

**Municipal Building
Chattanooga, Tennessee
July 13, 1999**

The meeting of the Chattanooga Council was called to order by Chairman Lively with Councilmen Crockett, Eaves, Franklin, Hakeem, Hurley, Pierce, Rutherford and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Council Clerk Carol O'Neal, CMC, were also present.

INVOCATION

Invocation was given by Rev. Gerald Taylor of the Avondale Church of Christ.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-99-008A

Councilman Pierce made the motion to substitute the amendment this ordinance; Councilman Taylor seconded the motion; the motion passed.

On motion of Councilman pierce, seconded by Councilman Taylor,

**AN ORDINANCE CLOSING AND ABANDONING SANITARY SEWER
EASEMENTS LOCATED IN PARAMENAS PARK SUBDIVISION, LOT 3,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON
PLAT ATTACHED HERETO AND MADE A PART HEREOF BY
REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

passed second reading. On motion of Councilman Taylor, seconded by Councilman Pierce, the ordinance passed third and final reading and was signed in open meeting.

REZONING

1999-086: Mid South Mattress Company

Councilman Pierce stated the applicant has requested that this matter be tabled until Tuesday, August 10.

The applicant was not present; there was no opposition.

On motion of Councilman Pierce, seconded by Councilwoman Hurley,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1255, 1257, AND 1265 EAST 13TH STREET, BEING ON THE NORTHEAST LINE OF EAST 13TH STREET NORTHWEST OF HOLTZCLAW AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO M-1 MANUFACTURING ZONE, SUBJECT TO CERTAIN CONDITIONS

was tabled until August 10, 1999.

REZONING

1999-090: Stan Baker

Pursuant to notice of public hearing, the request of Stan Baker to rezone a tract of land located at Six Brooks Circle and Seven Pisgah Avenue came on to be heard.

The applicant was not present; opposition was in attendance.

Councilman Hakeem stated Mr. Baker contacted him to ask that this matter be delayed two weeks; that he contacted the Chairman, also.

Councilwoman Rutherford expressed opposition to deferring the matter two weeks; that the matter has been worked on since January. She stated Atty. Reingold is the representative for Mr. Baker and she does not care if Mr. Baker is out of the City or not. She stated there are members of the neighborhood present who have made a special effort to go to the Planning meeting and then to come here tonight and (she) wants them to be recognized. She asked those in attendance in opposition to this request to stand. She stated she told several beforehand that the matter was going to be deferred so they went on (home); that she is very unhappy she was not advised about this request prior to overhearing it a few minutes ago. She stated she hated to ask the residents to come back (in two weeks) and indicated it is in the neighborhood's best interest to wait and come back.

REZONING (Continued)

On motion of Councilman Hakeem, seconded by Councilwoman Hurley,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT SIX BROOKS CIRCLE AND SEVEN PISGAH
AVENUE, BEING ON THE SOUTHEAST LINE OF BROOKS CIRCLE
AND THE NORTHWEST LINE OF PISGAH AVENUE NORTHEAST OF
BRAINERD ROAD, MORE PARTICULARLY DESCRIBED HEREIN,
FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE**
was tabled two weeks; Councilwoman Rutherford voted "no".

REZONING

1999-095: Chattanooga Neighborhood Enterprise, Inc.

Pursuant to notice of public hearing, the request of Chattanooga Neighborhood Enterprise, Inc, to rezone a tract of land located at 1617 Williams Street and in the 200 block of West 17th Street came on to be heard.

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

On motion of Councilman Taylor, seconded by Councilwoman Hurley,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT
OF LAND LOCATED AT 1617 WILLIAMS STREET AND IN THE 200
BLOCK OF WEST 17TH STREET, BEING ON THE NORTHWEST LINE
OF WILLIAMS STREET AT 17TH STREET AND ON THE NORTHEAST
LINE OF WEST 17TH STREET NORTHWEST OF WILLIAMS STREET,
MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1
MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE**
passed first reading.

AMEND CONDITIONS

1999-097: Gunbarrel Properties, LLC (Amend Conditions)

Pursuant to notice of public hearing, the request of Gunbarrel Properties, LLC to amend certain conditions imposed in Ordinance No. 10539 on property located in the 1800 block of Gunbarrel Road came on to be heard.

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

Councilman Eaves stated he stands to be corrected that when this originally came up a long time ago Gunbarrel was a two-lane road; that the Council asked for a runway down the side 40 feet from the center lane. He stated from that original time until now Gunbarrel has become a five-lane road and the 40 feet would not mean anything, now; that there are turning lanes. He stated if there are other conditions he is not aware of the Council should look at that; that he hopes there are no objections to the corridor.

Atty. John Anderson represented the applicant and stated back when this was first considered he reviewed the tape of the meeting and the ten (10) conditions put upon the property. He stated the road has been widened and some of the conditions that were required at that time have gone away and they now want to reduce the ten conditions to five (5). He stated the only difference between the two versions in front of the Council members is that the Planning Staff recommended that there be dedication of twelve additional feet of right of way. He stated the Planning Commission itself recommended a right-of-way forty (40) feet from the center lane of Gunbarrel. He stated the ordinance adopted by the Planning Staff is the one that is recommended by John Van Winkle for the 12 additional feet for the taper lane, and the one by Planning Commission was there would not be the acceleration lane for the rest of the property on Gunbarrel from the new entrance from Caine to Igou Gap.

Barry Bennett stated the version containing the Planning Commission's recommendation is the one recommended for approval.

Chairman Lively asked the Clerk of the Council, Mrs. O'Neal, if that is the version that was read. Mrs. O'Neal responded "yes."

REZONING (Continued)

On motion of Councilman Eaves, seconded by Councilman Crockett,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN
CONDITIONS IMPOSED IN ORDINANCE NO. 10539 ON PROPERTY
LOCATED IN THE 1800 BLOCK OF GUNBARREL ROAD, BEING ON
THE SOUTHEAST LINE OF GUNBARREL ROAD SOUTHWEST OF
IGOU GAP ROAD, BEING MORE PARTICULARLY DESCRIBED
HEREIN, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

1999-098: Gary Ball

Pursuant to notice of public hearing, the request of Gary Ball to rezone a tract of land located at 2207 East Main Street came on to be heard.

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

Barry Bennett stated the request is for M-2 in order to be able to have outside storage of materials on the site. He stated the surrounding zoning includes C-2 and R-2; that the nearest industrial zoning would be a couple blocks to the east on the south side of Main Street and some M-1 and M-2 zoning. He stated both the Staff and Planning Commission recommend against the zoning change. He stated the Ridgeside Plan adopted for that area shows commercial development for this section of Main Street and not industrial use. He stated there was opposition at the Planning hearing.

Gary Ball, applicant, stated he has a business located at this location; that when the gentleman came to visit from the City he did not get anything in writing from him. He stated he spent \$135 thinking he was out of zone; that since he went to Planning he has done further research. He stated he had the person from the City come back and they advised him that his business could be there; that the question seems to be whether he is allowed outside storage in C-2. He stated he has met with the gentleman and has given him a letter; that he is not sure where he needs to go from here. He stated according to what he has found he might be able to do what he is doing there already if the City would make a determination as to who has the right in C-2 to have outdoor storage and who does not.

REZONING (Continued)

Mr. Ball expressed his assumption that the gentleman was speaking factually to him when he was asked to do this; that his research reveals that he might have acted too quickly on the City representative's visit and this might be something that needs to be tabled or brought back again after someone looks into it and finds out what can be and cannot be done in C-2 ; that they did tell him verbally that his business (a construction and mechanical contracting business) could be located at that location. He stated he does not know exactly what to ask; that he does not look for anything positive on the M-2 and is not sure his business fits within the M-2 guidelines because he doesn't manufacture anything.

Mr. Bennett stated apparently there has been some new information since this matter came before Planning; that if the building department is looking into it further, he would think it should be deferred until they make a determination.

Pat Rogers stated Mr. Ball's business is on Main Street, which is one of the major arteries in the area; that he is very helpful in the neighborhood association. She stated she would like to help him; that she feels the problem is the visibility of material sitting around from any street's view that looks disorderly; that this is not the nature of what the residents would like to see in the area. She stated C-2 allows fences around some outdoor storage and to her a screening fence, vines or some collaboration of that would totally block the view so that what is stored would not be visible and would meet the neighborhood requirements. She stated this business is helpful in renovating and repairing in the area and hopes something can be worked out.

City Attorney Nelson stated this is one that should be looked at.

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2207 EAST MAIN STREET, BEING ON THE NORTHEAST LINE OF EAST MAIN STREET SOUTHEAST OF KELLEY STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE TO M-2 LIGHT INDUSTRIAL ZONE

was deferred two weeks.

AMEND CONDITIONS

1999-105: McKibbon Hotel Group of Chattanooga, Tennessee #2, LP

Pursuant to notice of public hearing, the request of McKibbon Hotel Group of Chattanooga, Tennessee #2, LP to amend certain conditions imposed in Ordinance No. 10213 on property located at 200 Chestnut Street came on to be heard.

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

John Nicks of Gainesville, GA was present representing the McKibbon Hotel Group. Chairman Lively stated that the Council is looking forward to seeing the development.

On motion of Councilman Pierce, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CERTAIN CONDITIONS IMPOSED IN ORDINANCE NO. 10213 ON PROPERTY LOCATED AT 200 CHESTNUT STREET, BEING ON THE NORTHEAST LINE OF CHESTNUT STREET AT WEST 2ND STREET, BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

1999-107: Ovella S. Vinson

Pursuant to notice of public hearing the request of Ovella S. Vinson to rezone a tract of land located at 3630 Ridgeside Road came on to be heard.

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

Barry Bennett stated the request is for C-5; that the original request was for C-2 for the purpose of legalizing the existing market to be able to sell beer for off-premise consumption. He stated the surrounding zoning is entirely R-1 with one C-5 spot northeast of the site. He stated the Staff and Planning Commission both recommend denial of the original C-2 request but approval of C-5. He stated the reason the area is zoned R-1 apparently is that this grocery has been there for many years before zoning was adopted for this area; that the store can operate as a legal nonconforming use. He stated the problem is being able to get a license from the Beer Board for package carryout; that apparently when the previous beer license lapsed it went beyond the time that would be required for anything to become a legal nonconforming use with regard to beer sales.

REZONING (Continued)

Mr. Bennett stated the Beer Board does require commercial zoning of some type of C-5 or C-2 for package sales. He stated another thing is it was determined there is a 200 foot distance restriction under City Code from any outlet which sells package beer for off-premise consumption from schools, church, playgrounds, etc.

Councilman Pierce inquired as to whether the location meets the requirements. Mr. Bennett indicated that he did not know.

Councilman Franklin stated the history of this particular zoning case is basically that the Sears Store has operated in this area for better than 25-30 years and has operated admirably. He stated there is a movement now to restore the neighborhood and as Mr. Bennett stated there were circumstances in the selling of the store. He stated the matter was brought before the North Brainerd Neighborhood Association and the Association voted 24-12 with conditions for the continuation of the location of the store and the beer license. He stated the conditions require that they remove a telephone, which actually had contributed to some individuals standing around or driving up using the phone, and to post signs that would reflect "no loitering." He stated they had not considered at the time the location of the school and the 200-foot barrier has not been confirmed, yet. He asked that the matter be deferred two weeks to check the boundaries to see if the location is within legal boundaries.

At this point those in opposition were asked to identify themselves (several were present).

Councilman Pierce stated he does not want to put a "cloud" on this issue; that the determination of the distances is entirely left up to the Beer Board; that the applicant is asking permission and the Council can only grant permission providing they meet the requirements of the Beer Board.

City Attorney Nelson stated what is being said is if the school is less than 200 feet away for carry-out (the footage is 500 feet for on-premise) there is no need for this rezoning; that it could be denied forthwith. He stated C-5 is more restrictive than C-2.

Councilman Pierce stated he would like to hear from the opposition. Councilwoman Rutherford stated she would like to wait two weeks to hear both sides of the case and would rather the information be "fresh" when she votes.

REZONING (Continued)

On motion of Councilman Franklin, seconded by Councilman Crockett,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3630 RIDGESIDE ROAD, BEING ON THE SOUTHWEST LINE OF RIDGESIDE ROAD AT GILLESPIE ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE

was deferred two weeks.

REZONING

1999-109: Bobby E. & Voula L. Fairbanks

Pursuant to notice of public hearing the request of Bobby E. and Voula L. Fairbanks to rezone a tract of land located at 1615 Gunbarrel Road came on to be heard.

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

Barry Bennett stated the present zoning is R-1 and the request is for C-5 for a beauty shop on the site. He stated surrounding zoning includes R-1, O-1, and R-4; that the only commercial zoning near this area would be the south intersection of Gunbarrel and East Brainerd Road, and to the north the nearest commercial involves the thirty acre tract CBL has at Igou Gap Road. He stated the Planning Commission Staff recommended against the rezoning on the basis of the zoning plan and study for Gunbarrel which shows only residential and mixed use, which would include institutional and office uses between Gunbarrel and Igou Gap Road for the properties fronting on Gunbarrel. He stated all of the R-4 and O-1 have been as a result of that study. He stated the Planning Commission Board on a four-to-three vote recommended approval of commercial subject to certain conditions; that once the property or any property along the frontage of Gunbarrel within this section is rezoned commercial, the other properties on either side of Gunbarrel between Igou Gap and East Brainerd Road would become open to commercial zoning. He stated from a legal standpoint it will be difficult to turn down any future requests for commercial once the commercial zoning has been introduced into the area.

Councilman Eaves asked if the acres we are talking about now sit between East Brainerd and Igou Gap Road. Mr. Bennett stated the acreage is at the intersection of East Brainerd and Igou Gap Road.

Councilman Eaves stated there are eleven properties up-and-down that street already zoned now. Mr. Bennett stated they are not zoned commercial; that they are in accordance with the plan for office and institutional uses.

REZONING (Continued)

Bobby Fairbanks, applicant, stated he has been in business for twenty-plus (20+) years and there is quite a bit of commercial; that there is a whole strip center going in between his place and below before getting to East Brainerd Road, reiterating there is a big strip center going in there. He stated many people look at hair salons as beauty salons, which is a business; that he thinks his business is as reputable a business as any doctor's office (can be). He displayed photographs of what he has designed and restated there being quite a bit of commercial property and that he runs an upscale hair salon.

At this point, Councilman Eaves made the motion to approve the request; Councilman Hakeem seconded the motion.

Councilwoman Rutherford asked for an explanation of something she did not understand. She asked if it is a true statement there is no commercial in this vicinity on Gunbarrel. Mr. Bennett responded "yes."

Councilwoman Rutherford then asked if the property is zoned commercial will it go against the plan for that area. Mr. Bennett once again responded "yes" and stated once the precedent is established going from an institution and office zone to a commercial zone then it "opens the door" for commercial zoning for the remainder of the frontage properties. He stated the main idea of the zoning plan for R-4 and O-1 was to prevent commercial stripping on Gunbarrel and have the corridor end up as Brainerd Road where multiple curb cuts are in close proximity. He stated there are quite a few smaller individual properties; that the difference between that type of strip development and the thirty acres at Igou Gap is that it is a controlled access development. He stated most of the traffic problems on Hixson Pike, 153 and Brainerd Road do not come from the original malls (Eastgate or Northgate); that the real problem is from the constant in-and-out because of the strip development and numerous commercial curb cuts.

Councilwoman Rutherford asked if a beauty salon can go in an R-4 zone. Mr. Bennett responded "no"; that C-5 is the most restrictive that can accommodate that type of business.

Councilman Taylor inquired about the map and the residential areas. Mr. Bennett stated the larger R-4 portion to the north on the map is residential.

Councilman Eaves stated he asked the gentleman (Fairbanks) the same thing and he told him what he was planning to do about curb cuts. He stated as a matter of fact, he is not putting in another curb cut there as there is a business beside it and they have made a joint deal for him to use their existing curb cut for in-and-out purposes, confirming that this request will not require another curb cut in the street.

REZONING (Continued)

Councilman Taylor asked for clarification of the C-5 zone. He stated if this request is approved on first reading tonight, we will be extending or changing the planning process and open all of it up for continuous commercial development.

Mr. Bennett stated there have been numerous inquiries over the past several years. He stated once the plan was adopted people wanted to zone commercial in that area and they have had to tell them that the plan is they must go for an O-1 or R-4 or not apply at all. He stated for a long time people were asking commercial prices for the property along the front; that the amount has probably come down some once people realized it will have to be developed primarily with offices, medical facilities, and the like. He stated that has been the pattern up to this point.

On motion of Councilman Eaves, seconded by Councilman Hakeem,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1615 GUNBARREL ROAD, BEING ON THE NORTHWEST LINE OF GUNBARREL ROAD NORTHEAST OF APPLGATE LANE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

failed approval; on roll call vote:

Taylor	"No"
Rutherford	"No"
Pierce	"No"
Hurley	"No"
Hakeem	"Yes"
Franklin	"Yes"
Eaves	"Yes"
Crockett	Abstained
Lively	"No"

REZONING

1999-112: Beverly Wilson

Pursuant to notice of public hearing the request of Beverly Wilson to rezone a tract of land located at 1725 North Orchard Knob Avenue came on to be heard.

REZONING (Continued)

The applicant was present; there was no opposition.

Mr. Bennett stated this is a similar situation to the one discussed earlier to bring an existing grocery store into compliance. He stated both the Staff and Planning Commission recommend denial of C-4 and approval of C-5 with conditions. He stated there is an adjacent commercial zone to the north and the east across Orchard Knob and an M-3 zone. He stated there was no opposition at the public hearing. He stated the current zoning is R-2 with C-2 and M-3 in the area. He stated the initial request for C-2 has been recommended for denial with the C-5 recommended for approval. He stated C-5 will allow off-premise consumption or sale of package beer, but will not allow any other type of adult-oriented establishment or on-premise consumption.

Councilman Pierce asked Admin. Traugber if he is aware if this is the property the Housing Authority was acquiring. Admin. Traugber indicated that he did not think so. Councilman Hakeem stated the property is one block north of this.

Councilman Pierce asked the applicant if the store has always operated on the corner.

Beverly Wilson, applicant, stated the store has operated at this location since 1988. She stated the store was closed for a period of time and she needs to have it rezoned in order to get the beer license back; that it had been closed of remodeling and other reasons.

Councilman Pierce asked if the store has ever had any problems with the Police Department. Ms. Wilson responded "yes."

Councilman Pierce asked if the store was ever closed down as a result of problems with the Police Department. Ms. Wilson responded "no;" that she had to find someone to operate the store and remodel it.

Councilman Taylor stated he is familiar with the area but is confused as to the location of the store. He stated he did not have an opportunity to go by to look at this and would like to table the matter for an opportunity to do so.

REZONING (Continued)

On motion of Councilman Taylor, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1725 NORTH ORCHARD KNOB AVENUE, BEING ON THE NORTHWEST LINE OF ORCHARD KNOB AVENUE AT OLIVE STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was deferred two weeks.

AMEND ZONING ORDINANCE

Barry Bennett stated this is a two-for-one request; that the first is allowed in C-5 but not permitted in the C-2; that the amendment is to allow residential use and commercial use as long as it is in the same building. He stated the amendment would provide for a neighborhood commercial that might have an apartment on the top floor and a grocery or gift shop on the bottom floor, and would fit nicely into most neighborhood scenarios. He stated the second part of the ordinance is to add grocery stores to the list of permitted uses in C-2; that most are in C-2 but for some reason specific language does not list it. He stated this takes care of it to make sure there will be no future question about it.

Councilman Taylor stated when you speak about the commercial and residential, is that in the C-5 now or what zone?

Mr. Bennett stated C-2 and the central business district allows residential and commercial; that the C-2 was amended several years ago to permit residential as long as it is in the same building with a permitted commercial use. He stated this amendment allows the same thing in a C-5 zone.

On motion of Councilman Taylor, seconded by Councilwoman Rutherford,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, TO INCORPORATE NEW LANGUAGE RELATIVE TO ARTICLE V, SECTIONS 603 AND 903, TO PERMIT DWELLINGS IN THE SAME BUILDING AS ANY COMMERCIAL BUILDING IN THE C-5 NEIGHBORHOOD COMMERCIAL ZONE AND TO ADD GROCERY STORES TO THE LIST OF PERMITTED USES IN THE C-2 CONVENIENCE COMMERCIAL ZONE

passed first reading; **Councilman Eaves abstained.**

AMEND ZONING ORDINANCE

Councilman Hakeem asked if this fits in what is being considered. Barry Bennett stated in the last case considered on Olive Street, one of the conditions was that there not be any car washes and gasoline pumps. He stated the reason is when the C-5 neighborhood zone was created it was designed to accommodate only uses which would be compatible with a neighborhood scenario. He stated what they have found is that by allowing grocery stores in C-5 the original intent was to have small neighborhood groceries and what they found was they were getting Conoco's, BP Stations and Golden Gallons with car washes and gasoline pumps that stay open 24 hours. He stated that use is a high traffic generating use and the nuisance factors and noise under the current language of C-5 would not be restricted. He stated what they are doing is putting in specific language that would only allow grocery stores without car washes and gas pumps; that they are looking for the "Mom and Pop" type businesses.

Councilman Hakeem asked if this was being taken out of C-5. Mr. Bennett stated they are only taking out stores that have car washes and gasoline pumps; that they are leaving in the neighborhood grocery stores.

Councilman Hakeem gave an example of having a Conoco in a neighborhood with a C-5 zone. Mr. Bennett stated most have gone into C-2 zones; that the point is that C-5 can permit them if they want to go in there

Councilman Taylor stated we are talking about regulating time and asked if the time can be regulated in a C-5 zone as far as opening and closing within a neighborhood. Mr. Bennett stated that he thinks that would be self-regulating; that the nature of most grocery stores that operate gasoline pumps, such as Golden Gallon, stay open 24 hours a day.

(AT THIS POINT COUNCILMAN EAVES EXCUSED HIMSELF FROM THE MEETING)

Councilman Taylor made reference to a neighborhood store staying open all times of the night which causes a problem and asked if that is a trend. Mr. Bennett indicated that he was not sure; that it is possible to run into some legal problems when regulating hours of operation; that there is no zone which regulates hours of operation.

City Attorney Nelson stated hours of operation are not regulated by zone; that the Blue Law requires that stores be closed on Sunday morning and when talking with stores such as Conoco and Golden Gallon they indicate they are not a grocery store; that they are a gas station and they get to stay open.

REZONING (Continued)

On motion of Councilwoman Rutherford, seconded by Councilwoman Hurley,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, TO INCORPORATE NEW LANGUAGE RELATIVE TO ARTICLE V, SECTION 903, TO REMOVE CONVENIENCE GROCERY STORES FROM THE LIST OF PERMITTED USES IN THE C-5 NEIGHBORHOOD COMMERCIAL ZONE AND SUBSTITUTE THE USE OF A GROCERY STORE WITH NO CAR WASHES AND/OR GASOLINE PUMPS
passed first reading.

AMEND ZONING ORDINANCE

Barry Bennett stated right now day care centers are permitted in all zone other than M-1, M-2 and M-3 and are permitted in commercial zones. He stated the idea is to allow a closer proximity of day care centers to major employers to make it easier for their employees to drop off their children.

On motion of Councilwoman Hurley, seconded by Councilman Pierce,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, TO INCORPORATE NEW LANGUAGE RELATIVE TO ARTICLE V, SECTIONS 1001(4), 1011(1) AND 1021, TO ALLOW DAY CARE CENTERS TO BE LOCATED WITHIN THE M-1, M-2 AND M-3 ZONE SUBJECT TO A PERMITTING PROCEDURE BY THE BOARD OF ZONING APPEALS
passed first reading.

CONTRACT: TDOT

Councilman Franklin stated Resolutions VII (a) - (e) were discussed in Public Works Committee and are recommended for approval.

On motion of Councilwoman Hurley, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A MAINTENANCE CONTRACT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION FOR FISCAL YEAR 1999-2000, RELATIVE TO THE STATE REIMBURSING THE CITY FOR MAINTENANCE WORK ON STATE HIGHWAYS ROUTED THROUGH THE CITY
was adopted.

**CONTRACT: HAREN CONSTRUCTION
COMPANY, INC.**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. CSO-5b-99, CITICO CSO CONTROL FACILITY, TO HAREN CONSTRUCTION COMPANY, INC. FOR THEIR LOW BID IN THE AMOUNT OF FIVE MILLION, ONE HUNDRED THIRTY-THREE THOUSAND DOLLARS (\$5,133,000.00)
was adopted.

**CONTRACT: MAYSE CONSTRUCTION
COMPANY**

On motion of Councilman Crockett, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. SWM-1-99, DRAINAGE AND WATER QUALITY ABATEMENT, TO MAYSE CONSTRUCTION COMPANY FOR THEIR LOW BID IN THE AMOUNT OF ONE MILLION, THREE HUNDRED EIGHTY THREE HUNDRED, NINE HUNDRED FIVE AND 90/100 DOLLARS (\$1,308,905.90)
was adopted.

CHANGE ORDER

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, CONTRACT NO. SWM-2-97, DRAINAGE DITCH REHABILITATION AND WATER QUALITY ABATEMENT, WITH CASE CONSTRUCTION COMPANY, WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY EIGHT THOUSAND, FIVE HUNDRED SIX AND 41/100 DOLLARS (\$8,506.41), FOR A TOTAL CONTRACT PRICE OF FOUR HUNDRED THIRTY-ONE THOUSAND, THREE HUNDRED THIRTY-THREE AND 59/100 DOLLARS (\$431,333.59), AND WHICH INCREASES THE CONTRACT TIME BY THREE HUNDRED TWENTY-EIGHT (328) CALENDAR DAYS
was adopted.

TEMPORARY USE: BIG K FOOD MARKET

On motion of Councilwoman Rutherford, seconded by Councilman Crockett,
A RESOLUTION AUTHORIZING BIG K FOOD MARKET TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY FOR INSTALLING THREE (3) GROUNDWATER QUALITY MONITORING WELLS, MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

was adopted.

AGREEMENT: ARTECH DESIGN GROUP, INC.

On motion of Councilwoman Rutherford, seconded by Councilman Crockett,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ENTER INTO AN ARCHITECT AGREEMENT WITH ARTECH DESIGN GROUP, INC., FOR MODIFICATIONS AT GREENWAY FARM CONFERENCE CENTER, MORE PARTICULARLY DESCRIBED HEREIN, IN AN AMOUNT NOT TO EXCEED \$11,190.00

was adopted.

AGREEMENT: ARTECH DESIGN GROUP, INC.

On motion of Councilwoman Hurley, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE OF THE CITY OF CHATTANOOGA, TENNESSEE, TO ENTER INTO AN ARCHITECT AGREEMENT WITH ARTECH DESIGN GROUP, INC., FOR MODIFICATIONS AT EAST LAKE RECREATION CENTER, MORE PARTICULARLY DESCRIBED HEREIN, IN AN AMOUNT NOT TO EXCEED \$12,400.00

was adopted.

AGREEMENT: HINES/BENCHMARK JOINT VENTURE

Chairman Lively stated the following two Resolutions were covered in Committee this afternoon and were moved forward from next week's agenda to tonight. He stated both are recommended for approval.

**AGREEMENT: HINES/BENCHMARK
JOINT VENTURE (Continued)**

On motion of Councilman Hakeem, seconded by Councilwoman Rutherford,
**A RESOLUTION AUTHORIZING THE EXECUTION OF A
DEVELOPMENT MANAGEMENT AGREEMENT WITH
HINES/BENCHMARK JOINT VENTURE AND AUTHORIZING IT TO
ACT AS AGENT FOR THE CITY OF CHATTANOOGA IN
ADVERTISING FOR CONSTRUCTION BIDS FOR THE
CHATTANOOGA CONFERENCE CENTER PARKING GARAGE**
was adopted.

**AGREEMENT: MXDESIGN, INC./RIVER
STREET ARCHITECTURE, LLC JOINT
VENTURE**

On motion of Councilman Hakeem, seconded by Councilman Pierce,
**A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT WITH MXDESIGN, INC./RIVER STREET
ARCHITECTURE, LLC JOINT VENTURE RELATIVE TO
ARCHITECTURAL SERVICES FOR THE CHATTANOOGA
CONFERENCE CENTER PARKING GARAGE**
was adopted.

OVERTIME

Overtime for the week ending July 2, totaled \$99,064.29, and for the week ending July 9, 1999 totaled \$19,890.18, for a grand total of \$118,954.47 for the two-week period.

PERSONNEL

The following personnel matters were reported for the Parks, Recreation, Arts and Culture Department:

GERALD CASE -- Resignation, Tree Trimmer, Forestry Division, effective July 9, 1999.

MICAH E. ARNOLD -- Promotion, Crew Worker, Golf Division, Pay Grade 3/Step 1, \$15,230.00, effective July 30, 1999.

PERSONNEL (Continued)

MICHAEL J. TAYLOR -- New Hire, Ranger P.T., Riverpark/Downtown, \$9,360.00 annually, effective July 20, 1999.

EMERGENCY PURCHASE

The emergency purchase of demolition of 1018 East Fourth Street, Purchase Order No. P0012856, in the amount of \$11,450.00 issued to E. L. Pate Trucking Company was duly reported and signed in open meeting.

PRESENTATION

Larry Zehnder asked Barbara Readnower and Sgt. Stewart to come forward to make a special presentation to the Council on behalf of the Parks and Recreation and Police Departments regarding the "first round" of the Hang Time program.

Barbara Readnower expressed thanks to the Council for appropriating money to the Hang Time Program and stated the first Hang Time observance was held during the Fourth of July holiday at the National Guard Armory with 6000-plus young people attending! She stated there were no incidents and expressed appreciation to Sgt. Stewart. Both presented Council members with Hang Time T-shirts.

Councilman Hakeem expressed thanks to both Departments for the effort put forth in the Hang Time program. He stated the Program puts Chattanooga "on the cutting edge" of improving opportunities for young people in doing something positive when they are out of school. He stated it takes partnership and teamwork and expressed appreciation the Chief and the effort put forth by the Police and Parks and Recreation Departments.

PERSONNEL

The following personnel matter was reported for the Public Works Department:

HARRY J. BRADLEY -- Employment, Sanitation Worker Senior, City-wide Services, Pay Grade 5/Step 1, \$17,459.00 annually, effective July 1, 1999.

PERSONNEL

The following personnel matters were reported for the Chattanooga Police Department:

JACQUE BUSH - Resignation, Police Cadet, effective July 16, 1999.

IRVIN TURNER -- Resignation, Police Officer, effective July 9, 1999.

KIRBY CARR -- Voluntary Demotion, Police Service Technician, Pay Grade 3/Step 1, \$15,230.00 annually, effective July 13, 1999.

HEARING RESCHEDULED:
WAYNE JEFFERSON, JR.

City Attorney Nelson stated the hearing for Wayne Jefferson, Jr. was to have taken place last evening and did not due to the "star witness" being out of the City. The hearing for Mr. Jefferson was rescheduled for **Monday, August 2 beginning at 6 p.m. with Councilmen Crockett (Chairman), Lively and Rutherford as the panel; Councilman Eaves will serve as alternate.**

COMMITTEES

Councilwoman Rutherford scheduled a meeting of the **Parks and Recreation Committee meeting scheduled for Tuesday, August 3 beginning at 4 p.m.**

Councilwoman Hurley stated the **Health, Education, Human Services and Housing Opportunities Committee meeting will be moved up to 4 p.m. on Tuesday, July 27, 1999.** She reiterated that the purpose of the meeting is to hear a report from Mr. Kucharski of the Chattanooga Housing Authority regarding the strategic planning process and no action needs to be taken. She stated there are some things they plan to do that will affect our neighborhoods and it is an important meeting.

Councilman Hakeem scheduled a meeting of the **Budget, Finance and Personnel Committee for Tuesday, August 10 immediately following the Public Works Committee** to hear from Rayburn Traughber and personnel from his Department regarding the City's drug policy and other items.

Councilman Franklin stated the **Public Works Committee will begin at 3:30 p.m. on Tuesday, July 27 as opposed to 4 p.m.**

CANCELLATION OF JULY 20 COUNCIL MEETING

Chairman Lively stated four Council members will be out-of-the City next week and the remaining five members will need to decide who the Chairman for next week's Council meeting will be or if there will be a meeting.

On motion of Councilwoman Rutherford, seconded by Councilman Crockett, the Council meeting of July 20 was cancelled.

Wael Takrouri

Wael Takrouri stated he has been a resident of Chattanooga on-and-off since 1982. He inquired about rezoning request VI (i) [1999-112: Beverly Wilson] and indicated his being a Licensed Therapist and has been out of work since November of last year. He stated he is trying to get into any business to "get going" and was not lucky enough to do so until he developed a relationship with Ms. Wilson to open her store and get into business to create jobs and pay taxes. He stated every time there has been a delay; that the matter has been delayed so many times for so many reasons he did not expect a delay this evening. He stated he would appreciate any way the process can be "sped up" so that he can take care of his four children as he has been waiting and waiting and has been living off his credit cards. He stated he needs something and would appreciate anything the Council can do so the process can move forward so he can go to work.

Chairman Lively assured Mr. Takrouri the matter would be heard in two weeks.

ADJOURNMENT

Chairman Lively adjourned the meeting until Tuesday, July 27, 1999 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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