

Chattanooga Council Building
Chattanooga, Tennessee
March 12, 2002
6:00 p.m.

Chairman Hakeem called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Littlefield, Lively, Page, Pierce, Robinson and Taylor present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal, CMC, were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Chairman Hakeem gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

On motion of Councilman Franklin, seconded by Councilman Littlefield,
AN ORDINANCE CLOSING AND ABANDONING THE 2600 THROUGH 2900 BLOCKS OF KIRBY AVENUE, THE 800 BLOCK OF KYLE STREET (PART), THE 700 BLOCK AND 800 BLOCK (PART) OF CAREY STREET, THE 800 BLOCK OF BOYD PLACE AND TWO (2) ALLEYS NORTHEAST OF ANDERSON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, AND PERMITTING TENNESSEE-AMERICAN WATER COMPANY, CHATTANOOGA GAS COMPANY, THE ELECTRIC POWER BOARD, BELLSOUTH, COMCAST CABLE COMMUNICATIONS, INC. AND THE CITY OF CHATTANOOGA TO RETAIN THEIR RESPECTIVE EASEMENTS

passed second reading. On motion of Councilman Lively, seconded by Councilwoman Robinson, the Ordinance passed third and final reading and was signed in open meeting.

**CONTINUE SUPPORT OF THE COMMUNITY
EDUCATION ALLIANCE**

At this point Councilwoman Robinson made the motion to move Resolutions 7(l) and (j) and Ordinances 6(h) and (k) forward on the agenda; Councilman Franklin seconded the motion, the motion carried.

Councilman Benson stated this Resolution was discussed in today's Health, Education, Human Services and Housing Opportunities Committee and approval is recommended.

Councilman Taylor acknowledged that the matter was discussed in Committee and expressed his support for the Resolution. He stated that he would like for the record to reflect his concern about the two schools that are to be used as a pilot program.

On motion of Councilman Benson, seconded by Councilman Page,

**A RESOLUTION EXPRESSING THE INTENT OF THE CITY COUNCIL TO
CONTINUE ITS SUPPORT OF THE COMMUNITY EDUCATION ALLIANCE
AND EXPRESSING ITS INTENT TO PROVIDE ASSOCIATED FUNDING
FROM THE EDUCATION FUND TO FACILITATE SUCH ACTIVITIES
THROUGH FISCAL YEAR 2004-2005**

was adopted.

**TEMPORARY USE: NORTH BRAINERD
NEIGHBORHOOD COMMUNITY**

Councilman Franklin stated this Resolution and the following Ordinance was discussed in last week's Public Works Committee and approval is recommended for both. He expressed appreciation to the North Brainerd Neighborhood Community for helping to move the matter forward.

On motion of Councilman Franklin, seconded by Councilman Lively,

**A RESOLUTION AUTHORIZING THE NORTH BRAINERD NEIGHBORHOOD
COMMUNITY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY
BETWEEN THE LEVEE AND THE SIDEWALK ON SHALLOWFORD ROAD
FOR INSTALLATION OF A GATEWAY SIGN, SUBJECT TO CERTAIN
CONDITIONS**

was adopted.

RIGHT-OF-WAY NAME CHANGE

2002-013: New Covenant Fellowship Church

Pursuant to notice of public hearing, the request of New Covenant Fellowship Church to change the right-of-way name of Willow Bend Drive to Fellowship Drive came on to be heard.

On motion of Councilman Lively, seconded by Councilman Franklin,

**AN ORDINANCE TO CHANGE THE RIGHT-OF-WAY NAME OF WILLOW
BEND DRIVE TO FELLOWSHIP DRIVE, SAID RIGHT-OF-WAY BEING MORE
PARTICULARLY DESCRIBED HEREIN**

passed first reading.

REZONING

2002-030: Y & B Company c/o Tracy Wooden

Pursuant to notice of public hearing, the request of Y & B Company, c/o Tracy Wooden, to rezone a tract of land located at 3941 Chickamauga Avenue came on to be heard.

The applicant was not present; opposition was in attendance.

Councilman Page thanked residents of the neighborhood for their presence regarding this rezoning. He stated these people have gone through problems with people trying to "jump" zoning and codes in terms of operation of facilities here. At this point he **made the motion to deny the request**; **Councilman Lively seconded the motion**.

Jerry Pace, Director of Operations with the Regional Planning Agency, stated that the applicant sent a letter asking that the matter be withdrawn. He asked if the case would be withdrawn or heard?

City Attorney Nelson stated that the applicant has no absolute right to withdraw; that people are present from the neighborhood in opposition to the request.

Mr. Pace asked that the record reflect that the applicant asked to withdraw and that the Council will act on the case.

REZONING (Continued)

Councilman Page indicated that it is unfair to the neighborhood to have them continuously come back each time this matter comes up; that if it is withdrawn they would have to come back again.

Chairman Hakeem declared a public hearing in process for persons wanting to speak for or against this rezoning request.

Gary McCutcheon, of 3920 Chickamauga Avenue, stated that he is part of the group in opposition who do not want this rezoning for a television station or rezoned commercial. He stated this is a very diverse neighborhood and they do not like the changes that have already been made where people have "jumped" code and changed the topography of the land; that this is a violation of the law. He stated they went to the county hearing and laws were passed in favor of this rezoning that they did not have opportunity to speak to. He stated once the trees were knocked down in their area, they had problems with snakes and rats and can now hear traffic from Bonny Oaks and Highway 58, things that should not have happened to them. He stated the neighborhood is strong and safe and it is a good place to live; that what they have done has made their surroundings ugly. He stated as Councilman Page mentioned, they have had to come back each time matters such as this have come up and it would clearly wear them out. He stated they want to let it be known that they do not want any of this and to keep the location as a home and not a business. He stated there are things going on at that property that should not be happening, anyway, in "jumping" property lines.

Councilman Page stated that it is his belief that the Codes Department of the City is looking into this; that there have been some "jumping" of codes and zoning at this location. He stated that he would like to go on record that the Codes Department is looking into this in terms of what needs to be done; that there may be people doing things or some things already done on that property that is unauthorized and against City Code.

Chairman Hakeem asked Admin. McDonald to note the comments made and follow through with Councilman Page's request.

Councilman Benson stated that petitioners have a history of doing this, of not following procedures. He stated similar situations took place in his district where persons were operating out-of-zone and then requested a zoning change. He stated that is what has occurred here and then requested zoning to be in compliance. He urged Council members to reject the matter rather than defer.

REZONING (Continued)

At this point, Chairman Hakeem declared the hearing duly closed.

On motion of Councilman Page, seconded by Councilman Lively,

**AN ORDINAMCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3941 CHICKAMAUGA AVENUE, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-
4 SPECIAL ZONE**

was denied.

AMEND ZONING ORDINANCE

Councilman Littlefield stated this amendment to the Zoning Ordinance was developed by the Legal and Legislative Committee over a period of weeks. He stated a moratorium was put in place on additional cellular towers during the course of this high profile issue and the Committee heard from a number of people on both sides of this issue. He stated they looked at Ordinances from other communities and the Committee devised an amendment that will serve us well for the foreseeable future. He stated this is a changing industry and it is likely we will continue to have to modify the section of the Code from time-to-time. He stated for now, it is thought this should resolve some of the problems of location of towers that have caused a great deal of concern in communities. At this point he **made the motion to approve the Ordinance; Councilman Benson seconded the motion.**

At this point, Chairman Hakeem declared a public hearing in progress and noted one member from the tower industry was present.

Pat Rogers stated that she lives in the Ridgedale area near the McCallie Avenue, Watkins intersection where a cellular tower exists. She stated the tower is not yet operative and is on leased property. She stated that the issue relates to both commercial and residential areas and noted the need for more residentially oriented businesses. She asked if the Committee considered the standards for building towers taller than buildings?

Councilman Littlefield stated that he has had several conversations with Ms. Rogers about this. He stated that the tower was put there (on McCallie) legally and we cannot go in and order it to go away unless someone is willing to pay to condemn and remove it!

AMEND ZONING ORDINANCE (Continued)

Councilman Littlefield stated one thing lacking in the old regulation was that people did not receive notification and under this new amendment the site will be posted with a large yellow sign so people who live in the neighborhood can have opportunity to know what is being proposed and notice will be sent to people in surrounding properties. He stated the requests will go through the Board of Zoning and Appeals rather than having a permit by right; that they will have to defend their reason for selecting the site and citizens will have an opportunity to have their say at the Board of Appeals.

At this point, Chairman Hakeem declared the hearing duly closed.

On motion of Councilman Littlefield, seconded by Councilman Benson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTIONS 402(14), 503(15), 509, 603(20), 604(8), 609, 703, 804(11), 812, 903(4), 910, 1002, 1004(7), 1011, 1012, 1021, 1022(8), 1026(2), 1603 AND 1605; AND BY AMENDING ARTICLE VIII, SECTIONS 107(17)(A)(4), 107(17)(B)(2), 107(17)(B)(3), 107(17)(C)(3), 107(17)(D)(1) AND 107(17)(F), RELATIVE TO THE LOCATION STANDARDS AND SITING REQUIREMENTS OF COMMUNICATION TOWERS IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS
 passed first reading.

AMEND ZONING ORDINANCE

Mr. Pace stated when the Zoning Ordinance was recodified the radio, television and motion picture studios were permitted in R-4 by right and towers were not. He stated when the Ordinance was recodified those uses were required to go to the Board of Appeals, as well as cellular tower requests. He stated this Ordinance puts the radio, television and motion picture studios back as they were originally allowed in R-4 zones.

On motion of Councilman Littlefield, seconded by Councilman Lively,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTIONS 401 AND 402(7), TO INCORPORATE NEW LANGUAGE RELATIVE TO THE LOCATION OF RADIO, TELEVISION AND MOTION PICTURE PRODUCTION STUDIOS
 passed first reading.

CLOSE AND ABANDON**MR-2001-024: Charles Harrison**

The applicant was present; opposition was in attendance.

Councilman Franklin stated this matter was discussed in Public Works Committee meeting and referred for further discussion in open Council meeting.

Mr. Pace stated that he does not have a presentation for the closure; that it was discussed in Committee last week and there is opposition. He stated that he looked at the area in question this morning and by PowerPoint presentation showed various views of the unopened rights-of-way. The presentation showed the proximity of a home in the area, the alleyways and a lot used for parking which is not being requested to be closed. He stated when the matter came before the Public Works Committee concerns were raised regarding the alleyways being closed. He stated both Planning and Staff recommend approval of the closures.

Wilhelmina Hogg made reference to the photos contained within the PowerPoint presentation and pointed to the various locations of the alleys in proximity to her home. She stated there used to be two houses on the property prior to Mr. Harrison's acquisition of the property, everyone got along and no one was blocked off at any time in any way. She stated in order to get to her home she has to go across Central and into the parking lot or come around Rosville Boulevard and come in the back way. She stated if permission is given for Mr. Harrison to build to put in a parking lot, she would not be able to get to her house at all and could not have any type of family gathering. She stated she would be "fenced in" and that Mr. Harrison has room to build across the street where his trucks are fenced in.

Chairman Hakeem stated if he understands correctly the portion at the top of the photo shown by PowerPoint is the section requested to stay open. Ms. Hogg responded that that area is directly behind her home.

Councilman Pierce inquired as to the zone behind Ms. Hogg's house? Mr. Pace stated that the alleyway is unopened presently and the lot behind the alley is privately owned. Councilman Lively stated it was mentioned in Committee that the zone is M-1.

Mr. Pace stated most property in that area is M-1 and that the applicant owns the lot behind Ms. Hogg's property.

CLOSE AND ABANDON (Continued)

Councilman Pierce stated the point is that he wants Ms. Hogg to understand that the Council cannot request the applicant not to build on his own property. He stated if the property was zoned R-2 the Council could, however, it is already zoned M-1 and he has the right to go in and put up a building any time he gets ready.

Ms. Hogg stated that she does not understand what is meant by M-1. Councilman Pierce stated M-1 is manufacturing and R-2 is basically residential; that Mr. Harrison's property is zoned M-1 for manufacturing and the Council cannot stop him from putting a business on his own property.

Ms. Hogg stated if Mr. Harrison builds on the property it would block her house and make her susceptible to crime. Councilman Pierce expressed agreement with Ms. Hogg that it would block view of her home from the rear. Ms. Hogg asked if building on property takes precedence over a person's safety?

Chairman Hakeem explained that the property is already zoned for business and for the Council to change that zoning without his request would be removing some of the applicant's rights to use his land to the best use. He stated the applicant paid for the property at a commercial rate and legally, if he decides to put a building on the property, the Council could not (legally) stop him.

Ms. Hogg stated if that happens she would have to walk out and look at a building, be "fenced in" and not be able to get to her back yard.

Councilman Taylor asked Ms. Hogg if her property is on lot 39 of the site map and whether the lot next to her is lot 9? Ms. Hogg responded that number 39 is her lot.

Mr. Pace stated all lots on either side are all privately owned lots; that the parking lot is privately owned. He stated if a fence is put across the lot on either end of Central or the other street they could do that.

Councilman Taylor inquired as to who owns lot 12 on Myrtle Street and directly behind? The response was that Mr. Harrison owns the properties. Councilman Taylor then inquired as to whether there is a buffer? Ms. Hogg again stated that the space behind her and on the other side of the alley is Mr. Harrison's property; that when he builds his building or whatever he plans to do will "fence" her in. She stated he could build in front of the white building reflected on the PowerPoint photos, behind the building and across the street on Central Avenue.

CLOSE AND ABANDON (Continued)

Councilman Taylor asked Mr. Harrison if he plans to build on Myrtle Street? Mr. Harrison responded that he did not understand where all the "fences" and buildings are coming from; that he has not shared anything with Ms. Hogg; that he told her he would like to develop it and maybe put a building on it. He stated at this time he does not have a plan; that a couple people have come to view it. He stated that he went to Lowe's and purchased rope and constructed a rope fence to keep traffic off the lots to keep from tearing them up; that he spent \$150.00 on rope but cannot afford a fence. He stated he does not know of the plans that are being discussed.

Councilman Taylor asked for clarification that the only piece that would affect Ms. Hogg is the alley portion behind her home? Mr. Harrison responded "yes".

Councilman Page asked for clarification that if anyone has need of an alley, why is it requested for closure?

City Attorney Nelson stated we cannot isolate a property, but this property is not isolated because Central Avenue runs in front, so that rule does not apply in this case.

Councilman Benson stated that he does not know why this matter is being moved on at this time; that the petitioner for closing and abandoning the alley has said he has no plans. He stated he (applicant) has not specified a site use plan and does not know of any justification to consider in closing it on a speculative basis like the applicant seems to have. He stated he would not feel comfortable voting for the closure now.

Councilman Littlefield inquired as to whether the alley continues north between lots 8 and 13? Mr. Pace responded that the alley continues to the north from Lots 8 and 13; that Ms. Hogg would have to come down that way.

Councilman Littlefield inquired as to whether there are utilities in these alleys? Mr. Pace responded that he did not know of any utilities or sewers in the alleyways. Mr. Harrison injected that there are utilities in the alleyways; that there is a sewer.

Councilman Littlefield asked the applicant the reason for the closure if he is not going to be able to build?

Mr. Harrison stated that he does have site plans, but has not shared them with Ms. Hogg; that the sewer runs the full length of the alleyway.

CLOSE AND ABANDON (Continued)

Councilman Littlefield stated that Mr. Harrison cannot build on the alleyway or the one going back toward Myrtle due to the sewer. He stated the only one he could build on are the two that go toward Central.

Councilman Taylor stated since the applicant cannot build on them, he asked if the lot facing Central that is paved over is open? The response was "yes".

Councilman Taylor stated since the alleys cannot be built upon, why are they requested for closure?

Mr. Harrison stated that he requested closure two years ago and did not realize the alleyways existed. He stated that he has been mowing the grass for some time and removed debris and stumps that no one could drive over. He stated he could make it cleaner; that he is tired of mowing the grass and maintaining it; that he has employees that mow the grass.

Councilman Taylor again asked the reason for the closure? Mr. Harrison stated the purpose is to gain ownership and the ability for constructing car parts; that he has a building across the street and has been offering car parts for years. He stated there is no building at this location at all; that he has plans to build on part of it.

Councilman Pierce stated this request is in his district and that he has often talked about bumper zones. He stated that he has tried to work with Mr. Harrison on other projects and right now he does not have a plan. He stated that the alley could basically serve as a bumper; that the alley should be divided between the property owners. He stated all that we are talking about is five feet rather than a full ten feet. He stated it does not see how this would enhance him one way or the other; that there is basically one residence that is land locked. He stated Ms. Hogg has been at her location for the last thirty years and does not know how long she can stay if she is land locked.

Councilman Franklin expressed agreement with Councilman Pierce's comments that half of the alley should go to the owner and the other half to Ms. Hogg.

At this point Councilman Lively made the motion to approve the request, however, the motion failed for lack of a second.

CLOSE AND ABANDON (Continued)

On motion of Councilman Page, seconded by Councilman Benson,
AN ORDINANCE CLOSING AND ABANDONING THREE UNNAMED ALLEYS BETWEEN THE 1900 BLOCKS OF CENTRAL AVENUE AND MYRTLE STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
 was denied.

REZONING

2001-193: Bill Ramsey

Pursuant to notice of public hearing, the request of Bill Ramsey to rezone a tract of land located at 4709 Bonny Oaks Drive came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated that this request is located in the Bonny Oaks area near Jersey Pike; that commercial is presently on the front and the applicant is asking for rezoning of the rear of the property facing Jersey Pike. He stated the request is in compliance with the Highway 58 Study approved by the Council a few weeks ago. He stated the applicant met with the neighborhood and community and the conditions placed on the Ordinance are part of the process. He stated the request is recommended for approval from both Planning and Staff.

Councilman Page stated that it is his understanding that the alternate version is the one recommended for approval? Mr. Pace responded "yes, that is correct".

Councilman Page expressed thanks to the RPA Staff for meeting with the neighborhood.

On motion of Councilman Franklin, seconded by Councilman Page
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 4709 BONNY OAKS DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE, R-2 RESIDENTIAL ZONE AND M-1 MANUFACTURING ZONE TO O-1 OFFICE ZONE AND FROM C-2 CONVENIENCE COMMERCIAL ZONE TO M-2 LIGHT INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
 passed first reading.

REZONING**2001-198: Monty Reeves**

Pursuant to notice of public hearing, the request of Monty Reeves to rezone tracts of land located at 1818 Clearview Drive and 7506 Hewitt Lane came on to be heard.

The applicant was not present; there was no opposition.

Mr. Pace stated that the applicant has requested withdrawal of this request. He stated there is a request from the residents on Clearview for rezoning and the applicant wishes to proceed with the neighborhood process rather than individually requesting rezoning.

On motion of Councilman Benson, seconded by Councilman Lively,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 1818 CLEARVIEW DRIVE AND 7506 HEWITT LANE,
MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL
ZONE TO R-3 RESIDENTIAL ZONE**

was withdrawn at the request of the applicant.

REZONING**2002-004: City of Chattanooga**

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone tracts of land located in the Clearview Heights Zoning Study Area came on to be heard.

There was no opposition in attendance.

Mr. Pace stated the study for this area along Clearview is being requested for rezoning from R-1 to R-3 and the recommendation from Planning is that the R-1 remain in the hope these properties can be assembled in an orderly fashion rather than piecemeal lot-by-lot. He stated that there is hope for a larger development rather than individual lots.

REZONING (Continued)

On motion of Councilman Benson, seconded by Councilman Page,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE CLEARVIEW HEIGHTS ZONING STUDY AREA,
MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL
ZONE TO R-3 RESIDENTIAL ZONE**
was denied.

REZONING

2002-006: City of Chattanooga

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone tracts of land located in the Igou Gap Zoning Study Area came on to be heard.

There was no opposition in attendance.

On motion of Councilman Lively, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED IN THE IGOU GAP ZONING STUDY AREA, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO
O-1 OFFICE ZONE**
was denied.

REZONING

2002-022: Zaremba Group LLC

Pursuant to notice of public hearing, the request of the Zaremba Group LLC to rezone a tract of land located at 7510 Shallowford Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated the request is located in the Shallowford Road area of East Brainerd and inside the Hamilton Place Plan; that the request meets the intent of the Plan and is recommended for approval from Planning and Staff.

REZONING (Continued)

Councilman Benson stated that the Zaremba Group met with the community and all know what the development will be; that it is a quality development. He asked a representative of the Group to explain about the traffic and the deceleration entry.

Gary Davis, a partner in the Zaremba Group from Atlanta, stated this is an eight-year old company specializing in multi-family development and retail. He stated they have been looking for some good development space within the Hamilton Place area; that it does comply with the study and that they met with Councilman Benson, Planning and the Traffic Engineer. He stated they contacted the Tennessee Department of Transportation about the widening of Shallowford and agreed as part of our conditions to widen Shallowford. He stated a traffic study will be completed to see if any type of traffic signal is needed and the deceleration lane will be addressed, as well. He stated they are happy with the conditions proposed, will continue to work with the traffic department and talk with Mr. VanWinkle.

Councilman Benson inquired as to the number of units for the multi-family development? Mr. Davis stated there will be 300 high end luxury condos and apartments that will be gate guarded.

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 A TRACT OF
LAND LOCATED AT 7510 SHALLOWFORD ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-3 RESIDENTIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2002-023: George Wilcox

Pursuant to notice of public hearing, the request of George Wilcox to rezone a tract of land located at 1000 Riverfront Parkway came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

On motion of Councilman Lively, 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 1000 RIVERFRONT PARKWAY, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO O-1 OFFICE ZONE

passed first reading.

REZONING**2002-031: Porter Yarbrough**

Pursuant to notice of public hearing, the request of Porter Yarbrough to rezone a tract of land located at 1210 Broad Street came on to be heard.

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

Mr. Pace stated that the applicant has suggested that the only zone change involves the portion the building itself. He stated that he spoke with City Attorney Nelson about it and the opinion was given that this was too significant a change to the request at this time to reduce the size that the Council might want to send the matter back to Planning for consideration. He stated that he spoke with the applicant regarding the opinion; that it is up to the Council to move forward with a recommendation for the whole piece or send it back to Planning.

Chairman Hakeem stated the whole piece of property is being requested for zoning change; however, Mr. Yarbrough wants to modify the request. He stated the City Attorney has indicated that it might need to go back through the process again.

City Attorney Nelson clarified that if the change is significant it is his understanding it would change the size of the area to be used.

Mr. Pace stated that the request is to rezone only the portion the building is on; that this leaves out the portion for parking. He stated the parking issue was a big part of this; that it is his opinion this is a significant part of the property, however, it is for the Council to accept or send back.

REZONING (Continued)

Mr. Pace stated the building is along Broad Street between Thirteenth and Twelfth Streets, across from The Chattanooga. He stated the parking lot is to the south of the building and Mr. Yarbrough would like to incorporate that portion of the building and not include the parking area.

Porter Yarbrough, applicant, stated that the property is the old Amos and Andy car lot; that he had a discussion with one of the banks in town regarding making a small drive through for them. He stated the little building on the parking lot was used by the used car salesmen and is 700 square feet. He stated the whole tract is presently zoned M-1 and the Board of Directors has voted to take half of that building but have reserved the right to get out of the deal. He stated he does not have a firm deal, however they need possession by November 11; that they are waiting on their Board to give the final go ahead to do total renovation for Class A office space for another half of the building. He stated the property would be landscaped and the southern half of 15,500 feet would be available for retail or other office use. He stated they want to be a good neighbor on the south side and everyone wants to see that building developed because it is an eyesore, now. He stated they are trying to find a tenant and would then renovate it to their specifications. He stated the southern half would be left M-1 to give more flexibility for development on the lot that could turn into a branch bank.

Mr. Pace stated one condition placed on the property was that any new construction would be up to the street to conform to the Southside development in that area. He stated the existing building has a set back on Board Street but not on Thirteenth Street; that his point is that the southern half is a significant part of this which was not discussed at Planning when the request was made.

Councilman Littlefield stated that it was his thought that C-3 was a very liberal zone; that the building would be in its present location and would be grandfathered-in as he understands it from Mr. Pace. He suggested that the matter pass on first reading and think about it during the coming week; that if it is workable changes could be made before second and third reading or hold the matter. He stated that it seems to him it would be in the best interest to change from M-1 to C-3 throughout downtown; that it would be a good move.

Mr. Yarbrough expressed appreciation for the amendment; that the only new construction would be adding the drive through lane; that there would be three drive through lanes on the Thirteenth Street side.

REZONING (Continued)

Mr. Yarbrough stated if this is not a problem he does not intend to use the property for M-1; that everyone would like to see it rezoned as C-3. He reiterated that the plan is to renovate the existing building and add a drive through.

City Attorney Nelson stated the next week will allow opportunity to look this over; that if changes are to be made there must be a change in the description, also.

Mr. Pace indicated a new legal description would be needed and would prepare it (in case).

On motion of Councilman Littlefield, 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 1210 BROAD STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING**2002-035: City of Chattanooga**

Pursuant to notice of public hearing, the request of the City of Chattanooga to rezone a tract of land located at 2815 Military Road came on to be heard.

There was no opposition in attendance.

On motion of Councilman Littlefield, 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 2815 MILITARY ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM TEMPORARY R-1 RESIDENTIAL ZONE TO
PERMANENT R-1 RESIDENTIAL ZONE**
passed first reading.

REZONING

2002-036: Jon Kinsey

Pursuant to notice of public hearing, the request of Jon Kinsey to rezone a tract of land located in the northwest corner of Main Street and Market Street came on to be heard.

A representative for the applicant was present; there was no opposition.

On motion of Councilman Littlefield, 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 IN THE NORTHWEST CORNER OF MAIN STREET AND MARKET STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

QUITCLAIM DEED

On motion of Councilman Lively, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A QUITCLAIM DEED CONVEYING A CERTAIN PARCEL OF REAL PROPERTY LOCATED ON THE TENNESSEE-GEORGIA LINE AND JOINTLY OWNED BY HAMILTON COUNTY, TENNESSEE AND THE CITY OF CHATTANOOGA, TENNESSEE, MORE PARTICULARLY DESCRIBED HEREIN, TO THE CITY OF ROSSVILLE, GEORGIA

was adopted.

DECLARE SURPLUS

MR-97-013: Finance and Administration

On motion of Councilman Lively, seconded by Councilman Littlefield,
A RESOLUTION DECLARING CERTAIN PROPERTY LOCATED AT HOLTZCLAW AVENUE AND WILSON STREET, MORE PARTICULARLY DESCRIBED HEREIN, AS SURPLUS AND AUTHORIZING THE SALE OF SAID PROPERTY TO JOHN P. FRANKLIN, SR. FOR A CONSIDERATION OF FORTY THOUSAND DOLLARS (\$40,000.00) PLUS ONE-HALF (1/2) OF THE CLOSING COSTS AND THE CITY PROVIDING THE TITLE POLICY

was adopted; Councilman Franklin abstained.

DECLARE SURPLUS

MR-2002-003: Finance and Administration

On motion of Councilman Benson, seconded by Councilman Littlefield,
A RESOLUTION DECLARING CERTAIN PROPERTY LOCATED AT SOUTHERN STREET AND ROANOKE AVENUE IN THE AVONDALE AREA, MORE PARTICULARLY DESCRIBED HEREIN, AS SURPLUS AND AUTHORIZING THE SALE OF SAID PROPERTY TO LOVE FELLOWSHIP CHURCH, FOR A CONSIDERATION OF TEN THOUSAND DOLLARS (\$10,000.00)
was adopted.

DEED

On motion of Councilman Page, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A DEED CONVEYING CERTAIN SURPLUS PROPERTY LOCATED ON TALLADEGA AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, TO HABITAT FOR HUMANITY OF GREATER CHATTANOOGA, INC., SUBJECT TO DESIGN REVIEW
was adopted.

AGREEMENT: STOKES, BARTHOLOMEW, EVANS AND PETREE, A PROFESSIONAL ASSOCIATION

On motion of Councilman Lively, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO ENTER INTO AN AGREEMENT WITH STOKES, BARTHOLOMEW, EVANS & PETREE, A PROFESSIONAL ASSOCIATION, RELATIVE TO LOBBYING ACTIVITIES FOR THE CITY OF CHATTANOOGA, TENNESSEE, FOR A TERM OF FIVE MONTHS, BEGINNING FEBRUARY 15, 2002, IN AN AMOUNT NOT TO EXCEED FIVE THOUSAND (\$5,000.00) PER MONTH
was adopted.

CONTRACT FOR OXYGENATION EQUIPMENT

Councilman Littlefield stated this matter was dealt with in Committee a week ago and after several votes the matter became more confusing. He stated there was a lot of legal discussion back-and-forth and all kinds of opinions from both City Attorney and attorneys for the two competing entities for this contract.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Councilman Littlefield stated the motion was made to accept the low bid; that the Resolution before the Council is to award the contract to the alternate bidder.

Councilman Littlefield stated he is now more convinced than last week that the proper course of action for the City would be to award the contract to the low bidder, Lotepro, which admittedly has gone through some corporate mergers and so forth which complicates this issue, an issue for the lawyers, if necessary to "iron out". He reiterated that it is his thinking that the best deal for the City is the low bidder, and convinced the City is on sound legal ground to accept the low bid. He **made the motion that the Resolution to award the contract to Kruger be denied.**

Councilman Benson stated that he is more convinced than ever this week that he wished he had voted for the low bidder last week; that as he studied more into this last week, to go with the bidder at that time was \$39,000 higher than the low bidder. He stated that it was his thought that the best legal and professional advice for him was given and recommended in the Public Works Committee meeting. He stated after rechecking, he finds that the Public Works Department based their best advice on legal advice and lost half of his reasoning for that. He stated now the more he has thought about it, we can save the City not only \$39,000, but also operations cost over a period of time another \$100,000, which comes to \$165,000 savings and does not think he would be voting what was best for tax payers and citizens if he did not vote for the lowest bid. He asked for forgiveness in erring the last time.

Councilman Pierce stated that he has tried to stay out of the conversation; that he was misled in voting last week as he thought he was voting for one company and later learned he voted for the other! He stated after thinking over the matter he still supports the low bidder. He expressed appreciation for the advice from administration and the Council as to whom they think is qualified; that he feels in all fairness he should go with Lotepro, the low bidder. He stated they are bonded, can guarantee the product they are set out to do and feel they can produce.

Councilman Taylor stated as Council members have indicated they are more convinced, he is more convinced when looking at a company where there has been a change really complicates the issue. He stated he would definitely like to hear from Kruger as it relates to the efficiency side as to how their product produces.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Councilman Lively stated that however the vote goes, both companies are fine companies and both attorneys made strong bids for their side. He stated during his career, he has been involved in more mergers, spin-offs and reorganizations than he cares to admit! He stated last week he did not really understand this; that he was under the impression the portion of the company Lotepro sold was the portion that bid and was selling the bid. He stated that he voted for the next lowest bidder for that reason; that after asking for enough material to study the matter he found that was not the case; that it was a reorganization of subsidiaries combined and they did not sell off. He concluded his comments by stating that his support would be for the low bidder tonight.

Atty. Leslie Shechter, of Waller, Lansden, Dortch & Davis in Nashville, stated that the facts have not changed since last Tuesday. She stated the City cannot award the contract to Lotepro's successor because the division of Lotepro, the environmental services and systems division, was not in fact merged with the new Linde Company, but instead sold to M2T. She stated while legal counsel is advising in this fashion, when dealing with government procurement the purchasers of supplies and equipment have a right to know who they are dealing with and have a right to be assured that they will stand behind the product and be accountable and discourage vendors who might want to acquire speculative interest in government contracts for the purpose of trading. She stated when a bid is permitted to be changed it is no longer a sealed bid and quoted an Illinois Supreme Court decision relative to the federal government prohibiting the transfer of bidders' assets or that part of assets related to bids during or between bid openings as award of bids, unless transfer to a legal entity is complete success or in the interest by virtue of that merger, an entire business or sale of the entire portion of the business is embraced by the bid.

Atty. Shechter quoted from the words of the former CEO of Lotepro in a letter dated January 21 which stated, ". . . you have been put on notice that Lotepro Environmental has been sold to a new legal entity, M2T . . ." She stated Lotepro no longer exists; that the division was sold to M2T and was not merged into Linde Process Plants. She stated there is simply no argument that Lotepro, when merged into Linde, brought with it the capacity to perform this contract; that Linde will have to assign the contract to M2T or subcontract the entire performance to M2T. She stated Linde is materially and significantly different from Lotepro, the entity that bid.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Atty. Shechter asked if the City has the information to know that Linde will stand behind the contract? She stated it has been said they are bonded; that the bond was executed by Lotepro, not Linde. She stated under the Lotepro bid, M2T has a minor role; that their only function was to supply an impeller unit. She stated another company called M2T Lightning was to supply the drive and Lotepro Environmental Services and Systems was to design and provide the balance of the components of the system. She stated as Mr. Kistenmacher, the former CEO of Lotepro says, the only assurance the City has that the same people described in the bid will actually participate in the design of this project is if it agrees to an assign or a wholesale subcontract.

Atty. Shechter stated Linde simply no longer owns the division to perform this contract. She stated that the bid asks for past experience; that Lotepro had that experience but that enterprise was sold to M2T and M2T was not the bidder. She stated Linde Process Plants, the successful low bidder, was left after Lotepro sold and is now claiming to step in place as the successor; that that may be true had it kept that division, but it did not. She stated as Councilman Benson pointed out, this is a legal matter, but also a matter dealing with integrity of their procurement process. She stated the City has the right to know when a bidder submits a bid there will not be a material change and who will perform that contract; that the City does not have that guarantee despite what legal counsel for Linde tells the Council. She cautioned the City against "going down this road" as the City Attorney cautioned against it. She stated in regard to the City's discretion to rebid, should it decide to, the City's attorney advised that is an option, though would cause some delay.

COUNCILMAN PIERCE EXCUSED HIMSELF FROM THE MEETING AT THIS POINT.

At this point Atty. Shechter drew a diagram of the Linde corporate structure stating that Lotepro sold off the division to perform the contract to M2T; that M2T was to provide one small piece or equipment and Lightning was to provide gears and Lotepro was to provide the remainder. She stated the bid was from Lotepro, not M2T and asked where is the guarantee, the warranty, the assurance to the City of expertise and experience? She stated in contrast, Kruger bid the contract, stands behind the contract and indicated in the bid to subcontract to Philadelphia Mixer to provide certain equipment. She stated Kruger will stand behind that guarantee -- very simple, very clean.

Atty. Shechter concluded her presentation by apologizing for a statement in one of her letters which referenced a "'Clintonesque' style" response, and thanked the Council for their time.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Atty. Alfred Smith, of Miller & Martin, represented Linde Process Plants, Inc., the successor to Lotepro. He stated that he was astounded to hear some of what Kruger had to say, that perhaps the best way is to go through the facts again and point out how his view of this is very different from their's. He stated Lotepro was the low bidder on the contract and that it turns out his "lawyering" is better than his math as the number his client pointed out was \$175,000 when it should have been \$165,000 lower than the next qualifying bidder and apologized for the slight error. He stated the reason the amount is so much lower, as Councilman Littlefield pointed out, is that the energy savings is so much more.

Atty. Smith stated the consultant hired by the City, CTI, clearly recommended Lotepro as the low bidder; that Lotepro was merged into LPP and a small part of Lotepro's business was sold to M2T. He stated that was a division of Lotepro, not all of Lotepro, which was about one-fourth of their business. He stated the division was not the bidder, Lotepro Corporation was the bidder. He stated when Lotepro was merged into LPP Corporation, all rights of Lotepro flowed into LPP and that includes the bid made to the City of Chattanooga for this contract. He stated there are cases to support this and does not think anyone, even the City Attorney, disputes the fact when one company merges into another all rights flow and it is not cause for disqualification of the bid.

Atty. Smith stated the question is, "Is there something to the idea that selling off a division of Lotepro somehow works to negate the bid?" He stated their position is that clearly is not the case; that six engineers who left went with this division in the transfer to Lotepro. He stated LPP stands in Lotepro's "shoes" prepared to enter into this contract with a 100 per cent payment performance bond. He stated there is Linde AG, the huge parent German conglomerate, standing behind its subsidiary, LPP, and there is no reason to feel that LPP with 150 employees from Tulsa, Oklahoma and dozens of years of experience is not standing ready to perform. He stated LPP is like a general contractor that is looked to when a house is built; that if there is a problem you do not go to the subcontractor you go to the general contractor and the same is true here. He stated if there is a problem if the contract is not performed, the City should go to LPP, they have signed the contract and are held responsible and their parent company is standing behind it.

Atty. Smith stated if the "shoe were on the other foot", suppose Lotepro, now LPP, decided this was not an attractive contract and bid too low, they would "lose their shirt" on it and come to the City to let them out of the bid.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Atty. Smith stated everyone knows the City would not do that and Lotepro LPP could not force the City to do that. He stated it is exactly the same thing going the other way; that they are the low bidder and entitled to be considered the qualified bidder; that the changes made in no way cause their bid to be thrown out. He stated the counsel for Kruger would have the Council believe the division of Lotepro sold would not be able to perform this contract. He stated they happen to be the designer and supplier of large parts of equipment and always have been; that the consultant for the City acknowledged that was the case – that M2T is a major supplier of equipment supplies and a large plant to begin with. He stated the point is Lotepro is LPP and stand ready to perform.

Atty. Smith continued by stating there has been a lot of talk about some correspondence; that correspondence dated December 31, 2001 made reference to a service contract which has nothing to do with this contract, so the letter has no effect. He stated a letter dated January 21, 2002 from LPP has also been mentioned; that the man who wrote the letter is a very fine engineer but not a lawyer. He stated nothing has happened on the basis of that letter and no legal action taken. He stated that he certainly understands that Kruger is the high bidder and looking for a reason to “knock” LPP out and this is the only thing they can come up with.

Atty. Smith summarized his comments by stating that LPP is standing ready to perform; that Linde AG, the parent company, is standing behind them and, most importantly, if LPP is “knocked out” as the bidder, it would be certainly unfair to LPP Lotepro. He stated it would certainly be undesirable from the standpoint of the City to accept Kruger, which is \$165,000 more expensive.

Councilman Taylor inquired as to whom the contract was originally given? Atty. Smith stated there is no contract; that the bid was recommended to go to Lotepro.

Councilman Taylor stated the bid was to go to Lotepro and asked who will sign the contract, now? Atty. Smith stated LPP would sign the contract due to the merger of Lotepro.

Councilman Taylor stated Lotepro was the original bidder; that he hears at one minute there was a “sale” and then hears “merger”.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Atty. Smith responded "both"; that the parent company is Linde and the two things that happened is that Lotepro was merged into LPP and that is the merger. He stated they bid on it and they merged; that the law says all rights transfer to LPP. He stated LPP stands ready to sign the contract with the City of Chattanooga and the law is clear on that. He stated Lotepro had a division of one-fourth their business, the ES&S group; that they were not the bidder, Lotepro was the bidder. He stated Kruger would like for all to think this was the bidder and it was not; that there was a sale of that division to M2T. He asked if that meant when they sold that this new entity now merged cannot perform the contract? His response was "no"; that 150 employees in Tulsa, Oklahoma, years of experience and the Linde parent company is behind them. He stated it happens that M2T was an equipment supplier in their bid, and they would like them to continue to be equipment supplier and some people who moved would also continue to supply services under the contract.

Councilman Taylor asked City Attorney Nelson what the State law says as it relates to mergers of contracts?

City Attorney Nelson stated generally they should succeed the rights of Lotepro. He stated as far as they are concerned they are to perform the contract. He stated when they sold the division they should have performed the contract. He stated that he passed out to Council members prior to this meeting a Chattanooga bidding Ordinance showing factors considered in determining the lowest and best bidder.

Councilman Taylor expressed concern regarding future bids and the possibility of shifting, changing or selling off the contract. City Attorney Nelson stated that it is up to the Council to decide on a case-by-case basis to see if the merged entity can perform the contract.

Atty. Smith indicated his agreement with 98 per cent of what City Attorney Nelson stated. He said the City Attorney indicated that the division that was to perform the contract was sold off and that is not true and that has been the point of misunderstanding all along. In an effort to relay the point of understanding, he asked the question, "Is the division involved in the contract?" His response was "yes". He then asked, "Are they (division) to perform the contract?" The response was "no". He stated there are many people to perform; that some of them were left in Lotepro when it was merged into LPP, and a lot in different subcontracts in M2T. He stated this is not the "heart" of Lotepro's program, which is where all got off track in this discussion.

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

Councilman Page stated that the Kruger people said the entire contract would be performed by M2T; that if he understood correctly that is not true at all; that the contract will be with LPP and some of that contract will be bid out and also done internally with LPP.

Atty. Smith stated that Councilman Page stated the matter correctly. He stated that LPP is like the general contractor and responsible for ten per cent of the contract and will subcontract certain parts out.

At this point, Councilman Page acknowledged that he was comfortable with LPP's proposal.

Councilman Littlefield stated in other cases with Linde and U. S. Filter, we are not dealing with some "little 'Mom and Pop'" machine shop; that he has confidence other very large companies would give us \$2.7 million and can perform well as both have hired excellent attorneys. He stated the "test" of the City is clear and that is to give the low bidder the job. **At this point he "called for the question" on his previous motion to deny this Resolution as written.**

Chairman Hakeem stated that he does not perceive it to be the same company; that they are contracting out, in his understanding, the essential part of the company needed to do the material work and "sees" this as a material change (Lotepro). He stated either way the Council decides there will be a lawsuit and could be looking at hundreds of thousands of dollars. He stated there is also the fact that when we talk about millions of dollars on a contract and the "sloppy paperwork" that is going back and forth does not "sit" well with him. He stated that his preference is to err on the side of caution when it comes to the possibility of our need to defend ourselves and would err in the area of supporting Kruger.

At this point, the motion and second by Councilmen Littlefield and Robinson to deny was taken.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT 28J2(EP),
PROCUREMENT OF OXYGENATION EQUIPMENT AND ACCESSORIES,
TO I. KRUGER, INC. (U. S. FILTER), FOR THEIR LOW BID IN THE AMOUNT
OF TWO MILLION SEVEN HUNDRED TWENTY-TWO THOUSAND NINE
HUNDRED NINETY DOLLARS (\$2,722,990.00)**
was denied; Councilmen Franklin, Hakeem and Taylor voted "no".

CONTRACT FOR OXYGENATION EQUIPMENT
(Continued)

At this point, Councilman Littlefield made the motion to adopt the alternate version of the Resolution to Linde Process Plants as the successor by merger to Lotepro, Corp.; Councilwoman Robinson seconded the motion.

Prior to the vote on the alternate version, Chairman Hakeem stated that it was not easy for him to make the vote that he did in that Atty. Smith is a long time friend. He stated that he has no ill will toward Lotepro and indicated that it is his thinking that it is more in the City's interest if not to award the contract to Kruger to look at rebidding.

After the vote was taken, Councilman Taylor expressed agreement with the sentiments spoken by Chairman Hakeem; that it is his thought, too, that the best and rightful thing to do is to rebid a contract as we look at the changing dynamics of this company.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,
**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT 28J2(EP),
 PROCUREMENT OF OXYGENATION EQUIPMENT AND ACCESSORIES,
 TO LINDE PROCESS PLANTS, INC. (LPP), FOR THEIR LOW BID IN THE
 AMOUNT OF TWO MILLION SIX HUNDRED EIGHTY-THREE THOUSAND
 NINE HUNDRED FIFTY DOLLARS (\$2,683,950.00)**

was adopted; Councilman Franklin, Hakeem and Taylor voted "no".

GENERAL SLOPE EASEMENT

Councilman Franklin stated Resolutions 7(g), (h) and (i) were discussed in last week's Public Works Committee and approval is recommended.

On motion of Councilman Franklin, seconded by Councilman Lively,
**A RESOLUTION AUTHORIZING THE PURCHASE OF A GENERAL SLOPE
 EASEMENT FROM UNITED HOUSING PARTNERS-CHATTANOOGA,
 RELATIVE TO CONTRACT NO. RW-4-00, SHALLOWFORD ROAD
 WIDENING AND IMPROVEMENTS, TRACT NO. 4, FOR A TOTAL
 CONSIDERATION OF NINE HUNDRED DOLLARS (\$900.00)**

was adopted.

AGREEMENT: TDOT

On motion of Councilman Franklin, seconded by Councilman Lively,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH THE TENNESSEE DEPARTMENT OF TRANSPORTATION, RELATIVE TO CONTRACT NO. 200135, PROJECT STP-M-9202(78), STREETSCAPE PROJECT ON MARKET STREET FROM EAST 6TH STREET TO 10TH STREET
was adopted.

TEMPORARY USE: JUDY MORGUL

On motion of Councilwoman Robinson, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING JUDY MORGUL TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 110 RIVER STREET FOR INSTALLATION OF A HANDICAP RAMP, SUBJECT TO CERTAIN CONDITIONS
was adopted.

AMEND RESOLUTION 23324: BONDS

On motion of Councilman Littlefield, seconded by Councilman Franklin,
A SUPPLEMENTAL RESOLUTION AMENDING RESOLUTION NO. 23324 RELATING TO THE CITY OF CHATTANOOGA, TENNESSEE \$43,880,000.00 GENERAL OBLIGATION REFUNDING BONDS, SERIES 2002 AND \$14,250,000.00 GENERAL OBLIGATION SEWER REFUNDING BONDS, SERIES 2002
was adopted.

OVERTIME

Overtime for the week ending March 8, 2002 totaled \$109,636.73.

PERSONNEL

The following personnel matters were reported for the Department of Finance:

SHERRYL APPLEBERRY – Transfer/Promotion, Administrative Secretary, Pay Grade 9/Step 1, \$23,313.00 annually, effective March 15, 2002.

LAJUAN M. ELSTON – Resignation, Court Clerk, Sr., City Court Division, effective March 15, 2002.

PERSONNEL

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

SHELA BEMBRY – Resignation, Office Assistant, Administration, effective March 29, 2002.

CHARLES G. FULTS – Rehire, Crew Worker, Citywide Services, Pay Grade 3/Step 1, \$17,680.00 annually, effective February 27, 2002.

RODERICK GILBERT – Termination, Crew Worker, Citywide Services, effective February 20, 2002.

PURCHASE

On motion of Councilman Lively, seconded by Councilman Taylor, the following purchase was approved for use by the Public Works Department:

F. M. RUSSELL COMPANY (Only bid)

Requisition R0058545/P0017184

Guardrail and Fittings, Twelve Months Requirements Contract

(Price information available and filed with minute material)

EMERGENCY PURCHASE

Admin. McDonald stated this request is necessary as the overflow of the sewer system affected three houses and the Elks Club with a lot of damage. He stated the cleanup calls for replacement of flooring, carpet, clothing and bedding in all places in the amount of \$178,085.00. He stated there have been incidents of this nature in the past, but never quite this large. He stated the plan is to start a program to try to identify areas in which this is likely to occur in an effort to prevent this. He stated the cause of the overflow in the three houses was due to tree roots in the easement that have overgrown for years and the other was due to debris left in the line when a manhole or break was repaired.

The emergency purchase to cover the cost of clean-up services of various locations damaged by City sewer stoppages and back-up resulting from inclement weather for the Public Works Department, Requisition R0061641/P0017405 issued to Wonder Window Washers in the amount of \$179,085.08 was duly reported and signed in open meeting.

TRASH POLICY INQUIRY

Councilman Taylor asked if a report could be given at next week's Public Works Committee regarding the new trash policy and where we are on that since it began a few weeks ago? Admin. McDonald responded that he had planned to give a report at next week's Committee meeting and would have Lee Norris present to give the report as to the last couple months and what the results are.

PERSONNEL

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

MICKEL G. HOBACK – Military Leave, Police Officer, effective March 18, 2002 – July 17, 2002.

HEARING: OFFICER MICHAEL FAVORS

City Attorney Nelson reminded Council members Lively, Benson and Robinson of the personnel hearing for Officer Michael Favors scheduled for Monday, March 18 beginning at 3 p.m.

JUDGE WALTER WILLIAMS

Chairman Hakeem acknowledged the presence of Judge Walter Williams.

CITYWIDE MEMORIAL SERVICE

Councilman Taylor reminded everyone of the citywide memorial service scheduled for Saturday at 6 p.m. at the Memorial Auditorium regarding the Tri-State tragedy.

RIVERFRONT PLANNING CHARRETTE

Councilwoman Robinson reminded everyone of the Riverfront Planning Charrette scheduled for Monday, March 18 at 5:15 p.m. at the Trade Center. She stated the Charrette will center on the planning process for the Riverfront as to how to improve the already existing amenities offered.

RIVERFRONT PLANNING CHARRETTE (Continued)

Councilwoman Robinson indicated that it would be a wonderful chance for us to go into this new Century with a new plan for the Riverfront. She expressed hope that as many as possible would attend as all are invited.

Councilman Lively stated a consultant has been paid a quarter of a million dollars to do that. Councilwoman Robinson stated that in this process nothing is done without the public's participation; that this is part of the Plan the City has in partnering with RiverCity to have the consultant come in and hear what the citizens have to say and then interpret it into the Plan.

COMMITTEES

Councilman Lively scheduled a meeting of the **Safety Committee for Tuesday, March 19 immediately following the Public Works Committee** for the Fire Chief to brief the Committee on the proposed fire protection for the annexed area (Ooltewah).

Councilman Littlefield stated that the **Legal and Legislative Committee** continued today "plodding through" the Charter; that 100 pages have been completed and next week the Committee would get into the "heart of the beast" and try to unravel the duties and responsibilities of the Mayor and City Council. He stated the Committee **is scheduled to meet at 3 p.m. on Tuesday, March 19.**

Councilman Franklin reminded Council members of the **Public Works Committee scheduled for 4 p.m. on Tuesday, March 19.**

NEW TRASH POLICY

Councilman Benson stated that he has been a member of the Council for one year and that this is the first month since the new trash policy has been in service that he has not received calls about trash! He commended Admin. McDonald on the new policy and stated that he wanted him to know that he is doing a great job as the new policy is working. He asked that Admin. McDonald not be "faint of heart" but to be encouraged by it as he (Benson) has not received calls regarding trash pickup in a month!

ADJOURNMENT

Chairman Hakeem adjourned the meeting of the Chattanooga Council until Tuesday, March 19, 2002 at 6 p.m.

CLERK OF COUNCIL

CLERK OF COUNCIL

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