

Burns Randy

From: O'Neal Carol
Sent: Friday, February 25, 2000 3:43 PM
To: council minutes
Subject: Council Minutes - 2-22-00

**City Council Building
Chattanooga, Tennessee
February 22, 2000**

The meeting of the Chattanooga Council was called to order by Chairman Lively with Councilmen Crockett, Eaves, 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 Councilman Franklin.

MINUTE APPROVAL

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

REZONING

2000-013: Larry Armour

Councilwoman Rutherford stated she was out of the City last week and asked if this is a violation of policy we have been following about not moving down Gunbarrel with commercial?

Jerry Pace stated the Staff recommended denial of the C-2 and approval of O-1 and the Planning Commission recommended approval of the C-2.

Councilwoman Rutherford inquired as to what will go on the property. Mr. Pace stated the applicant does not have a particular use right now.

Councilwoman Rutherford inquired as to how different this is in case regard to the one the Council heard a couple weeks ago on Airport Road where they did not have a use planned and we decided that there had to be a use in order to get a rezoning.

Page 2**REZONING (Continued)**

Mr. Pace stated this case is not any different in the physical description of the land; that the Staff did follow the recommendation of the growth policy and corridor study for denial; that the recommendation for approval came from the Planning Commission.

Councilwoman Rutherford stated basically what we are doing is not following the recommendations of the corridor study and rezoning a piece of property when we do not know what will be done with it, is that correct? Mr. Pace responded "right".

Councilman Pierce stated that he voted on this last week because it was in Councilman Eaves' district; that he would like to hear a few remarks from Councilman Eaves in support of the project.

Councilman Eaves stated the traffic is offset and borders the 29-acre tract where CBL is now setting up a Shopping Center.

Mr. Pace stated this is a tract of land smaller than the one that is involved on Airport Road; that the impact of this is larger since it is on a four-or-five lane road as opposed to a two lane road for the Airport Road request where there is more of an industrial office use with residential development directly across the street.

Councilman Crockett inquired as to whether this is the last tract. Mr. Pace responded "yes"; that it is zoned R-1 on the east side of Gunbarrel Road between Igou Gap and East Brainerd Road.

Councilman Franklin stated that was something he was going to comment on; that from his understanding last week all pieces on the east side of Gunbarrel Road were R-1.

Atty. John Anderson of Grant, Konvalinka and Harrison was present to represent the applicant and stated the map shows the parcel in relation to C-2; that this is the last piece of R-1 on this side. He stated the C-2 would be for shopping retail; that a jewelry store or similar type operation is anticipated. He stated there are several different tenants they have been talking with and this would be a relatively low use. He stated whether the property is rezoned O-1 or C-2, both would require curb cuts; that the demand is greater for C-2.

Councilman Taylor asked for clarification; that at the present time there is no specific plan set aside for the use of this property. Atty. Anderson responded that no final approval has been made with the parties they are in discussion with.

Councilman Pierce asked if the interest is to market this property to the shopping center? Atty. Anderson responded "no".

Page 3

REZONING (Continued)

Councilman Pierce asked if the zoning would give the owner a better advantage to sell to the shopping center if it is zoned C-2? Atty. Anderson stated C-2 is a better chance for use on the property; that there is not a plan to sell it to the shopping center at all. He stated the plan is for future development and (he) does not know what the final decision will be. He stated the discussion has centered around a jewelry store; that it will be that type of use that is planned for a relatively low traffic-generating type business.

On motion of Councilman Franklin, seconded by Councilman Eaves,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1736 GUNBARREL ROAD, BEING ON THE SOUTHEAST LINE OF GUNBARREL ROAD SOUTHWEST OF IGOU GAP ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE

passed second reading; **Councilwoman Rutherford voted “no”**; **Councilman Pierce abstained**. On motion of Councilman Franklin, seconded by Councilman Eaves, the Ordinance passed third and final reading and was signed in open meeting; on roll call vote:

Crockett	“Yes”
Eaves	“Yes”
Franklin	“Yes”
Hakeem	“No”
Hurley	“Yes”
Pierce	Abstain
Rutherford	“No”
Taylor	Abstain
Lively	“Yes”

AMEND CITY CODE

On motion of Councilwoman Hurley, seconded by Councilman Eaves,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, SECTION 5-75(B), REGARDING DISTANCE RESTRICTIONS FOR THE SALE OF BEER OR OTHER BEVERAGES OF LIKE ALCOHOLIC CONTENT

passed second reading; **Councilman Hakeem voted “no”**. On motion of Councilwoman Hurley, seconded by Councilman Eaves, the Ordinance passed third and final reading and was signed in open meeting; **Councilman Hakeem voted “no”**.

Page 4

REZONING

1999-213: John Pauley, Nilesh Mehta, Dharaaj Desai and Naven Patel

Councilman Crockett stated the Council office received notification regarding this request. The Clerk of the Council clarified that the attorney for the applicant faxed a request to have this matter tabled indefinitely.

On motion of Councilwoman Hurley, 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 5112 HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE TO C-1 HIGHWAY COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was tabled indefinitely at the request of the applicant.

REZONING

2000-018: Jerry W. Brown, Sr.

Hugh Siniard stated that he did what he was instructed to do by talking with the Airport Authority; that they do have an interest in the entire block. He stated he also spoke with the residents of the Whispering Pine community and found that their main office is in California. He stated at this point, the recommendation is to have the matter delayed indefinitely.

Councilman Franklin clarified that Mr. Siniard has had conversations with persons in the area; that the matter should be deferred indefinitely until better plans are finalized.

On motion of Councilman Franklin, 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 601 AND 603 AIRPORT ROAD, AND 209 AND 211 NOWLIN LANE, BEING ON THE NORTHWEST LINE OF AIRPORT ROAD BETWEEN NOWLINLANE AND PINEHURST AVENUE, AND THE NORTHEAST LINE OF NOWLIN LANE NORTHWEST OF AIRPORT ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE AND R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE

was tabled indefinitely.

AMEND CITY CODE

Councilwoman Hurley stated this matter comes at the request of Better Housing.

On motion of Councilwoman Hurley, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 18, SECTION 18-164, RELATIVE TO POSTING A NOTICE FOR A NUISANCE CONDITIONS passed first reading.

REIMBURSEMENT AUTHORIZATION

Councilman Franklin stated Public Works items were discussed in Committee and are recommended for approval.

On motion of Councilman Franklin, seconded by Councilman Eaves,

A RESOLUTION AUTHORIZING REIMBURSEMENT TO THE HAMILTON COUNTY WATER & WASTEWATER TREATMENT AUTHORITY IN THE AMOUNT OF FOUR HUNDRED THIRTEEN THOUSAND, ONE HUNDRED SEVEN AND 49/100 DOLLARS (\$413,107.49) FOR THE DESIGN, CONSTRUCTION, CONTRACT MANAGEMENT AND INSPECTION ON THE LAKESHORE PUMP STATION AND FORCE MAIN PROJECT was adopted.

MORATORIUM: PROPERTY IN THE FORTWOOD AREA

Councilman Pierce inquired as to whether the one piece of property has been taken out of this request. City Attorney Nelson responded “no”; that the “building permit” provision was taken out altogether so that persons can still get a building permit.

On motion of Councilman Pierce, seconded by Councilman Franklin,

A RESOLUTION DECLARING A MORATORIUM FOR UP TO SIX (6) MONTHS ON CERTAIN REZONINGS ON PROPERTY IN THE FORTWOOD AREA, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, SO AS TO PERMIT THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TIME TO PERFORM THE FORTWOOD AREA ZONING STUDY was adopted.

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MORATORIUM: PROPERTY IN THE GUNBARREL ROAD/IGOU GAP ROAD AREA
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On motion of Councilwoman Rutherford, seconded by Councilman Taylor,
A RESOLUTION DECLARING A MORATORIUM FOR UP TO SIX (6) MONTHS ON CERTAIN REZONINGS ON PROPERTY IN THE GUNBARREL ROAD/IGOU GAP ROAD AREA, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE, SO AS TO PERMIT THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TIME TO PERFORM THE GUNBARREL ROAD/IGOU GAP ROAD AREA ZONING STUDY

was adopted.

“SPAY DAY USA 2000”

Paul Miller, Director of Animal Services, stated for the past five years the last Tuesday of February has been designated at “Spay Day USA” to bring attention to unwanted animals being euthanized throughout the United States. He stated Chattanooga is cooperating with six organizations within the Chattanooga area to bring this to the attention of the Council and the County Commission to pass resolutions to encourage people to spay and neuter animals to help decrease the number of animals euthanized on an annual basis. He stated several Veterinarians and businesses are participating by donating money and services toward helping people within the City and Hamilton County to obtain affordable spay and neuter services during this day.

On motion of Councilwoman Rutherford, seconded by Councilman Taylor,
A RESOLUTION DESIGNATING FEBRUARY 29, 2000, AS “SPAY DAY USA 2000”
was adopted.

AMEND BUDGET ORDINANCE NO. 10872

Chairman Lively stated that an amendment to the budget ordinance was discussed in Committee prior to the Council meeting and added to tonight’s agenda.

Councilman Hakeem stated this matter was brought up in Budget and Finance Committee today, which was tagged onto the Public Works Committee. He stated the matter comes with a recommendation for approval from the Committee with a 6-1 vote; that the amendment is a housekeeping item with some small appropriations going forward, as well.

Page 7

AMEND BUDGET ORDINANCE NO. 10872 (Continued)

Councilwoman Rutherford stated that she expressed her concern in Committee that she does not philosophically feel tax payers should pay for a separate Chamber for the minority businesses; that she does not separate and equal equate and therefore will vote one more time against this appropriation.

On motion of Councilman Hakeem, seconded by Councilman Taylor,

AN ORDINANCE TO AMEND ORDINANCE NO. 10872, ENTITLED "AN ORDINANCE TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 1999, AND ENDING JUNE 30, 2000, AND APPROPRIATING SAME TO THE PAYMENT OF EXPENSES OF THE MUNICIPAL GOVERNMENT; FIXING THE RATE OF TAXATION ON ALL TAXABLE PROPERTY IN THE CITY, AND THE TIME TAXES AND PRIVILEGES ARE DUE, HOW THEY SHALL BE PAID, WHEN THEY SHALL BECOME DELINQUENT; AND PROVIDE FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES." SO AS TO PROVIDE FOR CERTAIN CHANGES IN APPROPRIATIONS SET OUT IN SECTION 5; AND TO PROVIDE FOR CERTAIN CHANGES IN SPECIAL REVENUE FUNDS SET OUT IN SECTION 6; AND TO PROVIDE FOR CERTAIN CHANGES IN PERSONNEL SET OUT IN SECTION 7B

passed first reading; Councilmen Lively and Rutherford voted "no".

OVERTIME

Overtime for the week ending February 18, 2000 totaled \$14,512.21.

PERSONNEL

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

JOSHUA ELLER – Promotion, Sr. Zookeeper, Pay Grade 7/Step 3, \$21,657.00 annually, effective February 16, 2000.

DONALD L. SHARP – New Hire, House Manager, Civic Facilities, Pay Grade 11/Step 3, \$26,561.00 annually, effective February 21, 2000.

Page 7**PERSONNEL**

The following personnel matters were reported for the General Services Department:

JERRY NATION – Promotion, Senior Shop Supervisor, Fleet Maintenance (12th Street Garage), Pay Grade 20, Step 7, \$44,774.00 annually, effective February 11, 2000.

PERSONNEL

The following personnel matters were reported for the Public Works Department:

HENRY JOHNSON – Retirement, Light Equipment Operator, City-wide Services effective March 7, 2000.

WILLIAM M. JONES – Promotion, Crew Supervisor, Citywide Services, Pay Grade 11/Step 3, \$26,561.00 annually, effective February 16, 2000.

RICHARD A. BOYD – Voluntary Demotion, Crew Worker, Citywide Services, Pay Grade 3/Step 11, \$23,607.00 annually, effective February 23, 2000.

MORRIS FITTEN – Dismissal, Sanitation Worker, Citywide Services, effective February 9, 2000.

JOE L. WOODALL, Retirement, Survey Research Coordinator, Engineering, effective January 31, 2000.

CHARLES HARRIS – Lateral Transfer, Engineering Project Coordinator, Engineering, Pay Grade 20/ Step 10, \$50,926.20 annually, effective March 1, 2000.

CHARLES BEASLEY – Promotion, Equipment Operator, Waste Resources, Pay Grade 8/Step 5, \$24,963.00 annually, effective February 16, 2000.

PERSONNEL

The following personnel matter was reported for the Chattanooga Fire Department:

MICHAEL KENNEDY – Suspension (one day without pay), Lieutenant, effective February 28, 2000.

HOTEL PERMIT

On motion of Councilwoman Hurley, seconded by Councilwoman Rutherford, the following hotel permit was approved:

KNIGHTS INN – 6914 Shallowford Road, Chattanooga, TN

PERSONNEL

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

HAROLD JACKSON – Resignation, Police Officer, effective February 16, 2000

MORELAND WILSON – Suspension (three days without pay), Police Officer, effective March 8, 2000.

JAMES D. HEAD – Hire, Field Supervisor, Pay Grade 13/Step 3, \$29,014.00 annually, effective February 25, 2000.

CATHERINE KATZMAN – Hire, Field Supervisor, Pay Grade 13/Step 1, \$26,371.00 annually, effective February 25, 2000.

STEVE ARCHER, ROBERT CURRY, JOE DUTTO, FREDERICK FELCI, DONALD JAMISON, FREDDIE MARBLE, CARL MILLICAN, KARNE SATTERFIELD, CHARLES SHAW – Hire, Animal Services Officer, Pay Grade 9, Step 1, \$21,918.00 annually, effective February 28, 2000.

FOLLOW-UP REPORT

Chief Dotson stated as a follow-up to last week’s Council meeting, he, Deputy Chief Cook and one of the supervisors met with the family; that there are concerns, yet nothing that warrants an internal investigation. He stated this involves a community that has neighborhood concerns with drugs and the office is working diligently to eradicate that problem. He stated it is felt there is not a need for an internal investigation and will continue to monitor the situation and bring it up to standards.

PERSONNEL

The following personnel matter was reported for the Department of Finance and Administration:

DAPHNE B. SMITH – Hire, Court Clerk, City Court, Pay Grade 5/Step 1, \$17,459.00 annually, effective March 10, 2000.

Page 10**HEARING: OFFICER YATES**

City Attorney Nelson stated the attorney for Officer Yates will be trying a case in Tucson and will not be able to be present for the March 6 hearing date. He stated Councilmen Taylor, Rutherford and Hurley comprise the committee hearing the case. He stated the current order from Chancery Court requires that the matter be heard by March 15; that he will try to get that changed because of the problems the other side is having. He asked if the request could be rescheduled for Monday, March 13, if possible.

Councilwoman Rutherford stated she would be in Atlanta on a court case on the thirteenth and cannot be present for the Yates hearing.

Councilman Eaves inquired as to whether this is the only time this case has been put off. City Attorney Nelson responded "yes".

Councilman Eaves stated he does not want to volunteer for the Committee hearing the case because as far as he knows he will be out of the City; that something might change and if it does he will be glad to be on standby.

Councilman Taylor stated at this point he might have a conflict with the March 13 date; that he has been designated to serve as Chair of the Committee hearing the request.

Councilman Eaves inquired as to the consequences if the request is not heard by the fifteenth. City Attorney Nelson stated the consequences would be that we would go to court.

Councilman Hakeem, Franklin and Hurley volunteered to serve as the Committee hearing the case on March 13 at 6 p.m.

Councilwoman Rutherford asked if it is thought the court will accommodate the City's request since both sides would have a problem. City Attorney Nelson stated he has no doubt that would occur; that if the court chose not to the Council would be alerted and a date set within the confines the court has set.

COMMITTEES

Councilwoman Rutherford reminded Council members of the meeting of the **Parks and Recreation Committee** scheduled for **Tuesday, February 29 beginning at 4 p.m.**

Councilwoman Hurley scheduled a meeting of the **Health, Education, Human Services and Housing Opportunities Committee** for **Tuesday, March 14 immediately following the Parks and Recreation Committee** for a discussion of the CDBG allocations.

(Councilman Crockett rejoined the meeting at this point.)

STUDY AND MORATORIUM ON ZONING

Councilwoman Rutherford stated she was not present last week to put in her request for a zoning study to be done for North Terrace and Moore Road and from North Terrace to Shallowford; that the areas include Districts 5 and 6. She stated she would also like a moratorium on zonings while the study is being conducted.

RAY SINOR

Ray Sinor, of 4521 Fire Pink Trail, brought a delegation of neighbors and addressed the Council regarding problems within his subdivision involving a neighbor's (James Marler) construction equipment that is creating an eyesore for the community. He inquired as to whether the neighbor's utilization of property with the equipment is "grand fathered-in". He addressed another problem within the community involving storm water runoff on West View Road, which is a curvy road and becomes slick during rainy times. He stated Councilman Lively has been out a couple of times to look at the situation and made reference to an article that appeared in today's newspaper regarding this matter. (Mr. Sinor read from a prepared statement a copy of which is included with minute material of this date).

Chairman Lively asked Admin. Marcellis to speak to this situation. Admin. Marcellis stated Councilman Lively asked the Public Works Department to look at both the storm water and construction company issues; that the best he can tell is that the construction equipment Mr. Marler has has been there since 1969, which is five years before the area was annexed. He stated that it could be considered as a non-conforming legal use right now.

City Attorney Nelson asked if it is known what the zoning was in the county prior to coming into the City. Admin. Marcellis stated he did not know that it was ever enforced as a non-use.

City Attorney Nelson stated in order to be grand fathered as a legal non-conforming use it has to have been legal under the previous zoning in the county and if it was, there is little we can do if it is grand fathered-in.

Admin. Marcellis stated he would continue to see what the county could provide. He stated in reference to the storm water issue on West View he still does not have a report and will try to accommodate Mr. Sinor as soon as he can. He reiterated that he would look at the county's regulation on the zoning.

ADJOURNMENT

Chairman Lively adjourned the meeting until Tuesday, February 29, 2000 at 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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