that we should “Visit a widow in distress;” and

WHEREAS: Nationally, Widows Harvest Ministries have for many years, served the widows of our community and nation by giving food, home repair, love, and friendship to those in need; and

WHEREAS: It is only fitting that we give thanks to Widows Harvest Ministries for the tremendous void they fill in our community by their service, ingenuity, and faith;

Now Therefore, I, Ron Littlefield, Mayor of the City of Chattanooga, do hereby proclaim the week of May 12-19

“Widows Sing Week”

in recognition of the dedication and commitment of this very special, loving group of individuals, and

Be it further resolved that the residents of Chattanooga join with me in paying our respect to these great women of faith as we celebrate May 15th, 2007 as

“International Widows Day of Prayer”

In Witness Whereof, I have hereunto set my hand and caused the Seal of the City of Chattanooga to be affixed this the 12th day of May, 2007

Ron Littlefield, Mayor

After reading the proclamation, Mayor Littlefield presented it to Mr. Mendosa and asked the widows to stand and be recognized.

Chairman Page acknowledged that the Council is honored to have them present and has great respect for them.

PROCLAMATION: WIDOWS HARVEST MINISTRY
(Continued)

Andy Mendosa stated that it is an incredible privilege to be present to receive the proclamation. He stated the proclamation is very significant as he does not know if other cities in the state, nation or county recognize the widows among them, not only in their time of need but honor them for who they are and their contributions. He stated widows are still the most visible part of our society worldwide; that the Mayor is not giving "lip service" because he (Mendosa) knows over the years of his (Littlefield's) true care and concern, and also believes is the Council's heart, as well. He expressed thanks for the recognition and noted he would continue the cause of widows in our cities. He stated the banner held by one of the members shows the logo a young widow designed displaying a Ruth-like figure gleaning wheat, which has come to be their symbol.

Chairman Page again expressed the Council's respect for those in attendance and thanked them for their presence.

AMEND CITY CODE

Upon vote on this Resolution, Councilman Pierce *initially voted "no"*; however, later in the meeting he clarified that he wanted to change his vote *to support the Resolution*. He noted that he had this Resolution mixed up with the one that was discussed earlier in Committee.

Councilman Benson stated that he knew Councilman Pierce thought this was about the solicitations ordinance discussed earlier.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
CHAPTER 25, ARTICLE I, BY SUBSTITUTING A NEW SECTION 25-45(2)
RELATIVE TO PANHANDLING**

passed second and final reading and was signed in open meeting.

APPROPRIATION

On motion of Councilman Rico, seconded by Councilman Franklin,
**AN ORDINANCE APPROPRIATING FROM THE GENERAL FUND TO A
NIGHT TO REMEMBER, INC., A NON PROFIT ORGANIZATION, THE
AMOUNT OF ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) AS
A SPONSORHIP OF ITS 20TH ANNIVERSARY EVENT**

passed second and final reading and was signed in open meeting.

AMEND CAPITAL IMPROVEMENTS BUDGET

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 11903 ENTITLED "AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR 2006/2007" TO PROVIDE FOR THE APPROPRIATION FROM THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND FROM HUMAN SERVICES DEPARTMENT OPERATIONS FOR THE RENOVATION OF THE DAISY HEAD START/EARLY HEAD START CENTER

passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2007-013: Bouman Development

The owner of the property was present.

Councilman Benson stated that this matter was discussed in today's Legal and Legislative Committee meeting; that it was deferred from last week and several questions were answered. He stated the Committee recommends approval.

Don Pillars stated that he owns the property in question; that he agreed to sell the property to the development company and it fell through. He stated he is supportive of the closure.

Chairman Page asked for clarification that Mr. Pillars, as owner, wants the closure. Mr. Pillars responded "yes".

Councilman Pierce asked if the closure was made at the time an application for zoning was requested.

Mr. Pillars responded "yes"; that he thought it had been closed years ago; that he has owned the property since 1999 and thought it had been abandoned.

On motion of Councilman Benson, seconded by Councilman Franklin,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE UNOPENED 2500 BLOCK OF EAST 16TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2007-018: Charter Real Estate Corporation

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
6000 BLOCK OF HALL ROAD, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2007-031: Hamilton County Real Property c/o Paul Parker

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
1900 BLOCK OF EAST 4TH STREET, MORE PARTICULARLY DESCRIBED
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V,
SECTIONS 650 AND 1700, SO AS TO CLARIFY PARKING REQUIREMENTS
WITHIN THE URBAN GENERAL COMMERCIAL (UGC) ZONE**
passed first reading.

REZONING

2007-038: Sabrena Turner

Pursuant to notice of public hearing, the request of Sabrena Turner to rezone tracts of land located at 1413 North Concord Road and the 6900 block of Concord Circle came on to be heard.

The applicant was present.

REZONING (Continued)

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that the original request was to rezone to O-1 for a real estate office in an existing house. He stated a site plan was submitted and since then the applicant desires to have it rezoned to R-4. Surrounding uses were displayed by PowerPoint that reflected residential and commercial properties. He stated Staff felt the request was not in compliance with the Hamilton Place Land Use Plan and that the rezoning would set precedence for non-residential zoning and denial was recommended.

At this point, Councilwoman Rutherford made the motion to approve the request for R-4 with the condition for office use only; Councilman Pierce seconded the motion.

Councilman Benson stated that he had lost much sleep over this as he has never voted against the Land Use Plan and did not plan to do so at this time; that in this situation he should, but would not as he does not want to vote against the Plan. He stated this does have a lot of justification for this change in zone as it is right on the border of the Land Use Plan; that this is an older building that has "gone down" and he received an e-mail from the applicant listing four conditions she is willing to comply with. He stated it is his thought a positive approach is needed although he can not vote for it as he will not vote against the Plan. He stated if the Council decides to vote for it he would like to see conditions placed on it for office only and once it comes out of office it would revert back. He stated that he would like for the four conditions to be made a part of the record and asked if the applicant is willing to abide by the conditions.

Ms. Turner responded "yes".

Councilman Benson continued by stating that some things were left out to allow the applicant some "wiggle room" noting that the fence will be necessary to keep it from spreading; to "box it in" so the next door neighbor does not say they want to be office, too; that there are a lot of reasons this does not have to "fall like dominoes". He asked if the Plan is under adjustment, now.

Mr. Haynes responded "not that he knows of".

Councilman Benson stated that it has been on the list to update the 2001 Plan; that he would hate to be forced to vote against this petition because they have a Plan that is beginning to get old, especially around the borders. He stated that he would register a "no" vote and it is hard to defend a vote with these conditions.

REZONING (Continued)

Councilman Pierce asked the City Attorney if the motion should be amended to include the four conditions and have them added for the next reading.

City Attorney Nelson responded affirmatively and noted there are actually five conditions.

At this point Councilmen Rutherford and Pierce amended their motion and second to include the conditions.

Mr. Haynes stated that the second condition indicates the property would revert back.

Councilman Benson stated that this project can not be anything but office.

City Attorney Nelson amended the ordinance in open meeting to correct the caption to read “*...from R-1 residential zone to R-4 special zone, subject to certain conditions*”, and the body of the ordinance to include the following conditions: *(1) property to be used for office use only; (2) entrance and exit shall be on Concord Circle only; (3) parking lot size shall be reduced; (4) existing plants shall be replaced with lush evergreens and seasonal plantings; and (5) erection of a six foot vinyl privacy fence on the two sides that border adjacent properties along with pruning the brush line existing on those two sides.*

At this point Councilman Franklin “called for the question”.

On motion of Councilwoman Rutherford, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 1413 NORTH CONCORD ROAD AND THE 6900
BLOCK OF CONCORD CIRCLE, MORE PARTICULARLY DESCRIBED
HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT
TO CERTAIN CONDITIONS**

passed first reading; Councilwoman Bennett abstained; Councilman Benson voted “no”.

REZONING

2007-049: THP-Investors, Inc.

Pursuant to notice of public hearing, the request of THP-Investors, Inc. to rezone tracts of land located at 3928 and 3952 Webb Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated this request is for R-3 and displayed the site plan that had been submitted as requested by the neighborhood and Planning. He stated the Highway 58 Land Use Plan recommends medium land use for this area and the proposed use could serve as a buffer for existing residential. He stated certain restrictions could be designed for existing uses and the Traffic Engineer expressed existing infrastructure could accommodate the project. He stated Staff and Planning recommend approval subject to a list of eleven conditions that were brought about in collaboration with the neighborhood and the applicant. He stated focus should be given to condition nine, noting that it originally reflected "... elimination of emergency exit on Webb Road"; that it should be replaced as "*...locked gate access for emergency vehicles only onto Webb Road*".

Robert Fisher with ReMax Realtors was present and introduced Steve Sisson, the Developer from Memphis, Ernie Weinstein, the Architect from Nashville and his father, Ed Fisher. He stated he has spent the last ninety days meeting with the community, the Council and RPA; that they have made a lot of progress with the eleven conditions that they are willing to move forward on. He stated TESCO manages 5,000 apartments throughout the southeast; that they are primarily a management company and develops apartments. He stated plans are for this to be a Class A, high rent apartment development; that they have had many community meetings and took a lot of feedback and input from the community; that there has been a helpful give-and-take. He stated the density has been reduced and this will be a gated community. He stated they have tried to be very responsive to the community and their primary issues are traffic, security, quality of development and concerns about who the tenants would be. He stated the apartments would rent from \$700-\$1,000 per month, reiterating that it would be a Class A apartment complex for Chattanooga. He stated 40 percent of tenants choose to live in these apartments but could buy homes if they wanted; that the apartments would have a pool and upscale amenities.

REZONING (Continued)

Mr. Fisher stated one of the issues they thought was traffic, not traffic from the apartments, but traffic going through the neighborhood as the neighborhood is taken as a shortcut, something they do not have any control over. He stated this is a serious problem as it serves as a shortcut coming off Amnicola Road at the Lake. He stated this will be a \$20 million dollar development with property tax of \$4,500; that after it is built it will grow to several hundred thousand in property taxes, a significant increase. He stated there would be 232 units which is less than twelve per acre with a gated pool. He stated one issue at length is the community Plan which calls for this area to be a transition area with medium density. He stated the project started out at 16.5 units and they have reduced them to 12, a medium density range. He stated the current property is zoned R-1 and R-2 and if it does not come together the owner could build thirty more duplexes; that the neighbors see this as an advantage over duplexes.

Steve Sission stated that Mr. Fisher did a good job in giving a synopsis of the process. At this point he acknowledged Greg Haynes, the neighborhood and RPA and the positive process they have had in working with them. He stated that he was excited about being present and expressed hope the Council could vote in favor of this.

Ed Markert of Harbor Hills Road spoke next and stated that he kept hearing during Mr. Fisher's comments that there had been many meetings and they have done a lot with individuals and groups. He stated everyone has worked very hard to bring a conclusion and nobody wants apartments as there are already too many! He stated the area is almost completely surrounded by rental property or commercial; that if this were zoned commercial they would be right in the middle and it would almost make it completely rental property in the area; that there are just too many. He stated on the very day this issue came before Planning, there were two articles concerning transient people and neighborhoods; that one concerned the school and how it was a problem with teachers and students and the other article concerned neighborhoods and crime and the things that went on were detrimental to the neighborhood. He stated not everyone who lives in apartments are bad people; that they do not get the same response from absentee property owners as those who live here.

Mr. Markert stated out of the meetings and consideration a list of conditions were developed between the neighborhood and the developer; that it was hoped they would not get apartments but sometimes it is better to have a deal than not and make the best of any situation. He stated it is felt if this is approved they would try to do everything to get the developer to make it more compatible with the neighborhood and seal it off from the neighborhood in some way.

REZONING (Continued)

Mr. Markert stated that the conditions have been abbreviated from the original ones and inquired as to condition nine where it was noted emergency equipment would be permitted on Webb Road. He stated that was not the neighborhood's original understanding or desire; that even though this becomes an emergency exit what makes it an emergency. He stated it would be locked up so no one could get through and inquired about the key for the locked gate. He stated it was their original understanding there would be no exit onto Webb Road.

Deputy Fire Chief Randy Parker stated that he talked to Mr. Sisson about this and he has agreed to keep this under lock and key as long as to the fire, police and ambulance personnel have a key; that it would be mainly for fire if they could not get in the main entrance. He stated it is easier to access off Webb Road if a fire is in the complex; that if they lay hose lines they could get land locked and would not be able to access anymore equipment which would affect their ability to put out any fires. He stated the biggest reason is they want emergency access to the rear; that it is not an exit or entrance and would be just for the fire and police departments and a key would be provided each. He reiterated that it is not really an entrance or exit, just an access way for the fire department to get in. He stated it would be locked twenty-four hours a day and would not be dumping traffic onto Webb Road.

Chairman Page asked for clarification regarding the locked gate.

Mr. Sisson stated that it would typically be an infrared system which would respond to the high pitch sound of emergency vehicles or a Knox Box.

In rebuttal, Mr. Fisher stated that the complex would be a gated community and there would actually be locks on each door, which is part of a Class A apartment complex. He stated the emergency exit is news to them, too, however they are okay with it as they want their tenants to be safe and secure; that everyone would feel badly if it were padlocked and there would not be access in the back of the apartments. He stated they are not opposed to having the emergency exit and thinks it is a good idea for the security of the tenants. He express appreciation for the opportunity to come before the Council and noted that this would be good for the Highway 58 area; that it would generate a lot of revenue.

Councilman Benson inquired as to the amount of acreage. Mr. Fisher responded that it is 19.6 acres.

REZONING (Continued)

Councilman Benson stated he has given this a lot of thought; that 19 acres of property is already zoned R-1 and if this area experiences what has been experienced in East Brainerd and other places in the Ooltewah-Ringgold Road area is a large infield surrounded by apartments. He stated people are not buying these size lots and building a quarter million and half million dollar houses. He stated if the Council turns this down the area stays R-1 and only single family residences could be built. He stated that he has thought about this; that a lot of conditions and control will have to be placed on this if it does not stay R-1.

Councilman Franklin stated that he is very familiar with this area as it borders District 5. He stated Councilman Benson made a very valid point; that the area is surrounded by homes other than duplexes that are a quarter of a million and up; then further out are half million and million dollar homes. He stated it depends upon what part of Webb Road is being spoken of. He stated the applicant has done well in working with the community; that there was some apprehension about apartments, how they will be maintained and the tenants. He stated based on the fact of where it is and the rental prices of the units starting with one and two bedrooms, tenants would have to be able to own homes to actually rent the apartments. He stated it is his hope if this passes there would continue to be a relationship between the community and the owner and noted that the complex may need to have an association within itself to coincide with other communities with single family housing. He **made the motion to approve the request with all the conditions included with special emphasis that if it does pass, condition nine would need to be amended if it is not already in the conditions, now.**

Chairman Page stated that the neighborhood has had some great leadership; that Mr. Markert has done an outstanding job of protecting the neighborhood. He stated that he had informed the neighborhood that he would do the best he could to protect the value of homes in their area; that the developers and neighborhood were willing to step forward and do something with the sidewalk on Webb Road. He stated something he has not seen since he has been on the Council is the addition of the swimming pool and buffer and a locked community in an effort to keep people out of their complex as opposed to people in apartment complexes interfering with others' lifestyle. He stated that he understands the difficulty with traffic and knows Mr. VanWinkle has been to meetings and monitoring will be done with the new cameras.

REZONING (Continued)

Chairman Page stated if the entire area is looked at out there it is his thought this may be the best possible solution with this property next to K-Mart; that this is an upscale, better development that could there as Councilman Franklin stated. He stated that it is his belief this is not perfect but getting much further down the road; that the willingness of the developers to participate in community meetings is better than anything he has seen in a long time.

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 3928 AND 3952 WEBB ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

AMEND CONDITIONS

2007-055: Earthworx, LLC

Pursuant to notice of public hearing, the request of Earthworx, LLC to amend Condition No. 2 imposed in Ordinance No. 11540 (Case No. 2004-030) on a tract of land located in the 5500 block of Clear Creek Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated that the original conditions stated that a turnaround had to be built at the end of Clear Creek Road by the Church of Christ Church and the applicant has asked that the condition be amended to help in clearing the title for financing as the language does not meet satisfaction for the title. He stated the language is being amended in that regard and, in addition, traffic engineering wanted to have more control over the design of the turnaround before it is built.

On motion of Councilwoman Robinson, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CONDITION NO. 2 IMPOSED IN ORDINANCE NO. 11540 (CASE NO. 2004-030) ON A TRACT OF LAND LOCATED IN THE 5500 BLOCK OF CLEAR CREEK ROAD, MORE PARTICULARLY DESCRIBED HEREIN

passed first reading.

REZONING

2007-056: Frederick Metzger

Pursuant to notice of public hearing, the request of Frederick Metzger to rezone a tract of land located at 5933 Fisk Avenue came on to be heard.

The applicant was present; there was no opposition.

Councilwoman Rutherford stated that this request falls under the moratorium the Council passed two-or-three weeks ago. She asked that the matter be deferred until the study is complete.

Kenneth Sims stated that he owns property adjacent this. He stated two years ago his son applied for a business and was turned down and had to pay taxes for commercial property. He stated that he talked to Mr. Bennett who indicated the area was residential. He stated he wants to be refunded payment for what he has paid for years; that his concern is if this is rezoned, what about his place behind it.

Councilman Pierce inquired about the moratorium. City Attorney Nelson confirmed that it has already been approved by the Council three-or-four weeks ago.

Councilman Pierce asked how long ago the application was filed; whether it was prior to the moratorium.

Councilwoman Rutherford stated that the application was filed prior to the moratorium; that an agreement was made between the applicant and the neighborhood that we would have a neighborhood study done and not do any rezoning until the study was completed. She stated the Planning Staff is already working toward this and hopefully the situation will be resolved within six weeks-to-two months at the most.

City Attorney Nelson stated that the moratorium took effect immediately, so without it being lifted the Council can not act on this.

Councilwoman Rutherford stated that the moratorium will be lifted as quickly as we can; that the Planning Staff is already in touch with the neighborhood and is not something we want to be "on the table" for ever.

Mr. Haynes stated that a public meeting is planned at some point, the study will be done and another meeting held; that two-to-three months should do it.

REZONING (Continued)

City Attorney Nelson stated the deferral timeline would be for 91 days.

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 5933 FISK AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

was deferred ninety-one (91) days (August 7, 2007).

REZONING

2007-058: Gregg Juster c/o Elder Healy & Company

Pursuant to notice of public hearing, the request of Gregg Juster c/o Elder Healy & Company to rezone a tract of land located at 1601 Rossville Avenue came on to be heard.

The applicant was present; there was no opposition.

Mr. Haynes stated that the applicant was not able to attend the meeting and asked that it be deferred one week.

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1601 ROSSVILLE AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**

was deferred one week.

REZONING

2007-059: Ken Defoor

Pursuant to notice of public hearing, the request of Ken Defoor to rezone tracts of land located at 2307, 2319, 2323, 2327, 2331 and 2335 Gunbarrel Road and 7340 McCutcheon Road came on to be heard.

REZONING (Continued)

The applicant was not present.

Councilman Benson stated that the applicant is not present, nor is there anyone in opposition. He stated both the neighborhood and the developer have asked to defer the matter thirty days to have time to get together and work out conditions they could agree with.

City Attorney Nelson suggested 35 days as opposed to 30 so the date would fall on a Tuesday.

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 2307, 2319, 2323, 2327, 2331 AND 2335
GUNBARREL ROAD AND 7340 MCCUTCHEON ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND
O-1 OFFICE ZONE TO MXU MIXED USE ZONE, SUBJECT TO CERTAIN
CONDITIONS**

was deferred thirty-five (35) days (June 12, 2007).

REZONING

2007-063: Robert L. Cummings

Pursuant to notice of public hearing, the request of Robert L. Cummings to rezone a tract of land located at 7425 Ziegler Road came on to be heard.

The applicant was present; there was no opposition in attendance.

Mr. Haynes stated the request is for R-4 for doctors offices. He stated the Hamilton Place Plan does not support R-4 along Ziegler Road; that approval of the request would further expand non-residential zoning in the area. He stated the conditions indicate provision of a 50 foot landscape buffer and no access onto North Joiner Road.

Councilman Benson stated this matter was discussed at length; that across the street the same request was made for a nice office building and the only way it was admitted or approved was with the buffer.

REZONING (Continued)

Councilman Benson encouraged Council members to drive out to the Ziegler Road area and note the buffering which is not intrusive at all into the neighborhood. He stated the only way Planning overruled Staff was that the buffer be landscaped exactly as the buffer across Ziegler Road has been done. He asked if the applicant is willing to do that.

Elgin Smith was present representing the applicant and responded "absolutely"; that they agreed to all that and submitted the plat to RPA.

Councilman Benson stated the request would be in violation of the land use plan if it stays R-1 on the street and office in the front.

Mr. Smith stated that the property in question would remain R-1 facing Joiner.

Mr. Haynes stated the recommendation from Planning only stated a landscaping buffer at 50 feet; that the recommendation did not mention the R-1.

Councilman Benson stated that he did not think it was ever intended to come out of Planning without making it R-1; that he could not vote unless the buffer is six feet high and looks like the one across the street; that it would not be fair if it is not.

Mr. Smith stated that he has Mr. and Mrs. Cummings and Dr. Patel, purchaser, present with him to answer any questions the Council has. He stated they went to Planning and the application was approved conditioned on the buffer; that the applicant took the plans back to the architect and prepared the buffer exactly as expected.

Dr. Haresh Patel stated subject to putting offices over there the 50 foot landscaping buffer was placed on the R-1 zone on the Joiner Road side of the property. He stated a new plat was submitted to RPA exactly like the one on the other side.

Councilwoman Robinson clarified that Dr. Patel's comments were just as Councilman Benson said.

Mr. Haynes stated one thing that has been mentioned that has gone back-and-forth is that there may have been something lost with this condition; that it could be amended to leave 50 feet of the property zoned R-1 to match the R-1 across Ziegler by retaining that requirement for landscaping. He stated that it could be made to insure the R-1 zone is left as a buffer, as well.

REZONING (Continued)

Councilwoman Rutherford stated that she seldom votes against the Staff's recommendation and asked Mr. Haynes if it is his thought the Staff would have voted with this.

Mr. Haynes stated that it is quite possible as they talked about it afterward and looked at what Planning suggested. He stated the Staff was more comfortable with this than originally requested and no access.

Councilman Benson stated that he wanted to get clarification that the applicant is definitely going to build the same buffer as was built across the street with a six foot elevation and landscaping just like it was required for the other.

Mr. Smith stated that he offered to bring the plans to Councilman Benson and was told to take it to Planning. He stated this is the same thing Councilman Benson recommended for the property across the street; that it is exactly what it says on the plat about the R-1 property.

Mr. Haynes stated that one more thing to make it more equal and fair is whatever the measurement is make that line R-1 so it will match the one across the street. He stated it may be 50 or 60 feet; that exact measurements will have to be made.

City Attorney Nelson stated he would need a description of what is going to be rezoned.

Mr. Haynes indicated he would get the information to him on Wednesday.

On motion of Councilwoman Robinson, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 7425 ZIEGLER ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

passed first reading.

ADOPTION OF NORTH SHORE PLAN

On motion of Councilman Franklin, seconded by Councilman Rico,
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE NORTH SHORE PLAN
was deferred two weeks.**

CHANGE ORDER

On motion of Councilman Franklin, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1 (FINAL) RELATIVE TO CONTRACT NO. E-06-002-201, 2006 CITY SIDEWALKS REQUIREMENTS CONTRACT – CDBG PHASE 2, WITH YERBEY CONCRETE CONSTRUCTION, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY TEN THOUSAND EIGHT HUNDRED AND 60/100 DOLLARS (\$10,800.60), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED FORTY THOUSAND EIGHT HUNDRED AND 60/100 DOLLARS (\$240,800.60)
was adopted.

DECLARE SURPLUS

MR-2007-067: City of Chattanooga c/o Paul Page

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,
A RESOLUTION DECLARING AS SURPLUS A TRACT OF LAND LOCATED AT 2312 DUNCAN AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, AUTHORIZING THE DONATION OF SAID PARCEL TO THE BOYS AND GIRLS CLUBS OF CHATANOOGA, INC., AND AUTHORIZING THE DIRECTOR OF GENERAL SERVICES TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE SAID DONATION
was adopted.

DECLARE SURPLUS

MR-2007-068: City of Chattanooga c/o Paul Page

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,
A RESOLUTION DECLARING AS SURPLUS A TRACT OF LAND LOCATED IN THE 1200 BLOCK OF SHOLAR AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
was adopted.

DECLARE SURPLUS

MR-2007-069: City of Chattanooga c/o Paul Page

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,
**A RESOLUTION DECLARING AS SURPLUS A TRACT OF LAND LOCATED
AT 3501 CENTRAL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
was adopted.

OVERTIME

Overtime for the week ending May 4, 2007 totaled \$10,079.94

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **STEPHEN W. HEMSTREET** – Retirement, Traffic Control Electrical Supervisor, Traffic, effective April 30, 2007.
- **ROZH AMEEN** – Resignation, Associate Engineering Designer, Engineering, effective May 11, 2007.
- **CHARLES E. ASHLEY, III** – Suspension (2 days without pay), Crew Worker Senior, City Wide Services, effective May 3-4, 2007.
- **BOBBY L. MCBRYAR** – Retirement, Chief Plant Operator, Waste, effective April 30, 2007.
- **WILLIAM L. MURPHY**, Promotion, Crew Worker Senior, City Wide Services, Pay Grade 5/Step 9, \$28,095.00 annually, effective April 20, 2007.
- **JERRY MARTIN** – Promotion, Crew Worker Senior, City Wide Services, Pay Grade 5/Step 3, \$21,739.00 annually, effective April 20, 2007.
- **DANIEL L. CHANDLER** – Family Medical Leave, Heavy Equipment Operator, City Wide Services, effective May 1 – July 24, 2007.

PERSONNEL (Continued)

PERSONNEL DEPARTMENT:

- **JENNIFER LASS** – Hire, Wellness Coordinator, \$30,000.00 annually, effective May 7, 2007.

CHATTANOOGA POLICE DEPARTMENT:

- **MARVIN MATTHEWS** – Hire, Police Service Tech, Sr., Pay Grade 5/Step 1, \$20,000.00 annually, effective April 27, 2007.
- **NANCY SUZETTE CARPENTER** – Voluntary Demotion, Police Service Technician, Sr., Pay Grade 5/Step 11, \$30,410.00 annually, effective May 2, 2007.
- **SARAH JEFFERS** – Rescind Hire, Communications Officer, effective May 2, 2007.
- **JEFFREY T. THOMPSON** – Resignation, Police Officer, effective May 4, 2007.
- **MICHAEL MCCOY** – Reinstatement, Police Officer, Pay Grade 1/Step 7, \$39,243.00 annually, effective May 4, 2007.

PURCHASE

On motion of Councilman Franklin, seconded by Councilwoman Gaines, the following purchase was approved for use by the Chattanooga Human Services Department:

KEY'S CARPET (Lower and better bid)
R0098034/B0004064

Floor Covering

\$14,743.00

PURCHASES

On motion of Councilwoman Robinson, seconded by Councilwoman Rutherford, the following purchases were approved for use by the Chattanooga Fire Department:

GIS SERVICES (Lowest and best bid)

R0097637/B0004069

LizardTech GeoExpress Software and Maintenance

\$11,760.00

BUSINESS SYSTEMS (Lowest and best bid)

R0097760/B0004083

Scanner

\$13,834.70

SAFETY SUPPLY (Lowest and best bid)

R0097516/B0004066

MSA Millennium Air Purifying Respirators

\$13,272.60

PURCHASES

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the following purchases were approved for use by the Mayor's Office, General Services Division:

CBR PROPERTY MAINTENANCE (Overall Lowest and best complete bid)

R0098173/B0004076

Grounds Maintenance Services (*TeleCad Wireless submitted a lower bid for Section II, however, CBR Property Maintenance's combined bid for both Sections I and II was \$837 lower than the bid of TeleCad Wireless, the next low bidder.*)

\$1,580.25

PURCHASES (Continued)

OLD DOMINION BRUSH COMPANY (ODB) (Single source)
R0098870/B0004152

Skid Mounted Leaf Vacuum per TCA 6-56-304-2

\$31,270.00

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson, the following purchase was approved for use by the Chattanooga Police Department:

FLASHER & BARRICADE SERVICES (Lower and better bid)
R0097526/B0004005

Barricade Services

\$30.00

COMMITTEES

Councilman Rico scheduled a meeting of the **Public Works Committee for Tuesday, May 15 beginning at 3 p.m.**

LOUD SPEAKERS IN DOWNTOWN AREA

Councilman Pierce stated that he received a call last week from a downtown resident about the loud speakers on Wednesday, Friday and Sunday in the park and it was thought the lease was being provided by the Parks and Recreation Department.

Admin. Zehnder stated that it is his thought Councilman Pierce is referring to Miller Park. He stated that the individual is a street preacher and the Parks and Recreation Department has not given any type of permit for usage of this property. He stated the person is on city property at his own effort; that he is looking to the Council's guidance on what to do.

LOUD SPEAKERS IN DOWNTOWN AREA
(Continued)

Councilman Pierce stated that the report from the Police Department is that the city is permitting him each week to be there on those nights.

Admin. Zehnder stated that the person is not permitted; that he has not issued a permit for usage for this purpose.

Councilman Benson stated that it sounds like the person is in violation of the noise ordinance.

Councilman Pierce stated it would be; that he did not know if Parks and Recreation played a part in it.

Admin. Zehnder stated that he heard a comment that the police department would like to enforce the noise ordinance but do not have a decibel meter; that he noticed there is provision within the ordinance that the noise could not be above a certain point.

Chief Dodd stated that the police officers do have decibel meters. He inquired as to the nights this occurs.

Councilman Pierce stated that it is Wednesday, Friday and Sunday at about 6:30 p.m. in the evening.

Chief Dodd stated that he would check into it and talk with the Chief of Patrol to see who is downtown and will report back to the Council.

Councilman Pierce expressed appreciation for Chief Dodd's efforts.

"HUB FEST"

Councilman Benson stated that a "HUB Fest" was held this past weekend at Heritage Park and was very successful, even though it rained a lot of the time. He expressed thanks to Adm. Zehnder and all the people who worked hard on making it look nice. He especially thanked Admin. Missy Crutchfield for doing a good job of planning and putting the program together to introduce the park and its facilities.

KIMBERLY AND KEVIN WILLIAMS

Kimberly Williams introduced her husband, Kevin, and stated that she knows things take time however they have had problems that are really bad and are seeking help from the Council. She stated that they live in the Woodlawn Apartments and since they have been there they have complained about drug trafficking and shootings and nothing has been done. She stated after they finally came forward and said something about it, on Sunday morning at 4 a.m. a brick was thrown through their window hitting their daughter in the head and hurting her badly. She stated this problem has been going on and they have tried to get in touch with the residential property manager, Chip Griffin, who fails to answer their calls and has failed to let them know what is going on.

Ms. Williams appealed for the Council's help and stated that there are no lights in the parking lot as they have been broken out and it is pitch black dark. She stated as she gets out to go to work there are bullets on her porch from where all the shooting has been. She stated the others in the apartment complex know they are different; that she has called the police several times and will call them everyday! She stated they come but nothing is done. She again asked the Council for their help, noting that she has tried to find out who is over that district and no one will tell them anything. She stated this has gone on for too long; that people are shooting in the daylight while children are outside playing and, still, nothing has been done. She stated it is so pitch black dark anything could happen and everything has happened!

Councilman Page stated no one has called the Council members.

Councilwoman Rutherford stated that she would like to know if the apartments are privately owned or under the Housing Authority.

Councilman Pierce responded that the apartments are privately owned.

Kevin Williams stated that the apartments are operated through the Housing Authority and HUD; that Lookout Property Management manages them through Chip Griffin.

Councilwoman Rutherford stated that she knows Mr. Griffin. She inquired as to the Captain over that district.

Chief Dodd responded that it is Captain Vivian Hixson, who needs to get with these people.

Councilman Rico inquired as to the Councilman for this area.

KIMBERLY AND KEVIN WILLIAMS (Continued)

Mr. Williams indicated that it was his thought it is Councilwoman Gaines.

Councilman Pierce stated that it was stated they were trying to get in touch with the person over the district and asked with whom they have spoken.

Mrs. Williams stated that they have called all over; that they tried to reach Freeman Cooper to see who was over the district to talk with them and get something done.

Councilman Pierce stated that he thought they were trying to find out the Council person over the district. He stated that it is their thought Councilwoman Gaines is over the district, however she has indicated that it is his (Pierce's) district. He stated he was not aware of this matter. He stated that we all know what is going on as everyone reads the paper; that he knows they have a problem as this problem is city wide. He stated it is hard for the police to be everywhere at all times and he does not know what the real solution is to the problem. He stated Chief Dodd has indicated he would make contact with Captain Hixson who is over that sector so that she could talk with them. He stated people often call their Council person however he did not know what to suggest because if the police can not handle it, neither can he. He stated we have to rely on our police department and he is hopeful there is a neighborhood association that they should be members of to apprise them of things going on and get some type of resolution that way. He encouraged them to find out about the neighborhood organization. He stated that the neighborhood organization would be the Avondale Neighborhood Association and that James Moreland chairs it.

Councilwoman Rutherford asked if the property owner has any responsibility as far as the lights in the parking lot and wondered if there is anything the Council could do to get the property owner to do something.

City Attorney Nelson stated that they have the right to be governed by their lease; that if he is not repairing lights or keeping the building safe they could go to Chancery Court.

Councilman Benson stated that they could get a blight citation.

Councilman Franklin stated that it sounds to him if the manager of the facility got together with the residents, property owner and the neighborhood association for some type of meeting with all of them present and probably involve the police they could begin talking about some of the issues; that all of them need to come together to discuss all the things that are going on.

KIMBERLY AND KEVIN WILLIAMS (Continued)

Councilman Franklin stated sometimes the police department reacts based upon the call that is made and by the time they get there they have dispersed and gone to something else. He stated in addition, it sounds as if this may be an opportunity for some video cameras we have; that the cameras can be moved and isolate the perpetrators to see who is doing what, how and when; that it could assist the police department to do their job, as well.

Mr. Williams stated that his wife has given the Council the facts and they have sent a letter to Chief Cooper and Mr. Griffin; that he recalls sometime ago when Park City was like this and Councilman Pierce stepped out and did what he had to do and people did not like it. He stated that is what they are going through, now. He stated when a person speaks out for what they think is right there is retaliation and an effort to make a person quiet. He stated he will continue to speak as he is in God's hands; that they really need the Council's help. He expressed thanks to Councilman Franklin as his suggestion is the perfect way to do this - get everyone together. He stated no one wants to speak out as they are scared and it is hard to get the community involved; that it could start with one person!

Chief Dodd stated he would meet with the Williams' outside and go over the details.

At this point Councilman Pierce noticed former Judge Williams was in attendance and asked him to address the issue.

Judge Walter Williams stated that it seems as if Neighborhood Services could be involved; that the building inspector should be involved, as well. He stated there used to be an E-Team that swarmed down on these properties and dealt with building and fire code violations; that it is his thought this would be an opportunity for different departments to come together around the table along with the property owner and management team. He stated we want problems resolved and we have a choice to either do it voluntarily or by force; that it has to be done. He stated that a situation could be created where there will not be any tenants similar to what was done with Patten Towers in the effort to get it to some level of decency. He stated all persons were called to the table and were told what they would do or he would have them shut down. He stated we have to "get out of the box".

Councilman Pierce stated that Judge Williams' idea is the best idea the Council has heard so far; that he asked him to speak because he is familiar with the battle with Patten Towers as Judge Williams was there day and night.

KIMBERLY AND KEVIN WILLIAMS (Continued)

Councilman Pierce stated once the E-Team was involved they pulled together resources needed to go to management, first. He stated he does not mind being a part of that and asked that Mr. and Mrs. Williams call the Council office for his number.

Councilwoman Robinson stated that her heart goes out to this family and noted that she saw this issue on television about the bricks and rocks and how they hurt the children. She stated that it takes a lot of courage to speak out and it is her thought these are the kinds of people who are making neighborhoods come back and better. She stated she is so happy to have a Council and police force that will get behind them; that Judge Williams has pointed the way of how that work best and it takes everyone working together.

ADJOURNMENT

Chairman Page adjourned the meeting of the Chattanooga Council until Tuesday, May 15, 2007 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

**(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS
FILED WITH MINUTE MATERIAL OF THIS DATE)**