

**City Council Building  
Chattanooga, Tennessee  
July 16, 2002  
6:00 p.m.**

Chairman Littlefield called the meeting of the Chattanooga Council to order with Councilmen Benson, Franklin, Hakeem, 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, Councilman Lively gave invocation.

**MINUTE APPROVAL**

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

**SPECIAL PRESENTATION: PATRICK HUBBARD, JR.**

Chairman Littlefield recognized Richard West of the Parks and Recreation Department at this point.

Richard West, Coordinator of At-Risk Youth and Special Events for the Parks and Recreation Department, stated that the Department sponsors a baseball skills program called "Pitch, Hit and Run" and that the program is affiliated with the Atlanta Braves team. He stated 100 children, 9-10 years old, participated in local and sectional competition and Patrick finished "First Place" in both. He stated a phone call was received from the Braves team last week, wherein only four children from the sectional competition advanced to Atlanta to participate at Turner Field and Patrick came in "Fourth Place", with six sectionals left to report. He stated at that time if anyone topped Patrick's score he would be eliminated; however, Patrick "held on".

**SPECIAL PRESENTATION: PATRICK HUBBARD, JR.**  
**(Continued)**

Mr. West stated Patrick participated before the Braves-White Sox on June 22 and advanced to the national competition and participated at Miller Park in Milwaukee, Wisconsin with six states competing. He stated out of the 157,500 participants in the 9-10 year old age group, Patrick is the national champion! (A standing ovation was given by all in attendance.)

At this point Councilwoman Robinson came forward and read a Certificate of Appreciation signed by Mayor Corker and presented Patrick with gift bags from the Parks and Recreation Department and the City Council. She gave him a very encouraging embrace and dubbing him as "our own 'Little Tiger'!"

Chairman Littlefield stated that Patrick has made us all proud and all look forward to his career! He expressed thanks to the Parks and Recreation Department for making this possible.

Councilwoman Robinson asked Patrick's parents, grandmother, sisters and other family members to stand at this point.

Councilman Hakeem congratulated Patrick's family and stated that he was interested to know if Patrick has had an opportunity to talk or work with any of the players or representatives from the major league teams?

Patrick responded with a very soft, "yes sir".

Chairman Littlefield stated that everyone looks forward to great things from Patrick in the future and again congratulated him and his family.

**BUDGET FY 2002-2003**

Chairman Littlefield explained that minor corrections have been made to the Budget Ordinance since last week and indicated that there were no substantial changes made. He expressed thanks to persons involved in finalizing the budget.

**Councilmen Hakeem and Franklin made he motion and second to substitute the amendments to this Ordinance; the motion passed.**

**BUDGET FY 2002-2003 (Continued)**

On motion of Councilman Lively, seconded by Councilman Franklin,

**AN ORDINANCE, HEREINAFTER ALSO KNOWN AS "THE FY 2002/2003 BUDGET ORDINANCE", TO PROVIDE REVENUE FOR THE FISCAL YEAR BEGINNING JULY 1, 2002, AND ENDING JUNE 30, 2003, 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; PROVIDING FOR INTEREST AND PENALTY ON DELINQUENT TAXES AND PRIVILEGES**

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

**AMEND ZONING ORDINANCE**

On motion of Councilman Pierce, seconded by Councilman Lively,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 1011(1), TO INCORPORATE NEW LANGUAGE RELATIVE TO PERMITTED USES OF THE M-2 LIGHT INDUSTRIAL ZONE**

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

**REZONING**

**2001-084: Raymond L. Hassler**

On motion of Councilman Lively, 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 IN THE 5800 BLOCK OF HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE**

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

**REZONING**

**2001-194: City of Chattanooga, City Council Office**

On motion of Councilman Franklin, seconded by Councilman Lively,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 4416 KELLY'S FERRY ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN FROM A TEMPORARY R-2 RESIDENTIAL ZONE TO R-  
1 RESIDENTIAL ZONE**

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

**REZONING**

**2001-196: City of Chattanooga, City Council Office**

On motion of Councilman Page, 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 1020 SHINGLE ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM A TEMPORARY R-2 RESIDENTIAL ZONE TO R-  
1 RESIDENTIAL ZONE**

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

**REZONING**

**2002-017: Troy L. Cox**

On motion of Councilwoman Robinson, 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 706 ASHLAND TERRACE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2  
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN  
CONDITIONS**

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

**REZONING**

**2002-089: Stein Construction Company, Inc.**

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 1220 BIRMINGHAM HIGHWAY, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO  
M-2 LIGHT INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

**REZONING**

**2002-100: Mt. View Presbyterian Church**

On motion of Councilman Lively, seconded by Councilman Taylor,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 3111 KELLY'S FERRY ROAD, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE  
TO R-1 RESIDENTIAL ZONE**

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

**REZONING**

**2002-102: Sashi Madan**

On motion of Councilman Hakeem, 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 1006 METRO DRIVE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM C-2 CONVENIENCE COMMERCIAL ZONE  
TO R-3 RESIDENTIAL ZONE**

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

**REZONING****2002-105: Charles Robert Skillern**

On motion of Councilman Taylor, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
 LAND LOCATED AT 5109 AND 5111 SKILLERN DRIVE, MORE  
 PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-  
 4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

**REZONING****2002-112: Tommy Freeman**

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 7716 STANDIFER GAP ROAD, MORE PARTICULARLY  
 DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO RZ-1 ZERO LOT  
 LINE RESIDENTIAL ZONE**

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

**REZONING (CONCORD ROAD AREA)****2002-117: City of Chattanooga**

On motion of Councilman Page, seconded by Councilwoman Robinson,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
 KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE THE  
 CONCORD ROAD AREA BEING BOUNDED ON THE NORTH BY EAST  
 BRAINERD ROAD, ON THE SOUTH BY THE SOUTH CHICKAMAUGA  
 CREEK, ON THE EAST BY GUNBARREL ROAD AND ON THE WEST BY  
 INTERSTATE 75, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-5  
 AND R-2 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE AND FROM R-3  
 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE**

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

**CLOSE AND ABANDON**

Councilman Hakeem stated Ordinances 6(a) and (b) were discussed in Public Works Committee and approval is recommended.

**MR-2002-042: Pro Properties of Chattanooga**

On motion of Councilman Lively, seconded by Councilman Taylor,

**AN ORDINANCE CLOSING AND ABANDONING A FIFTY FOOT (50') WIDE RIGHT-OF-WAY LOCATED IN THE 2200 BLOCK OF BALDWIN STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, WITH THE TENNESSEE-AMERICAN WATER COMPANY AND THE CITY OF CHATTANOOGA RETAINING THEIR UTILITY EASEMENTS IN THE FULL WIDTH OF THE EXISTING RIGHT-OF-WAY OF BALDWIN STREET**

passed first reading.

**CLOSE AND ABANDON**

**MR-2002-097: Sashi Madan**

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,

**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 1000 BLOCK OF METRO DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, WITH THE ELECTRIC POWER BOARD MAINTAINING THEIR UTILITY EASEMENT**

passed first reading.

**CHATTANOOGA BICYCLE FACILITIES MASTER PLAN**

Melissa Dickinson of the Regional Planning Agency (RPA), stated that RPA is requesting adoption of the Chattanooga Urban Area Bicycle Master Plan, which was adopted by RPA. She stated the RPA would be seeking further adoption by the remaining municipalities and unincorporated areas of Hamilton County over the next few months. She recognized persons present in support of the Plan and expressed thanks to members of the Bicycle Task Force, City Council members and the over 500 participants who came to the planning sessions throughout the process. At this point, she asked that the President of the Task Force make comments on behalf of the Plan.

**CHATTANOOGA BICYCLE FACILITIES MASTER  
PLAN (Continued)**

Joe Thomas, Director of the Chattanooga Bicycle Task Force, stated that they worked hard to put together the Plan and are excited about it. He stated in looking at other communities Chattanooga's size, this is the appropriate thing to do in this day and age. He emphasized how proud he is that Chattanooga recognized the need for this and the different levels the Plan addresses. He expressed thanks to the Council and the group, stating that this is a very exciting day for all.

Kim Hawkins of Hawkins Partners, Inc. gave a brief visual presentation regarding the Plan and expressed that it is an honor to be before the Council to view the work that has been going on over the last several months in Chattanooga. She stated the Plan was developed by the Hawkins Partners staff along with RPM and Associates, Traffic Engineering and March Adams & Associates. She stated the Plan began in October of last year and the project area was divided into four major planning areas because the areas were so large: Central City, West Hamilton County, East Hamilton County and North Georgia. She stated by dividing the Plan into these areas allows for more participation by citizens and the ability to look at the areas in greater detail.

Ms. Hawkins stated that the process began with public meetings, which were attended by cyclists, both avid and others; that each meeting had breakout areas with a lot of citizen involvement. She stated at the beginning of the process roadway segments were inventoried with a lot of detailed information about all segments with over 800 segments of roadway access. She stated the overall Plan recommends 377.5 miles of total planned bikeway facilities, which is built upon 140 miles of already planned facilities whether through greenways or other initiatives. She stated firm implementation of the Plan includes putting lanes and pavement markings on the road to meet the need of avid cyclists and middle school students going to and from school. She made reference to the involvement of the Tennessee Department of Transportation (TDOT) throughout this process, indicating that they are aware of what is being recommended and are looking at how they (TDOT) can be involved in funding.

Ms. Hawkins stated from a priority standpoint of the 20-year plan, of the 361 overall miles, 31 are within the City and includes the installation of bike racks on all CARTA buses, the location of bike racks at public buildings downtown and at all CARTA bus shelters. She referenced the acquisition of bicycles and helmets, indicating that the Development Resource Center (DRC) would have bicycles available so employees could use them as they run errands in and around downtown.



**CHATTANOOGA BICYCLE FACILITIES MASTER  
PLAN (Continued)**

Ms. Hawkins concluded her comments by indicating the overall plan involves 377.5 miles of overall facility and indicated that Public Works is in the process now of taking the Master Plan and guidelines and beginning implementation of Phase I.

Councilman Taylor commended those involved with the Plan and asked if the City Council could have access to a couple of the bicycles!

Councilman Hakeem stated that the Plan is comprehensive and expressed thanks for everyone's efforts. He asked if the Plan lends itself to events similar to the "Peachtree Run" that is held annually in Atlanta and other racing events that could possibly be held in Chattanooga?

Ms. Hawkins stated that the facilities recommended would provide routes and the whole series of connected circles so there would be continuity. She stated right now Ms. Dickinson is doing a plan for Atlanta for a 15-mile route tour of the city. She stated this Plan would be "key" to that (special events) and would include a very detailed public awareness campaign that might include ideas of how to do more of that; that the Plan targets younger children and educating them.

Councilman Franklin inquired as to whether mileage markers would be placed similar to those seen on the highway, which would lend itself to cyclists knowing how many miles they have ridden on the various routes?

Ms. Hawkins responded "no"; that there are no locations for mile markers. She stated one of the big reasons persons get on bicycles is typically not at a beginning or ending point. She stated that they really want to encourage persons to use bicycles on a daily basis for regular trips; that 40 percent of all trips from home are less than two miles.

Councilman Page expressed thanks for a very fine job, adding that he is very impressed with the Plan.

Chairman Littlefield expressed thanks to RPA, Ms. Hawkins, and particularly those on the Task Force for their good work.

On motion of Councilman Page, seconded by Councilman Lively,

**A RESOLUTION APPROVING THE CHATTANOOGA URBAN AREA  
BICYCLE FACILITIES MASTER PLAN**

was adopted.

**METRONET: EPB INTERNET DIVISION**

**At this point Councilman Benson made the motion to move Resolution 7(o) forward on the agenda, Councilman Franklin seconded the motion; the motion passed.**

Chairman Littlefield stated this matter came before the Legal and Legislative Committee this afternoon and was discussed in great detail. He stated representatives from the Electric Power Board are present and asked if there is anyone present who wished to speak in opposition; being no one present in opposition, he indicated that this is a permissive Resolution.

Councilman Benson stated that the matter was discussed in Legal and Legislative Committee and was unanimously recommended for approval.

Councilman Taylor inquired as to whether persons in opposition were notified? Chairman Littlefield responded "yes"; that he knows a special effort was made today to communicate with them.

Todd Womack of the Mayor's Office indicated that he was not sure they were notified.

Chairman Littlefield stated that the matter was discussed this morning and he was told the effort would be made to have them represented.

Councilman Taylor expressed concern as to whether those in opposition were notified? Mr. Womack responded "they were not".

Councilman Benson stated that he met with one of the leaders of the opposition this morning and told that person representing South Central Bell there could very well be a hearing in Committee and before the Council this evening. He indicated to the person that he could not guarantee that would happen.

Chairman Littlefield stated the reason the matter is being taken up tonight is there has to be a two-thirds majority of Council members present permitting this; that all we are doing is granting permission. He stated the issue has been thoroughly heard by the Electric Power Board on more than one occasion; that they have adjusted their business plan and response to some of the comments received. He stated the opposition, as it exists, have had every opportunity to have their say; that he is certain even after tonight they will continue to have their say.

**METRONET: EPB INTERNET DIVISION (Continued)**

Councilman Pierce echoed Councilman Taylor's concern, stating that he intends to vote for the matter tonight but is leery about these types of Resolutions being added every week; that basically a lot of times persons in opposition have not been notified regardless of how the Council intends to act. He stated those in opposition should be heard and regardless of whether the telephone company was served notice this morning, it is not considered adequate notice for passing something of this magnitude.

Chairman Littlefield stated the reason, again, for bringing the matter forward tonight is that all members of the Council must be present. He stated it is very likely he would be out next week and Councilman Franklin needs to be out a couple of weeks after that; that people are being "pulled away". He stated he spoke with Ms. Hazelwood on the telephone as most everyone has; that it is his thought her concerns have been heard as far as Bell South's position.

Councilman Page expressed agreement with Councilmen Taylor and Pierce's comments regarding timing, stating that he recognizes this is a policy issue and not approving using the plan. He stated if approval was for use of the plan it is his thought it would be highly irregular and would imposition the Council to act that rapidly on this particular proposal. He asked how this would interfere with the internet provider, whether persons would be able to utilize the MetroNet for access to cable and fiber optics?

Harold DePriest, President and CEO of the Electric Power Board (EPB), stated that the answer is that the facility will be available to any internet provider utilizing and including Bell South or EPB. He stated it will be an open system for anyone who wants to use it.

Councilman Page asked if the Technology Council approved this?

Mr. DePriest responded "yes"; that a public hearing was held on June 6 with 20 persons in attendance. He stated nine chose to make comments and the bulk of people making comments at the public hearing were members of the Chattanooga Technology Council and internet service providers, primarily, who commented that the concept makes sense. He stated several weeks were spent in discussion with them and of the five internet providers who spoke at the hearing, four, and possibly five, have signed on to utilize the services of MetroNet, indicating that his memory was not totally correct as to whether it was all five. He stated that they are "seeing" that the internet service providers are accepting the proposal to become a part of MetroNet.

**METRONET: EPB INTERNET DIVISION (Continued)**

Councilman Page again asked whether the Technology Council supports this? Mr. DePriest responded "yes".

Councilman Page then asked for clarification that this is not a competition-type of structure? Mr. DePriest responded "no".

**Councilman Page** indicated that it was his thought the purpose of this was to provide economic development and open resources for the whole community as opposed to stamping out competition. At this point he **made the motion to approve the Resolution; Councilman Lively seconded the motion.**

Councilman Taylor stated that he is very impressed with this, yet expressed concern about the opposition not having proper notification. He asked for more clarification on the motion as to what it does?

Chairman Littlefield stated with regard to proper notice, there is no legal requirement to notify. He stated that he knows the representative of Bell South has been most vocal on this issue and are not neophytes in this business; that they know anytime at Council meetings the opportunity exists for this matter to be resolved.

Councilman Benson stated that he does not want the wrong impression to be left; that there has been proper notice. He stated that seven of the nine Council members met today and questioned Mr. DePriest who answered a lot of things that might be still on our minds a little. He stated a press conference was held, the Legal and Legislative Committee met and a public hearing was held. He stated each Council member has met with Bell South's representative; that he spent over one-and-a-half hours this morning talking with them and that he told them that the matter would very likely be heard in the Legal and Legislative Committee today. He stated plenty of time was given to ask questions and all were answered. He stated this is permissive legislation and the City is putting in a nominal amount of money (\$75,000.00) and the time is right. He urged Council members to support this.

Councilman Taylor stated that he was perusing the Resolution; that his major concern is about the notification process.

**METRONET: EPB INTERNET DIVISION (Continued)**

On motion of Councilman Benson, seconded by Councilman Hakeem,  
**A RESOLUTION APPROVING AND AUTHORIZING THE INTERNET  
 DIVISION OF THE ELECTRIC POWER BOARD TO PROVIDE CERTAIN  
 ADDITIONAL SERVICES**  
 was adopted on roll call vote:

Benson	"Yes"
Franklin	"Yes"
Hakeem	"Yes"
Lively	"Yes"
Page	"Yes"
Pierce	"Yes"
Robinson	"Yes"
Taylor	Abstained
Littlefield	"Yes"

**TEMPORARY USE REQUESTS FOR DON WALKER**

Councilman Benson stated that he received a call from Mr. Holcomb regarding Resolutions 7(d) – (f). He stated Mr. Holcomb indicated that he would not get off work until 7 p.m. and asked if Don Walker’s requests for temporary use could be placed at the end of the agenda?

**On motion of Councilman Benson, seconded by Councilman Pierce, Resolutions 7(d) – (f) were moved to the end of the agenda following Departmental Reports; the motion passed.**

**AMEND RESOLUTION NO. 23427**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AMENDING RESOLUTION NO. 23427, ADOPTED JULY 2,  
 2002, AUTHORIZING THE AWARD OF CONTRACT SS-1-02, CARTER  
 STREET AND 13<sup>TH</sup> STREET STREETScape, TO STEIN CONSTRUCTION  
 COMPANY, INC., TO INCLUDE THE AMOUNT OF THEIR LOW BID FOR  
 THE ADD ALTERNATE PHASE III IN THE AMOUNT OF ONE HUNDRED  
 EIGHTY-TWO THOUSAND NINE HUNDRED SEVENTY-EIGHT AND 37/100  
 DOLLARS (\$182,978.37) FOR A TOTAL BASE BID AND THE TWO  
 ALTERNATES IN THE AMOUNT OF ONE MILLION TWO HUNDRED  
 FOURTEEN THOUSAND SEVEN HUNDRED EIGHTY-FIVE AND 70/100  
 DOLLARS (\$1,214,785.70)**  
 was adopted.

**CHANGE ORDER**

On motion of Councilman Hakeem, seconded by Councilman Taylor,  
**A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2, RELATIVE TO THE MARKET STREET STREETScape PROJECT, CONTRACT NO. SS-3-01, WITH RAINES BROTHERS, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY THIRTEEN THOUSAND NINE HUNDRED THREE AND 17/100 DOLLARS (\$13,903.17), FOR A REVISED CONTRACT PRICE OF ONE MILLION THREE HUNDRED THIRTY THOUSAND FOUR HUNDRED NINETY-SEVEN AND 77/100 DOLLARS (\$1,330,497.77)**  
was adopted.

**TEMPORARY USE: CHATTANOOGA TIMES FREE PRESS**

On motion of Councilman Pierce, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING CHATTANOOGA TIMES FREE PRESS TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 400 EAST 11<sup>TH</sup> STREET TO REPLACE AN EXISTING CANOPY, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**TEMPORARY USE: GAYATRIGURU INVESTMENTS, NC.**

On motion of Councilman Hakeem, seconded by Councilman Franklin,  
**A RESOLUTION AUTHORIZING GAYATRIGURU INVESTMENTS, INC. TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY ON 13<sup>TH</sup> STREET TO INSTALL A SIGN AND CANOPY OVER THE STOREFRONT AND FOR A PORTION OF THE FOUNDATION BELOW GRADE, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**TEMPORARY USE: MIKE GOZA**

On motion of Councilwoman Robinson, seconded by Councilman Taylor,  
**A RESOLUTION AUTHORIZING MIKE GOZA TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY LOCATED AT 412 MARKET STREET TO ADD A PATIO, SIGN AND AWNING ONTO THE RESTAURANT, SUBJECT TO CERTAIN CONDITIONS**  
was adopted.

**CHANGE ORDER**

On motion of Councilman Hakeem, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING THE EXECUTION OF A CHANGE ORDER  
RELATIVE TO THE AVONDALE HEAD START/EARLY HEAD START CENTER  
WITH WISE CONSTRUCTION, LLC, WHICH CHANGE ORDER INCREASES  
THE CONTRACT AMOUNT BY NINE THOUSAND SIX HUNDRED FIFTY-  
EIGHT DOLLARS (\$9,658.00), FOR A REVISED CONTRACT PRICE OF  
NINE HUNDRED NINETEEN THOUSAND SIX HUNDRED FIFTY-EIGHT  
DOLLARS (\$919,658.00)**  
was adopted.

**ISSUANCE AND SALE OF BONDS**

Councilman Benson stated this matter was discussed in today's Legal and Legislative Committee and approval is recommended.

On motion of Councilman Benson, seconded by Councilman Hakeem,  
**A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF AN  
AMOUNT NOT TO EXCEED FIFTY MILLION DOLLARS (\$50,000,000.00)  
PRINCIPAL AMOUNT OF THE CITY OF CHATTANOOGA, GENERAL  
OBLIGATION REFUNDING BONDS SERIES 2002 A**  
was adopted.

**REQUEST FOR COMPREHENSIVE PLAN FOR THE  
LOOKOUT VALLEY COMMUNITY**

On motion of Councilman Lively, seconded by Councilwoman Robinson,  
**A RESOLUTION REQUESTING THE CHATTANOOGA-HAMILTON COUNTY  
REGIONAL PLANNING AGENCY TO DEVELOP A SCOPE OF WORK FOR  
A COMPREHENSIVE PLAN AND IF NECESSARY A ZONING STUDY FOR  
THE LOOKOUT VALLEY COMMUNITY MORE PARTICULARLY DESCRIBED  
HEREIN, TO BETTER REFLECT THE DEVELOPMENT GOALS OF THE  
COMMUNITY**  
was adopted.

**AMEND RESOLUTION 23439 DECLARING A  
MORATORIUM**

On motion of Councilman Pierce, seconded by Councilman Franklin,  
**A RESOLUTION TO AMEND RESOLUTION NO. 23439, ADOPTED JULY 2, 2002, ENCAPTIONED "A RESOLUTION DECLARING A MORATORIUM ON ANY REZONINGS OR NON-RESIDENTIAL USES, FOR A PERIOD NOT TO EXCEED SIXTY (60) DAYS, ON ALL PROPERTIES BOUNDED BY MCCALLIE AVENUE, 11<sup>TH</sup> STREET, O'NEAL STREET AND LINDSAY STREET, SO AS TO PERMIT THE CHATTANOOGA-HAMILTON COUNTY REGIONAL PLANNING AGENCY TIME TO PERFORM AN AREA ZONING STUDY" BY DELETING THE WORDS "OR NON-RESIDENTIAL USES"**  
 was adopted.

**OVERTIME**

Overtime for the week ending July 12, 2002 totaled \$101,798.01.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PUBLIC WORKS DEPARTMENT:**

- ✍ **ANGELA R. PUTMAN** – Resignation, Crew Worker, Citywide Services, effective July 3, 2002.
- ✍ **RAYMOND L. DECLUE** – Lateral Transfer, Refuse Collection Inspector, Citywide Services, Pay Grade 9/Step 2, \$24,453.00 annually, effective July 3, 2002.
- ✍ **HUBERT PARIS, JR.** – Promotion, Refuse Collection Inspector, Citywide Services, Pay Grade 9/Step 1, \$23,313.00 annually, effective July 3, 2002.
- ✍ **ARTHUR L. SANDS** – Promotion, Equipment Operator Senior, Citywide Services, Pay Grade 8/Step 4, \$25,399.00 annually, effective July 10, 2002.
- ✍ **JAY B. HORST** – Resignation, Concrete Worker, Citywide Services, Pay Grade 6/Step 1, \$19,834.00 annually, effective July 11, 2002.
- ✍ **WALTER C. PATTERSON** – Return from Family Medical Leave, Plant Maintenance Lubricator, Waste Resources, effective July 8, 2002.



**HOTEL PERMITS**

On motion of Councilman Taylor, seconded by Councilwoman Robinson, the following hotel permits were approved:

**WINGATE INN** – 7312 Shallowford Road, Chattanooga, TN

**COURTYARD BY MARRIOTT** – 2210 Bams Drive, Chattanooga, TN

**BEST VALUE INN & SUITES** – 103 Patten Chapel Avenue, Chattanooga, TN

**HAMPTON INN** – 2420 Williams Street, Chattanooga, TN

**HOLIDAY INN** -- CHATTANOOGA CHOO-CHOO – 1400 Market Street, Chattanooga, TN

**PURCHASE**

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

**ENCORE MEDIA SOLUTIONS (Lower and better bid)**  
**R0061143/B0000704**

Video Camera Equipment and Accessories

\$31,025.00

**BETTER HOUSING APPEAL**

City Attorney Nelson stated last week a Better Housing appeal was postponed one week involving a request from Ms. Heather Bell regarding property located at 711 Highland Park. He stated Admin. Curry is not present and has not made contact with him regarding this matter and the matter should be deferred one more week.

**WITHDRAWAL OF REZONING PETITION 2002-015:  
BST FAMILY TRUST**

City Attorney Nelson stated that a request from Bill Shelton has been received requesting withdrawal of rezoning case 2002-025: BST Family Trust set to come before the Council next week.

**Councilman Page made the motion to withdraw the matter at the request of the applicant and to remove it from next week's agenda; Councilwoman Robinson seconded the motion; the motion carried.**

Councilman Page requested that those in opposition from the neighborhood be notified that the matter has been withdrawn. The Clerk of the Council indicated that she would contact Jerry Pace of Planning to assure those in opposition were notified.

**TEMPORARY USE: DON WALKER**

Chairman Littlefield stated these Resolutions were heard in Committee and come to the Council with no recommendation. He stated the requests are by Don Walker for four housing units built in various stages of conflict with city sewer easements.

Councilman Page asked for a point of order as to whether it is proper to have a hearing with regard to resolutions?

Chairman Littlefield stated the Council does not have to have a hearing; the owner of the property is present and would be afforded an opportunity to have his say. He stated there are residents who are affected who have expressed a desire to speak on this matter; that there is no requirement he knows of for a hearing.

Councilman Lively stated that he still has a question as to how the Council can give a temporary permit to something that is permanent? He stated all four requests are permanent structures.

Chairman Littlefield stated that he could not answer the question for Councilman Lively; that he would say in a sense of fairness that Mr. Walker would be afforded an opportunity to have his say.

**TEMPORARY USE: DON WALKER (Continued)**

City Attorney Nelson stated if we grant a temporary permit we can require that by terminating it at any point in time that he go back and give us back our full easement so we would not be affected one way or the other.

Don Walker stated that he would like to attempt to set the record straight with facts rather than with hearsay and innuendoes and "building bashing" as was done by Councilmen Littlefield and Benson at a Council meeting and Variance Board meeting.

Councilman Hakeem indicated to Mr. Walker that the Council would be more than willing to listen if he dealt with the facts; that if he is talking about "bashing" he does not think there has been any "bashing" from this podium in regard to him, that he is aware of. He encouraged Mr. Walker that if he wanted to have an impact on this body that he deal with the facts of the case as opposed to "bashing" some of his colleagues.

Mr. Walker stated that he would like to invite Councilman Hakeem to read the minutes of the last Variance Board meeting concerning these buildings if he does not think the Council members' comments were "builder bashing".

Councilman Hakeem stated from this podium, this City Council Mr. Walker is now in front of, there has been no "builder bashing".

Mr. Walker indicated that his comments regarding "builder bashing" was in reference to the Variance Board meeting.

Councilman Hakeem cautioned Mr. Walker that "if he wanted to go in that direction, it does not win any favor with this body".

Mr. Walker stated that he has built duplexes in Brainerd which has upset a lot of neighbors; that he has built on previously unbuildable lots and placed thousands of dollars on the city and county tax roles. He stated, in fact, more than one city employee told him that the phone starts ringing when persons find out that he is going to build. He stated that he has been before the Variance Board to request a variance and feels that every decision should be handed down on its own merit and not what someone else did. He stated there certainly is no room for bringing up other things when a variance is requested; that it should address the actual variance being asked for, reiterating that requests should be considered on their own merit.

**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker stated there are undisputable facts concerning his request. He stated when he bought the lots there was a tree line to the north and south along six lots. He stated he removed the trees and it infuriated the neighborhood because they no longer had the foliage blocking view of the freeway; that the trees were cut down and the area was opened up. He stated when the federal government came and took a lot of the land it left substandard lots; that Planning should not have left lots 49 and 50 as unbuildable land locked lots and should not have left lots 48 and 50 as substandard duplex lots. He stated that he purchased all six lots through a realtor and pulled four permits to build duplexes in April 2001 on lots 48, 50, 58 and 60; that lots 48 and 50, even though substandard, are lots of record. He stated after the construction began the building inspector required certification of the flood elevation of lots 50 and 58. He stated sometime in June, Ken Morrison stated that lot 60 was six feet over the sewer easement but would not stop construction and he (Walker) was asked to provide a foundation survey; that he called the surveyor and on June 21, 2001 the foundation survey was faxed to City Hall's Building Department for all four lots. He stated the foundation survey showed the foundations and where they are in proximity to property lines.

Mr. Walker stated that he never heard anything more until September when he applied for a variance to allow the two land locked lots to become buildable lots; that the neighborhood residents came to the variance meeting in force against the construction of the duplexes. He stated the ironic thing was that the entire subdivision is zoned R-1 for duplexes with approximately 50 plush homes and twelve or more duplexes. He stated that the houses are valued from \$75,000 to \$90,000, some more or less, and the duplexes he is building average from \$170,000 to \$180,000. At this point he circulated photos of a completed duplex where two sisters live who have purchased and closed out on the property; that the sisters wanted to live side-by-side to help each other.

Mr. Walker stated when he appeared before the Variance Board there was considerable opposition; that he could have taken lots 48, 49 and 50 and put them together to make two duplex lots, however, lot 48, at that time, only had 59 feet 8 inches off the street called Gayda, and lacked four inches being a regulation lot if it was subdivided. He stated it was okay as long as it was a lot of record, but needed a four-inch variance to put it together to make two lots versus three lots. He stated a \$175,000 duplex is almost twice the value of several houses in the neighborhood; that he asked for a variance at the Variance meeting at which time various things came out right up to some Council members making statements and he asked for postponement of the hearing.

**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker stated that he paid Mr. Holcomb \$10,000 for the two feet of his property and was able to purchase five feet from another neighbor at a much smaller price. He stated that he asked the Variance Board to postpone but for some reason it was put on the agenda the next month and he was not aware of it and the matter was denied because he was not there. He stated now after all these months he is trying to resolve the situation. He stated at the pre-Council meeting Mr. Littlefield absolved Mr. McDonald and his staff from any and all wrong doing.

In an effort to clarify his position, Mr. Walker related several facts to the Council by stating that he applied for and received building permits on all four duplexes. He stated that he was asked and provided foundation surveys showing the 25-foot setback; that he was told by Jerry Moody that the porch on lots 48 and 50 were too large and would have to be reduced in size. He stated that he did that and also took off two feet of the building on 48 and 50 because of the overhanging sewer easement. He stated after he was given the second stop work order, he was told to remove the second porch; that all that remains is the roof overhang. He stated at the present time on lots 48 and 50 the only thing overhanging the sewer easement is the roof overhang on one building approximately 36 inches and another building approximately twelve inches. He stated the roof is approximately 20 feet high and any apparatus, back hoe or track hoe, that would be needed to work on the sewer easement in the future would not interfere.

Mr. Walker concluded his comments by stating that lots 58 and 60 were finalized and sold; that the City had access to demolition surveys that he provided. He stated that he does not believe building inspection is without some blame for some of the mistakes, but hastened to say that he has made errors and the errors have been costly for him. At this point he asked that the roof overhang be allowed to remain on lots 48 and 50. In response to Councilman Lively's question about how a temporary permit could be given to a permanent structure, he stated it is his knowledge from a conversation with Mr. McDonald that any time in the future that the City of Chattanooga has to work on sewer easements and these overhangs are a detriment, they can be removed. He stated they are 20 feet in the air and only a track hoe could reach it; that sewers in this area are approximately twelve feet deep. He thanked the Council for their time.

**TEMPORARY USE: DON WALKER (Continued)**

Richard Holcomb of 6814 Nakwisa Drive stated that he lives next to one of the duplexes Mr. Walker has at 6818 Nakwisa. He stated this has been going on since July of last year when he started building and that all kinds of problems have taken place in the process. He stated that his fence was damaged and Mr. Walker came back and fixed it; that he (Walker) knew what he was getting into when he purchased the property and in his eyes it is easy to ask for forgiveness than permission. He stated that he does not know how many Council members have looked at this, indicating that some have; that it seems like the situation is not going to help anyone but Mr. Walker. He stated there is no benefit to the community or the City; that he and others were not happy about the woods having to be cut down but figure they would grow back eventually. He reiterated that this situation helps no one but Mr. Walker; that he sees rental signs for Walker's property everywhere. He stated this situation has become an eyesore to him; that the one of the duplexes is on the fence line of his house and does not believe it should fit in there. He stated the neighbor behind him on Gayda that sold Mr. Walker the property to squeeze another one in has moved. He stated that he was told Mr. Walker wanted two feet of his property and he told him if he would keep a privacy fence all the way down the 160 feet of his property he would give him the two feet of property. He stated Mr. Walker told him "that would never happen".

Chairman Littlefield stated that Mr. Walker has built the house too wide at this point.

Councilman Benson asked Ms. Johnson to make comments regarding this matter and stated Mr. Walker said Mr. McDonald told him he (Walker) could move the driveway down to the sewer easement. He stated if that is the case, why do we have any code restrictions against building over easements?

Beverly Johnson, Deputy Administrator of Public Works, stated she was not able to confirm what Mr. McDonald said to Mr. Walker; that she certainly was not present if that comment was made.

Councilman Benson asked if the staff has a recommendation?

Ms. Johnson stated that they looked at a recommendation but is not sure if that recommendation is noted; that Mr. McDonald did not leave specific recommendations and the matter is being left up to the Council to take action on these four properties.

**TEMPORARY USE: DON WALKER (Continued)**

Chairman Littlefield stated that it was his understanding as he recalls from last week that at least on one occasion and possibly others the foundation was found to be on the easement and not just the overhang; that there are a couple cases involving just the overhang as he recalls Mr. McDonald's "testimony". He stated that he did absolve Mr. McDonald of any responsibility because as he and McDonald visited the sites and "pulled the tape" on the units from the center line sewer it appeared to be from "our tape" far more invasive than Mr. Walker's claim. He stated be that as it may, the point is that Mr. Walker has been aware these were deficient lots since he purchased them; that it is true when he first went before the Board of Appeals and asked for a whole array of variances in order to put units on, for those who had not had an opportunity to see them it looked nice and innocent. He stated one unit is sitting sideways on the lot and actually facing the interstate and it would be difficult for cars to get in-and-out. He stated Mr. Walker has a "creative way" of calling the side of the house the front, the front of the house the side, and the back as the front in an attempt to force units onto lots.

Councilman Benson asked what the Council would be doing in ignoring matters such as this over sewers and streets? He asked whether this has been done in the past? Chairman Littlefield responded "no".

Councilman Benson asked if situation like this is unusual? Ms. Johnson responded that the staff does not like for anything to encroach over our sewers; that that is their policy and practice.

Councilman Benson asked if this is against the Code? Ms. Johnson responded "yes".

Councilman Benson addressed his comments to Mr. Walker and indicated that he does not know him and wished he knew him personally; that he knows a little more about him tonight because he said in every place he built the neighborhood "rose up".

Mr. Walker stated that a lot of neighborhoods do, as in the past on Missionary Ridge and Brainerd where areas were zoned R-2 for duplex; that he went out and purchased a lot anyone could buy. He stated that he would get a lot of calls from a lot of neighbors indicating that they did not like the trees being cut down.

Councilman Benson asked Mr. Walker if he takes pride in building lots people don't want to build on?

**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker responded "no"; that he builds quality products on previously unbuildable lots.

Councilman Benson asked Mr. Walker if he takes pride in building a lot of buildings on lots?

Mr. Walker responded that he does everything by the City of Chattanooga's regulations; that the house is sitting sideways and other builders do that; that they can set them any where they want. He stated if they don't want it done that way there should be regulations to prevent it.

Councilman Benson informed Mr. Walker that what the Council is trying to do is tighten the regulations; that we have learned lessons.

Mr. Walker stated when a builder buys a lot and builds to the City's codes and setback requirements that is what they should do; that the only thing overhanging is the roof overhang on lots 48 and 50 which does not affect Mr. Holcomb. He stated he offered to cut off the roof overhang and was told by Mr. McDonald after the pre-Council meeting to forget about it; that he (McDonald) said "no" and for him (Walker) to come to the Council meeting and let the Council look at the situation. He stated mistakes were made by both, which is irrefutable. He stated all he is asking for is for the duplex facing the freeway; that none of the others see the front of the duplexes; that the overhang is twelve inches to about 36 inches in the rear and the roof overhang is as high as the lights in the Council assembly room. He stated no apparatus coming in to work on the sewer easement would touch the overhang.

Councilwoman Robinson asked Mr. Walker if he thought it is fair to sell a house and build over an easement on an unbuildable lot; whether he thought it was fair to those two sisters who bought the house in the photo that was distributed? She asked if he told them the house was built over a sewer?

Mr. Walker responded "no"; that at the time he completed the house the City, with the survey in hand, approved the house for completion for the "power" to be turned on. He stated "no" he has never built next to a sewer easement, has been building for approximately 30 years and did not realize there could not be a roof overhang or porch overhang. He stated when he was asked to provide a survey for all four lots, which he did, it proved these foundations were not on the sewer easement; that by the same token when he built the building and the overhangs were there, he called for a City inspector to come out as he had to have it inspected and submit a plan to the City as to where to set the building on the lot, and he did that.



**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker stated Ken Morrison was the inspector who measured all the lots; that before pouring the foundation it has to be approved. He stated that he was told by the Engineering Department that it was six feet over the sewer easement and was told to get the foundation survey on all the lots.

Councilwoman Robinson asked Mr. Walker how he provided the information, whether it was faxed and then the foundation poured?

Mr. Walker stated that he faxed it as they asked him to for all four lots and the foundation was not in the sewer easement; that he provided it and was allowed to build. He stated they come out to check overhangs and anything to do with buildings to approve or disapprove; that they come out when everything is complete to make an inspection on plumbing and the building to make sure there is no problem. He stated buildings are given a white sticker that is placed on the meter base and at that time, according to the City's code and regulations.

**Councilman Page** stated with regard to this issue, he does not know who is responsible, whether it is the City or Mr. Walker; that it is his belief from the information given in Committee there is reasonable conclusion that the houses are being built too close to the sewer and possibly on the sewer, and it is erroneous for this Council not to protect future purchasers of Mr. Walker's houses if we authorize building on a sewer. He stated that it is his thought the purchaser of Mr. Walker's homes should come to the City and ask why; that this is like a "noose" around our neck. He stated the Committee's evidence shows there is a problem here and with this in mind, not knowing who is responsible, he **made the motion that the authorization be denied for Resolutions 7(d), (e), (f) and (g)** and that is the only position the City Council could take. He stated the City cannot let buildings be placed on sewer lines. **Councilman Hakeem seconded the motion.**

Councilman Taylor inquired as to what it means if the temporary use is denied? Chairman Littlefield stated that Mr. Walker would have to work with the City somehow.

Councilman Taylor asked what that means? Chairman Littlefield explained that he didn't know; that Mr. Walker would have to resolve his encroachment over the sewer easement and it is really up to the building inspection department to determine when he has met the requirement.

**TEMPORARY USE: DON WALKER (Continued)**

Councilman Taylor stated that he is puzzled by this and asked what is overhanging? Chairman Littlefield indicated that the roof overhangs.

Councilman Taylor asked if Mr. Walker needs to tear off the roof? Chairman Littlefield stated that Mr. Walker has torn off the porch and the back of the house; that there would be substantial rebuilding.

Mr. Walker stated that this has already been done.

Councilman Taylor asked if there have been similar situations? Chairman Littlefield stated that this is the only one before the Council tonight; that Mr. Walker knew all along the lot was too narrow and too close to the sewer easement.

Councilman Taylor stated when Mr. Walker found out about the sewer easement, he was in the process of building. Chairman Littlefield stated that it was after they were built.

Councilman Taylor asked if the inspector had been out and reviewed it? Chairman Littlefield responded "yes"; that he and Mr. McDonald "pulled the tape" and found it went into the sewer easement and at that time the porches were pretty obvious. He stated Mr. Walker indicated that he (Littlefield) absolved all parties and indicated that he does not absolve all parties and certainly does not absolve Mr. Walker. He stated that Mr. Walker has been a builder for 30 years and it is not hearsay, there is absolute evidence he has been before the Board of Appeals again-and-again and the City Council again-and-again to beg forgiveness for errors he made, not only on this property but a whole array of properties all across Brainerd, primarily. He stated Mr. Walker testified correctly when he stated when he starts building telephones start ringing!

Councilman Taylor stated that he does not want to penalize Mr. Walker for the past indicating that he does not know him (Walker). He stated that he is trying to make sure that his mind is clear. He asked Mr. Walker if he presented drawings and all to the inspectors? Mr. Walker responded "absolutely".

Chairman Littlefield stated if approval was given on the basis of a drawing, he does not know who approved it and on what basis. He reiterated that he went to the site and "pulled the tape" and it is obvious if the drawings were okay the buildings were not.

**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker stated that he wanted to make the point that the duplexes are complete and one has been sold; that he does not even own it anymore and has no right to touch the buildings. He stated how the City is going to resolve that problem he does not know and does not think Mr. McDonald knows.

Councilwoman Robinson inquired as to the Councilman Page's point about there being a problem? Chairman Littlefield stated that it is a problem for others to work out.

Councilman Taylor asked if there is another property like this in Chattanooga?

Councilman Hakeem stated that Councilman Taylor wanted to "have his cake and eat it, too"! He stated that Councilman Taylor has told Council persons we should deal with this property matter today, and then turns around to ask about other properties that have been done any other way. He stated that he has a problem with this.

Councilman Taylor stated Mr. Walker brought it up and that is why he asked (about others) in dealing with this problem. He stated since he brought it up, do we have others?

Mr. Walker responded "yes"; that he has documented proof of many places.

Councilman Taylor stated the Council is getting ready to vote and inquired as to what is proper?

Councilman Benson asked if it is being implied our Department of Public Works (engineering and inspection) is in error?

Councilman Taylor indicated that he sees some errors there.

Councilman Benson stated that he does not want to go to bed tonight thinking he violated the City Code by giving approval for an easement that was built over a sewer line. He suggested that the Council let administration work it out; that as Councilmen Page and Robinson both said we did not make the error. He stated it should go back to the source of the error.

Mr. Walker stated that he told Mr. McDonald he would be glad to cut off the roof overhang and he said "no" and to bring it to the Council. He stated errors have been made on both sides and this is the only way to amicably resolve it for each party.

**TEMPORARY USE: DON WALKER (Continued)**

Councilman Benson stated he would not assume responsibility for something created by someone else; that the Council is not serving penance!

City Attorney Nelson stated that the temporary use requires that at any point in the future the City can come in and require that its easement be restored in full. He stated what happens fifteen years "down the pike" when we need to get into our sewer easement and we need to revoke the temporary use, who will we be dealing with at that time? He stated we would be dealing with some subsequent homeowner who does not have the foggiest notion that there is a problem.

Mr. Walker stated Messrs. McDonald and Lynn looked at the building and agreed, and again made reference to the height of the roof. City Attorney Nelson that might be on one of the two (buildings), but not on the other two.

Mr. Walker stated all of them will have to be torn up, the driveway over the easement and where there is a flower garden. He stated the buildings have been sold and closed at this point.

Councilman Lively stated the City Attorney asked the question he was going to ask with regard to the properties having been sold, yet Mr. Walker is applying for a variance.

Mr. Walker stated he told Mr. McDonald the buildings were sold and gone, however he (McDonald) told him to come anyway and that is the reason he is present.

Councilman Pierce stated that he has heard of instances of Mr. Walker coming before the inspection department, and in this instance he does not support this Council granting an easement, but it is his feeling the City should have some liability as they allowed the buildings to be built. He stated that he personally knows they do require an inspector to come out prior to pouring the foundation to see how far persons are from the line. He stated if the inspection department is not aware of the sewer easement then something is wrong with the system and needs to be corrected. He stated his recommendation is to put it back into administration and let them work it out; that he does not think he could feel comfortable voting to grant this easement.

Chairman Littlefield stated that the vote to not grant the temporary use is not like rezoning issues that can come back in a year; that not granting it means it goes back to administration for them to work it out.

**TEMPORARY USE: DON WALKER (Continued)**

Councilman Pierce asked if the City is responsible for some liability in granting the permit? Chairman Littlefield stated that someone will have to work it out.

Ms. Johnson spoke to the Council members' issue regarding the possibility that there was an error on the part of the inspection department. She stated that they do realize that there may have been some omission and probably not as much due diligence as should have been exercised. She stated they have begun to address not only this issue but larger issues as it relates to development of the community; that, hopefully, by taking corrective action this will not occur in the future.

Councilwoman Robinson stated the first thing is that it is just not fair to sell a house to two sisters who want to live next door to each other and there is an easement problem; that the sisters bought the house in good faith and it will end up being put off on us if Mr. Walker does not deal with it. She stated the second thing is if we do grant this easement, Mr. Walker will go out and sell other houses and what is, in effect, property that is sitting on a "time bomb". She stated she does not think it is fair or ethical to sell houses to someone where there is an easement under it.

Mr. Walker expressed agreement with Councilwoman Robinson's comments. He stated that the ladies bought the duplex after he had finished and finalized it; that he did not even know that there was a sewer easement overhang until they lived in it for over six months. He stated when that come up he had already cleared the house out and sold the house; that he did not sell the house to them knowing it was on an easement, reiterating that he did not know that. He stated this is the second house he has built for them; that they lived together in the first house and found they wanted a wall between them. He stated this duplex was finalized and sold before this sewer easement incident was ever brought up.

Councilman Hakeem asked for clarification as to the motion and second for denial. He asked if he was correct in his thought that what the Council is doing is putting this matter back in the hands of Mr. Walker and administration to work this out?

City Attorney Nelson stated all we are doing is denying the temporary usage; that it would leave a problem in existence, which he thinks would be in Mr. Walker's best interest to work out some way or another. He stated the statue of limitations has not run out on his contractor's liability for having sold lots to these ladies.

**TEMPORARY USE: DON WALKER (Continued)**

Councilman Franklin asked if the Council has an option in taking this off the agenda? He stated either way the matter would have to be dealt with whether we do it or they do it.

Chairman Littlefield again stated this is not like zoning that can be denied and come back; that just basically all we are saying is that we do not choose to approve it until the problem has been worked out.

Councilman Franklin stated as much as he would like to try to help, we seem to be hurting ourselves to do this at this point regardless of who is in error. He stated it is possible our inspection department could have made a mistake; that at that point we cannot continue to allow the scenario regardless of how we feel about Mr. Walker. He asked if Mr. Walker has the option to withdraw and come back?

City Attorney Nelson stated it is up to the Council to allow him to withdraw; that it is on the Council's agenda and it is up to them to allow withdrawal.

Councilman Pierce stated if we act on this, that dictates to administration what to do and what he understands is that Mr. McDonald was not too in favor of Mr. Walker tearing the roof down or tearing it back; that it is easier to "pass the buck" onto the Council to make the decision. He stated that the Council should not vote and refer the matter back to administration and, hopefully, something can be worked out. He stated he is not saying he approves or disapproves; that Council members are aware of past events and building across lines. He stated Councilman Littlefield is familiar with Mike Malone and the Brooks property on the Ridge; that once these matters went through the courts the court ruled not to make them tear it down and it stood although it was built across the line. He stated in all fairness if a building is built and they are up, he knows how expensive it is to build a structure and then tell someone they have to tear it up.

Chairman Littlefield stated Mr. Walker has been aware all along in this process of what he was doing.

At this point Councilman Pierce "called for the question".

Councilman Benson stated there have been some wrong impressions made; that he made a mistake when he went to the Variance Board and talked about previous buildings by Mr. Walker. At this point he apologized to Mr. Walker. Mr. Walker accepted Councilman Benson's apology.

**TEMPORARY USE: DON WALKER (Continued)**

Mr. Walker stated Councilman Benson called every building he built a "pig in a poke". Chairman Littlefield corrected Mr. Walker by stating that it was not Councilman Benson; that he (Littlefield) was the one that said that!

Councilman Benson stated he was new to the Council when he got "caught up with him"; that the Council cannot condone what someone else has done in error. He stated that it is his thought it would be a travesty if the Council passed this or left any impression we were condoning this.

Chairman Littlefield indicated that the "question has been called" for this item.

Councilman Taylor stated that he still has issues with this; that he wonders if the matter could be tabled at least a week in an effort for Mr. McDonald to get back?

At this point, Councilmen Taylor and Pierce made the motion and second to table this matter one week. On roll call vote:

Benson	"No"
Franklin	"Yes"
Hakeem	"No"
Lively	"No"
Page	"No"
Pierce	"Yes"
Robinson	"No"
Taylor	"Yes"
Littlefield	"No"

**The motion failed (six "yes", three "no").**

On motion of Councilman Page, seconded by Councilman Hakeem,

**A RESOLUTION AUTHORIZING DON WALKER TO USE TEMPORARILY THE CITY'S SEWER EASEMENT LOCATED AT 6817 NAKWISA DRIVE, LOT 58, SUBJECT TO CERTAIN CONDITIONS**

**was denied; Councilmen Franklin and Taylor voted "no"; Councilman Pierce abstained.**

**TEMPORARY USE: DON WALKER**

Immediately after the motion and second to deny this request was made, Councilmen Taylor and Pierce made the motion and second to table this matter one week; **the motion failed (six "yes", three "no")**.

On motion of Councilman Hakeem, seconded by Councilman Benson,  
**A RESOLUTION AUTHORIZING DON WALKER TO USE TEMPORARILY THE  
 CITY'S SEWER EASEMENT LOCATED AT 6818 SUNALAY LANE, LOT 60,  
 SUBJECT TO CERTAIN CONDITONS**  
 was denied; Councilmen Franklin and Taylor voted "no"; Councilman Pierce abstained.

**TEMPORARY USE: DON WALKER**

On motion of Councilman Benson, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING DON WALKER TO USE TEMPORARILY THE  
 CITY'S SEWER EASEMENT LOCATED AT 6819 GAYDA LANE, LOT 48,  
 SUBJECT TO CERTAIN CONDITIONS**  
 was denied; Councilmen Franklin and Taylor voted "no"; Councilman Pierce abstained.

**TEMPORARY USE: DON WALKER**

On motion of Councilman Benson, seconded by Councilman Page,  
**A RESOLUTION AUTHORIZING DON WALKER TO USE TEMPORARILY THE  
 CITY'S SEWER EASEMENT LOCATED AT 6818 NAKWISA DRIVE, LOT 50,  
 SUBJECT TO CERTAIN CONDITIONS**  
 was denied; Councilmen Franklin and Taylor voted "no"; Councilman Pierce abstained.

**COMMITTEES**

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for Tuesday, July 23 at 4 p.m.**

Councilman Page reminded Council members of the **Economic Development Committee meeting scheduled for Tuesday, July 23 immediately following the Public Works Committee meeting.**



**COMMITTEES (Continued)**

Councilman Benson stated the **Legal and Legislative Committee is scheduled to meet at 3 p.m. on Tuesday, July 23.**

**ADJOURNMENT**

Chairman Littlefield adjourned the meeting of the Chattanooga Council until Tuesday, July 23, 2002 at 6 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

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