

City Council Building
Chattanooga, Tennessee
September 10, 2002
6:00 p.m.

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

PLEDGE OF ALLEGIANCE/INVOCATION

Prior to the Pledge, Councilman Lively called for a moment of silence in remembrance of those who lost their lives in last year's September 11 terrorism attack. Following the Pledge of Allegiance, Councilman Lively gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilman Benson, seconded by Councilman Lively,
**AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II,
SECTION 5, ARTICLE III BY ADDING A NEW SECTION 5-87 RELATIVE TO
OPEN CONTAINERS OF AND TO THE CONSUMPTION OF ALCOHOLIC
BEVERAGES AND BEER IN PUBLIC PLACES AND ON CERTAIN PRIVATE
PROPERTY**

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

2002/2003 CAPITAL IMPROVEMENTS BUDGET

On motion of Councilman Lively, seconded by Councilwoman Robinson,
**AN ORDINANCE APPROPRIATING, AUTHORIZING OR ALLOCATING
 FUNDS TO THE CAPITAL IMPROVEMENTS BUDGET FOR THE FISCAL YEAR
 2002/2003**

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

AMEND ORDINANCE NO.11285

On motion of Councilman Lively, seconded by Councilman Hakeem,
**AN ORDINANCE TO AMEND ORDINANCE NO. 11285, SO AS TO
 APPROPRIATE, AUTHORIZE AND ALLOCATE ONE MILLION SEVEN
 HUNDRED FIFTY THOUSAND DOLLARS (\$1,750,000.00) FROM THE
 UNRESERVED FUND BALANCE OF THE STORMWATER OPERATING FUND
 TO THE STORMWATER CAPITAL FUND SO AS TO PROVIDE FUNDS FOR
 THE CONSRUCTION OF CERTAIN STORMWATER PROJECTS**

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

LIQUOR LICENSE

Councilman Benson made the motion to have the matter involving a liquor license for the Ooltewah moved forward for discussion on the agenda; Councilman Lively seconded the motion; the motion carried.

Admin. Boney stated that he has an application for a liquor license at 9207 Lee High in the Ooltewah area recently annexed by the City. He stated that the applicant has successfully met the criteria set forth by the State involving distance, traffic and criminal background. He stated the City is authorized to have a total of 54 liquor stores and this application will not approach that ceiling at all; that it would give us a total of 42. He distributed the application and stated five signatures are required on each of the three documents for approval.

LIQUOR LICENSE (Continued)

Admin. Boney stated the Council has several choices with regard to the application: (1) The application is approved if five Council members sign (the application); (2) If the Council decides to take no action, in which case, since the application complies with all qualifications by the State, the application will be approved 60 days from today without any further action; and (3) The Council could introduce a motion denying the application, in which case the application issue would be suspended and left up to the applicant for appropriate legal action.

Councilman Benson questioned the third option, asking if the Council denies this request as was done four months ago, would there be any litigation expense.

Admin. Boney responded there would be in "time and expense".

Councilman Benson inquired as to the success factor. Admin. Boney responded there was "none so far".

Attorney Arvin Reingold was present representing the applicant. He stated he could not add much to what Admin. Boney had spoken and reiterated that the applicant has met all the State's criteria. He stated this is not a "wet" or "dry" issue; that some years ago the voters decided package stores would be established and this is a legal commodity. He stated inasmuch as the applicant has met all the criteria, he submits that the application should be granted with all the rights and privileges of any other business that meet these criteria. He stated there is no compelling reason to not approve this application; that it might not be popular in some circles, yet it is his belief we must uphold the law. He stated that he received information from Planning and they stated unequivocally the applicant meets all criteria; that there is no compelling reason not to approve this as any other legal commodity.

James Spearman of 197 Palm Beach Avenue spoke in opposition and stated that he is pastor of a church in Ooltewah and plans to open a Christian church outreach for young people. He stated this is an ideal location and (he) is trying to get young people off the street in an effort to have a place for them to go with good gospel singing on Saturday nights; that he would like to make it a community affair. He stated that it was his hope this would work out because Ooltewah needs something like this. He stated that he has been pastor of Fellowship Church (8113 Sue Drive) for several years and has been trying to expand and get a place for young people to fellowship and have singings.

LIQUOR LICENSE (Continued)

At this point Chairman Littlefield indicated that the application was short of the five signatures and that it appears the option would be for the owner to wait 60 days.

Atty. Reingold stated the question of the 60 days is from the date of application; that the State of Tennessee will rule on that. City Attorney Nelson clarified that is the State's rules not ours.

Chairman Littlefield stated that State law has put the Council in a tough position; that the Council does not have anything to approve or deny. He stated the Council only has to put their signature on something the Council has nothing to do with. He stated matters such as this have always caused some consternation and this one is more stressful than others because it is in a newly annexed area.

Atty. Reingold expressed appreciation to the Council for moving rapidly on the matter.

REZONING

2002-144: Knitting Mill, LLC – Jon M. Kinsey

Councilman Pierce made the motion to move Ordinance VI(i) forward on the agenda; Councilwoman Robinson seconded the motion; the motion passed.

Pursuant to notice of public hearing, the request of Knitting Mill, LLC – Jon M. Kinsey to rezone a tract of land located at 1433 Williams Street came on to be heard.

The applicant was present, there was no opposition.

Mr. Pace, Director of Operations with the Regional Planning Agenda (RPA), stated this request is located in the Southside area along Williams Street and north of Main Street. He stated a number of conditions typical on properties within the Southside area are attached and the applicant has concurred with them. He stated the Staff and Planning Commission recommend approval.

Bob Doak was present representing Knitting Mill, LLC and stated he has met with RPA and attended the Planning Commission hearing.

REZONING (Continued)

On motion of Councilman Pierce, 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 1433 WILLIAMS STREET, MORE PARTICULARLY
 DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3
 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**
 passed first reading.

AMEND ORDINANCE NO. 11216

MR-2001-153: Americo Group by Thomas Kale

There was no opposition present.

Mr. Pace stated the amendment is for BellSouth to retain their easement.

On motion of Councilman Pierce, seconded by Councilwoman Robinson,
**AN ORDINANCE AMENDING ORDINANCE NO. 11216, ADOPTED
 DECEMBER 4, 2001, AND ORDINANCE NO. 11282, ADOPTED JULY 9,
 2002 CLOSING AND ABANDONING ALL RECORDED RIGHTS-OF-WAY
 IN AN AREA BOUNDED BY WEST 33RD STREET ON THE NORTH, WEST 35TH
 STREET ON THE SOUTH, BROAD STREET ON THE EAST AND ST. ELMO
 AVENUE ON THE WEST, BY PERMITTING BELL SOUTH TO RETAIN THEIR
 FULL EASEMENT ON WEST 34TH STREET**
 passed first reading.

AMEND ORDINANCE NO. 11297

MR-2002-042: Pro Properties of Chattanooga

There was no opposition in attendance.

Mr. Pace stated the amendment reflects a correction in the lot number.

On motion of Councilman Lively, seconded by Councilman Taylor,
**AN ORDINANCE AMENDING ORDINANCE NO. 11297, ADOPTED JULY
 23, 2002, CLOSING AND ABANDONING A FIFTY FOOT (50') WIDE
 RIGHT-OF-WAY LOCATED IN THE 2200 BLOCK OF BALDWIN STREET, AS
 SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
 BY REFERENCE, BY DELETING "TAX MAP 148G-N-007 AND 008" AND
 SUBSTITUTING IN LIEU THEREOF "TAX MAP 145M-C-006"**
 passed first reading.

REZONING

2002-114: Capital Toyota, Inc.

Pursuant to notice of public hearing, the request of Capital Toyota, Inc. to rezone a tract of land located at 201 Chickamauga Road came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request is located in the East Brainerd and Brainerd Hills area along Lee Highway for rezoning from M-2 to C-2 for expansion of Capital Toyota. He stated that the applicant met with Planning and approval is recommended with sixteen conditions attached, including landscaping and no access to Chickamauga Avenue. He stated there are additional landscaping and setback requirements from Chickamauga Avenue for a total of 65 feet from Chickamauga Avenue back toward Lee Highway. He stated the applicant would be expanding back from the C-2 along Lee Highway and would have adequate landscaping and protection of the R-1, which would remain on Chickamauga Avenue and also protect the neighborhood. He stated approval is recommended from Planning and Staff with conditions as listed in the Ordinance.

Atty. John Anderson of Grant, Konvalinka and Harrison spoke on behalf of Capital Toyota. He distributed a revised site plan incorporating the restrictions mentioned by Mr. Pace. At this point he introduced Vance Travis of TWH Architects.

Vance Travis displayed a conceptual drawing of the planned expansion of the Capital Toyota and Lexus dealership showing the property owned currently by the McKamey's. He stated the property behind the existing Lexus Sales Office is the property requesting to be rezoned which is almost one acre that was originally two lots and have been combined into one piece of property. He stated the property fronts on Aiken with access from Chickamauga and Lee Highway. He stated without the location they would have to relocate to another location and are present asking for rezoning to C-2; that they have met with the Planning committee and agree with the conditions, which have been incorporated into the site plan.

Councilman Taylor asked for clarification that all conditions have been met within the site plan? Mr. Travis responded "yes".

REZONING (Continued)

On motion of Councilman Taylor, 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 201 CHICKAMAUGA ROAD AND 107 AIKEN ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2002-126: Crest Partnership, LLC

Pursuant to notice of public hearing, the request of Crest Partnership, LLC to rezone a tract of land located at 1526 Old Ringgold Road came on to be heard.

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

Mr. Pace stated this request is located in the Ridgedale community along Old Ringgold Road. He stated there is R-2 zoning all along this area with C-2 and M-2 along Dodds Avenue. He stated the site plan initially submitted reflected R-3 density; that the Staff and Planning Commission made the recommendation to deny the R-3 and approval of R-3MD which is much denser than R-2 but not as much as R-3. A photo of the proposed units was displayed.

Edward Wall, applicant, stated this would be an improvement to the neighborhood and that he would appreciate the Council's approval.

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 A TRACT OF LAND LOCATED AT 1526 OLD RINGGOLD ROAD, MORE PARTICULARLY DESCRIBD HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3MD MODERATE DENSITY ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2002-129: Center for Sports Medicine and Orthopaedics

Pursuant to notice of public hearing, the request of Center for Sports Medicine and Orthopaedics to rezone a tract of land located at 2421 McCallie Avenue came on to be heard.

The applicant was present; considerable opposition was in attendance.

Mr. Pace stated this request from the Center for Sports Medicine is for expansion along McCallie Avenue and west of Glenwood and Dodson. He stated the back portion is the site for the request for C-2 from R-2; that the front is presently zoned R-1. He stated this request is located in the historic Glenwood neighborhood. A PowerPoint presentation showed the proposed site plan of the new addition to the rear of the current building, which reflected under-street parking, an elevation drawing from Oak Street showing the size of the proposed development, houses to the north across Oak Street in the R-1 zone and homes to the east and McCallie Avenue. He stated the applicant has met with Planning and agrees with the eight conditions contained within the Ordinance. He stated the Staff recommended the whole site be zoned R-4 to accommodate the office. He stated there was some concern since Sports Medicine sells equipment and medical supplies and a question over the requirement for a setback; that the parking area requires a special permit from the Board of Appeals to park on residentially zoned property on the south side. He stated that condition is one that is looming the largest at this time and should be limited to professional medical and office use only. He stated approval is recommended from Staff with conditions as listed in the Ordinance.

At this point Chairman Littlefield acknowledged the presence of former Councilman and present County Commissioner William Cotton. Councilman Cotton indicated that his present was to offer support.

Becky Burnette, Administrator of Center for Sports Medicine, stated that the Center has been in business for 50 years and they are committed to the community they serve. She stated they are requesting the zoning to expand the McCallie facility; that they are very excited about the revitalization efforts of our City and feel their expansion on the south side at McCallie and Willow goes hand-in-hand with the expansion at UTC. She stated the Center currently employs 120 employees, several of whom live in Glenwood.

REZONING (Continued)

Ms. Burnette stated that the reason for the request for expansion is that they are extremely overcrowded and need more space; that many office employees are working from closets and if they cannot expand they would have to move outside the City. She stated they would not be overbuilding, as every inch would be utilized. She stated if the rezoning is granted and they are allowed to expand an additional 14,000 feet a landscaping plan is included as requested by the residents, in addition to additional lights, trees and shrubs. She stated they talked to and met with the neighborhood association and neighborhood watch; that they had a good meeting with positive dialogue.

Ms. Burnette stated they were asked to sign a legally binding document that there would be no further expansion at the McCallie facility and they (Sports Medicine) have presented the neighborhood association with the document. She stated they were asked to go back to look at other ways to accommodate the expansion and they looked at those; that they were asked to attend their neighborhood association and watch meeting and they have done that and will continue to do so. She stated they were asked to make the neighborhood aware of job openings and they are currently doing that and will continue to do so. She stated the planned expansion would enhance the neighborhood and would assist in the revitalization of Glenwood and they are committed to be good neighbors.

At this point Ms. Burnett introduced Mrs. Valarie Lambert who lives in the house that faces their proposed expansion.

Valarie Lambert, of 2401 Oak Street, stated change is inevitable and nothing stays the same. She stated she has watched this land and wondered what the Center for Sports Medicine was planning to do with it. She stated she did not see any protest when the houses were cleared from the property; that this is the Sports Center's land and she can understand their wanting to develop their property. She stated at one time she was active with the Glenwood Association; that she attended a meeting in June and was really disappointed. She stated the Association's behavior toward adults when presenting themselves in an effort to be community-friendly was very disappointing. She stated if the Association is concerned they should look at other problems more serious and worth fighting for like drug trafficking. She stated concern has been raised regarding other facilities expanding such as Memorial, Parkridge and HealthSouth, which is across the street, and that each one should be handled individually. She stated that she lives across from the facility and can see the back of it. She stated in the 24 years she has been in her house it has changed, but is still remains 2402 Oak Street and a part of Glenwood.

REZONING (Continued)

Mrs. Lambert stated that she sees the fenced-in, half graveled parking lot out her front door and sees it everyday! She stated she welcomes the opportunity for them to improve their property.

Mr. Pace stated that the request was recommended for denial from the Planning Commission. Chairman Littlefield stated that he remembers that the vote was a 6-5 split vote.

At this point, Ms. Burnett introduced Mike Price of the Planning Commission.

Mike Price stated that he was one of the six members of the Planning Commission voting in favor of this rezoning. He stated in his opinion as a site designer this plan with the landscaping and architectural design will protect this neighborhood. He stated the Glenwood-Bushtown-Churchville Plan sets boundaries and prevents future expansion. He urged the Council to approve this request.

Jackie Thomas spoke in opposition and stated the Glenwood community has been talking with the Center for Sports Medicine and communication has been open. She stated that she still stands and says they are a community! She stated the plan that was presented was just one plan; that they want to support the Center for Sports Medicine and do not want them to leave, however, their community is important to them. She stated they are an R-1 community and want their community to stay a community and are protected by R-1 zoning. She stated large medical institutions that want to expand surround them, which "chips" away at the foundation of their neighborhood. She stated there are various other facilities they (Sports Medicine) can utilize, reiterating that she and others want their community to stay a community and not become like others such as Lincoln Park.

Ms. Thomas stated the community is not always in opposition as they are willing to work with various agencies and have been doing that for years; that it is now being used against them because they have been good neighbors to other institutions. She made reference to the vacant lot and that no beautification had been placed there, indicating that the purpose is to have it look bad in the community. She stated they (Sports Medicine) could have put something there and they chose not to. She stated the intent is still the same as it was in 1997 when the homes were purchased for the purpose of knocking them down to expand. She asked that the Council consider what the community is about; that they are about community and families. She stated they love their community and will fight for it; that they live and stay there and at the end of the day Sports Medicine personnel go to their homes somewhere else.

REZONING (Continued)

Floyd Kilpatrick spoke next in opposition and stated that he lives in Glenwood and was speaking in opposition to the rezoning for several reasons. At this point he asked those present in opposition to stand and/or raise their hands. He presented a petition of 200 signatures signed by residents who live in Glenwood who could not be present registering their opposition. He stated as a technical matter, the agenda makes reference to the location at "2421 McCallie Avenue", indicating that the parcel of land to be rezoned is located at 2400 Oak Street, reiterating that it is a technical matter he wanted to point out for the record. He stated the other issue raised is that the Glenwood community was annexed into the City in 1924, and since that time it has always been a residential community and for the most part remains that way today. He stated they have maintained the residential character of this community and will protect it at any cost. He gave an historical overview of Glenwood and made reference to the former Tuberculosis Hospital, the partnership with Catholic Charities in 1996 and the various other partnerships the community forged over the years with the exception of the Center for Sports Medicine.

Mr. Fitzpatrick continued by stating that the Center for Sports Medicine was incorporated under Tennessee state law in 1986 and the Catholic Charities built a partnership with Glenwood in 1996. He stated ten years after their existence, in 1997 Sports Medicine bought the property on Oak Street and had it rezoned which was opposed by the residents then and opposed now. He stated in 1980, Mr. Houston owned the Old Time Barbecue restaurant and wanted it rezoned, which was opposed by the community and other residents who lived in the community. He stated Dr. Thomas Brooks, a physician at Erlanger, wanted to set up a home for physicians moving into the area and the community was opposed to that. He stated Sandra Bowers, who lived next door to Councilman Hakeem, wanted rezoning for a group home and the community was opposed to that. He stated they have been opposing rezoning within the residential area in Glenwood since it was founded in 1970. He stated that they were incorporated as a 501(C)3 neighborhood association under Tennessee state law in 1976 and has a strong history of community and takes strong pride in their residential area.

Mr. Fitzpatrick concluded his comments by stating that Mrs. Lambert spoke before the Council as a resident of Oak Street who lives across from the Sports Center in favor of this rezoning. He stated Ellie Walker, Teresa Lockhart, Virginia Lewis and others who live on Oak Street are opposed to this rezoning.

REZONING (Continued)

At this point, Mr. Fitzpatrick attempted to have a Planning representative come forward, however, Chairman Littlefield indicated to him that he had spoken well over nine minutes and had planned to stop him sooner. He stated the meeting must move along at this point.

Mr. Kilpatrick then respectfully asked that the Council deny this request.

Ms. Burnett came forward for rebuttal and reaffirmed that the Sports Center does not plan to expand any further than at the McCallie facility. She stated they have been in meetings with the community for months and will continue to do so. She stated that they also respect families and want to be a good neighbor; that they have been part of the Glenwood community for fifty years; that they serve people throughout the community, including the hospitals and much of Glenwood. She stated they met everything they had been asked to do in the meetings and different things they tried to accommodate.

Chairman Littlefield asked those in favor of the rezoning to stand; a large delegation of persons stood at this point.

Councilman Benson commended the Glenwood neighborhood association for their growth and interest in the community and their coming out today to express their objections. He stated that he believes in the power of neighborhoods; that they are exercising responsible judgment to ascertain facts and focus in on the real issues. He expressed belief that there are other issues here; that he talked a couple hours to one person today and feels there are a lot of hidden issues here. He stated he has been accused of being against developers; that he ran on a ticket of neighborhoods; that there was unplanned, unstructured and poorly supported growth in East Brainerd that was "killing" them and he does not want that in Glenwood. He stated he would not even consider this if he had not looked at the plan; that he did go out there and is familiar with the place. He stated like the lady spoke (Mrs. Lambert) it is a very unpleasant thing to look at; that you have to look at what the real issue is and how to make the community grow and not die because of the lack of economic opportunities close by. He reminded those in attendance of the empty Colonial building and the food market that is getting ready to go out of business and it scares him; that he looks at this company and does not know if there would be anything left if it cannot build and that scares him. He stated it has to come down to the issue of what is best for the total community, residential as well as commercial; that he just cannot see anything to do other than to support this proposal with the codicils declared here today. He asked for clarification that there would be no more expansion.

REZONING (Continued)

Ms. Burnett responded "correct". Councilman Benson then indicated that Sports Medicine would have to build according to the conditions and not vary. He asked if iron gate fencing would be part of the proposal as shown on the drawing.

Ms. Burnett responded that they are actually bushes. She stated there are two separate drawings, indicating that the neighborhood did not want the fence; that they would rather have the shrubs and lighting. She stated that they are trying to work with the community and this is what they asked.

Councilman Benson stated the proposed drawing is beautiful and hoped it would come out that way. He stated if Sports Medicine does what it says he would have to vote for it.

Ms. Burnett stated their intent is for the building to look like the photo; that this reflects the blueprint and is not just a rendering.

At this point, Ms. Thomas spoke aloud from the audience and stated there are still things not being said and the community feels they are being pressured. She stated she was told before she came here today that everybody was against them, yet they still decided to address how they feel.

Councilman Hakeem stated to those assembled that he has been a member of the Glenwood community for thirty-two years and served as President and in other offices. He stated he would not do anything to hurt Glenwood because that is where he lives like many of those present. He stated he has prepared and distributed responses to some of the questions he has been asked by those in the community regarding his position of support for the Center for Sports Medicine's expansion. He stated he attempted in two neighborhood meetings to deal with the questions, but in reality was not afforded an opportunity to answer, which is why his responses were put in writing. He stated the City Council has been in existence for twelve years, now, and as was stated issues in regard to downzoning in Glenwood have been turned back; that there have been issues similar to this in the community and the factors involved means we do not get our way all the time. He asked what it is that makes some people think that it was the community coming out in numbers as the only reason anything has been changed. He asked if any one thought about the fact the community might have relationships and be able to muster votes to make necessary changes.

REZONING (Continued)

Councilman Hakeem concluded his comments by stating that he is of the opinion that there is a mind set of some people who have not given all the information that it is his way or no way. He stated in reading the material distributed he is not asking the community to agree, but to understand why he has taken the position he has. He emphasized and reiterated that he cares as much about Glenwood as other persons here.

Councilman Taylor stated in Sports Medicine's presentation he heard once they move into the facility all the space is taken; that it is full. Ms. Burnett responded that it is full but they will not expand further.

Councilman Taylor stated that Ms. Burnett's response goes back to his question, considering once they are moved in and it is already full, down through the years their growth will extend. Ms. Burnett stated right now they are seeing more patients than they have space; that if they expand further it will be outside the area for physical therapy locations.

Councilman Taylor inquired where? Ms. Burnett responded "other areas".

Councilman Taylor then stated that he heard something about the neighborhood wanting some type of agreement that there be no further expansion. He asked if the agreement is in writing. Ms. Burnett responded "yes" yet it is not signed; that she presented a draft copy for the neighborhood association to look at and come back to us, indicating that she has a copy for Council members.

Councilman Taylor stated that he heard residents had another concept for the design of this building and asked what consideration was given.

Ms. Burnett stated that they were asked to look at three different options and the architect's opinion of what they would have to do to accommodate the request would mean the building on McCallie would have to be closed for up to twelve months, which they are not able to do. She stated they were asked to build up and the building is not structured to go up and the architect can speak to that, as it is just not feasible.

At this point Councilman Taylor asked those who stood in support of this request for a show of hands of those from this group who live in Glenwood and one person's hand was raised.

REZONING (Continued)

Councilman Page stated if there is one individual he has learned to appreciate most in terms of judgment and fairness is former Chairman Hakeem; that he believes he is a man that would always do what is best for neighborhoods. He stated he (Page) does believe the neighborhood should have the ability to make judgments for the environment they live in. He stated in this case this rehabilitation hospital is a facility that is much needed in this area and more and more in the future; that this is an industry that is growing and has the most potential for adding jobs and improving the quality of life for every Chattanooga. He expressed agreement with Councilman Benson's comments that it is his hope the building will turn out like it is drawn and presented. He stated that it is his thought this is the right thing to do and **made the motion to approve the request on first reading; Councilman Lively seconded the motion.**

Councilman Pierce stated that he did not want to say anything and had intended not to. He stated he and Councilman Hakeem have voted together for the past twelve years; that he has always supported the people. He stated in looking at the persons appearing today he sees two different types of people – people of color and white people. He stated that it is his thought he is living up to the oath of office and his pledge to represent the people of his district, the people who put him in office; that he has been consistent over the years whether in a white neighborhood or a black neighborhood and thinks his record will reflect how he voted. He stated he plans to support the neighborhood; that he heard from the community tonight. He stated that he told several people who asked him what position he would take and he told them he had an open mind; that he received several telephone calls and never committed himself even to people he knows personally. He stated he does not like to say he will do one thing and then do another; that he did not know how he would vote. He stated that he does not know how the vote might be and he is sorry to go against Councilman Hakeem; that they have been closer than any other two Council persons. He stated tonight he plans to vote against the rezoning.

On motion of Councilman Page, 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 2421 MCCALLIE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading; **Councilmen Pierce and Taylor voted "no".**

RECESS

At this point, a five-minute recess was taken. Chairman Littlefield excused himself from the meeting due to personal commitment.

When the meeting was called to order, City Attorney Nelson stated a Chairman Pro-Tem would need to be elected in the absence of the Chairman and Vice Chairman and declared the floor open for nominations.

Councilman Pierce nominated Councilwoman Sally Robinson to serve as Chairman Pro-Tem; Councilman Page seconded the motion; the motion carried. Councilwoman Robinson was elected to serve as Chairman Pro-Tem for the remainder of the Council meeting.

REZONING

2002-136: Troy L. Cox

Pursuant to notice of public hearing, the request of Troy L. Cox to rezone a tract of land located at 706 Ashland Terrace came on to be heard.

Mr. Pace stated the applicant has requested deferral for thirty days for an effort to come to an agreement with the neighborhood.

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 706 ASHLAND TERRACE, MORE PARTICULARLY
 DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE AND C-2
 CONVENIENCE COMMERCIAL ZONE TO M-2 LIGHT INDUSTRIAL ZONE**
 was deferred until October 15.

REZONING

2002-141: Frank Tatum

Pursuant to notice of public hearing, the request of Frank Tatum to rezone a tract of land located at 211 Nowlin Lane came on to be heard.

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

REZONING (Continued)

Mr. Pace stated the original request was for C-2 in the airport area along Airport Road in the Shepherd community. He stated a portion of the site is R-1 single family and across the street is a trailer complex. He stated there have been several requests for commercial rezoning in the past and the recommendation has consistently been to deny C-2 which is not part of the Shepherd Community Plan adopted several years ago. He stated the recommendation for R-4 comes from the Staff and Planning commission for approval.

Councilman Page stated that he was uncomfortable with the intended use as an auto sales lot.

Mr. Pace stated that was the reason for the R-4 recommendation for office use. He stated the applicant was at the Planning Commission meeting and expressed agreement for R-4; that he does not know why he is not present or why no one is here to represent him.

Councilman Page asked if he was correct in thinking auto sales cannot be located within the R-4 zone? Mr. Page responded "correct".

Councilman Pierce stated that he is leery in voting for this if the applicant is not present; that the applicant might not be interested and should be here.

Mr. Pace stated that he did not know why he was not present; that this is in Councilman Franklin's district.

City Attorney Nelson stated this is the first reading; that the Clerk of the Council or Mr. Pace can notify the applicant so that he could be present next week.

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 211 NOWLIN LANE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE**

passed first reading.

CLOSE AND ABANDON

MR-2002-142: William D. Scott

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

CLOSE AND ABANDON (Continued)

Mr. Pace stated this is located in the Riverside Drive area and approval is recommended.

On motion of Councilman Pierce, seconded by Councilman Lively,

AN ORDINANCE CLOSING AND ABANDONING A FIFTY FOOT (50') WIDE RIGHT-OF-WAY LOCATED IN THE 1300 BLOCK OF SIMMONS 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, CHATTANOOGA GAS COMPANY, AND THE CITY OF CHATTANOOGA RETAINING THEIR UTILITY EASEMENTS IN THE FULL WIDTH OF THE EXISTING RIGHT-OF-WAY OF SIMMONS DRIVE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2002-146: Ruby B. Creighton and E. Steve Bates

Pursuant to notice of public hearing, the request of Ruby B. Creighton and E. Steve Bates to rezone a tract of land located at 200 Walker Street came on to be heard.

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

Mr. Pace stated this request is located in the East Brainerd area in Brainerd Hills; that the recommendation complies with the newly adopted Brainerd Hills Community Plan. He stated approval is recommended from Staff and Planning.

James Purple, attorney for Ms. Creighton and Mr. Bates, stated he is their prospective tenant. He stated he is a sole practitioner and does not share a firm with any other attorney. He respectfully requested approval.

On motion of Councilman Taylor, 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 200 WALKER STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE

passed first reading.

CHANGE ORDER

On motion of Councilman Hakeem, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, RELATIVE TO THE SOUTHSIDE STREETScape PROJECT, CONTRACT NO. SS-2-01, WITH J&J CONTRACTORS, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY FOURTEEN THOUSAND EIGHTY-FIVE AND 61/100 DOLLARS (\$14,085.61), FOR A REVISED CONTRACT PRICE NOT TO EXCEED FIVE HUNDRED EIGHT THOUSAND EIGHTY-SEVEN AND 79/100 DOLLARS (\$508,087.79)
was adopted.

AGREEMENT: DENNIS SMITH

On motion of Councilman Hakeem, seconded by Councilman Taylor,
A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH DENNIS SMITH FOR CONSTRUCTION INSPECTION OF VARIOUS PUBLIC WORKS PROJECTS FOR A TOTAL AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$125,000.00) PER YEAR, INCLUDING WAGES AND OTHER REASONABLE EXPENSES
was adopted.

ENVIRONMENTAL REMEDIATION

Councilman Pierce asked if any consideration could be given to renaming this block. City Attorney Nelson stated the "Butcher Block" is not the real name.

Councilman Pierce stated that there is a need to get away from calling it the "Butcher Block".

Admin. McDonald stated staff in Public Works refer to it as the Electric Power Board site. He stated in the presentation he made in Nashville to the DCERP Board, it was referenced as the Electric Power Board site; that he did not use "Butcher Block".

Councilman Taylor inquired as to the environmental remediation process.

Admin. McDonald explained that the Dry Cleaning Remediation Program has been in control of this project since last February. He stated they have been in charge of all the exploration going on at the site; that there has been removal of the material which was highly contaminated; that the material was removed and remediated.

ENVIRONMENTAL REMEDIATION (Continued)

Admin. McDonald stated petroleum material on the location where a gasoline station was located has been removed and remediated. He stated additional remediation will have to be done by the DECERP Board and they are in the process of approving the final details of that plan. He stated they have approved the method of remediation and the consultants are detailing that now.

On motion of Councilman Hakeem, seconded by Councilman Lively,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS OR THE MAYOR TO EXECUTE SUCH DOCUMENTS AS MAY BE NECESSARY RELATED TO THE ENVIRONMENTAL REMEDIATION OF THE SITE BOUNDED BY MARTIN LUTHER KING BOULEVARD, 10TH STREET, MARKET STREET, AND BROAD STREET (THE "BUTCHER BLOCK") AND CONVEYANCE OF THE PROPERTY TO THE ELECTRIC POWER BOARD

was adopted.

ISSUANCE AND SALE OF BONDS

Councilman Benson stated this matter was added to tonight's agenda pursuant to discussion in today's Legal and Legislative Committee. He stated approval is recommended.

Councilman Page asked if the appropriation of funds for the improvements within this Resolution would be voted upon by the Council as we develop the 21st Century Waterfront Plan.

Admin. Boney responded "yes"; that the next step is the resolution actually awarding the sale of bonds and from there the contract performing this work will be presented for approval.

On motion of Councilman Page, seconded by Councilman Benson,

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF BONDS IN THE AGGREGATE AMOUNT NOT TO EXCEED FIFTY-FIVE MILLION DOLLARS (\$55,000,000.00) OF THE CITY OF CHATTANOOGA, TENNESSEE FOR THE PURPOSE OF PAYING ALL OR A PORTION OF THE COSTS OF THE 21ST CENTURY WATERFRONT IMPROVEMENT PLAN CONSISTING OF: MARINA PARK AREA IMPROVEMENTS; ROSS'S LANDING AREA IMPROVEMENTS; PLAZA AREA IMPROVEMENTS; RIVERFRONT PARKWAY IMPROVEMENTS; TENNESSEE TERRACES AND ACCESS UNDERPASS IMPROVEMENTS; MARINA UPGRADES; FIRST

ISSUANCE AND SALE OF BONDS
(Continued)

STREET CORRIDOR IMPROVEMENTS; PEDESTRIAN BRIDGE CONSTRUCTION AND IMPROVEMENTS; ROAD EXTENSION WEST OF MARKET STREET BRIDGE AND IMPROVEMENTS; NEW DOWNTOWN PLAYGROUND PARK AND IMPROVEMENTS; NEW WETLAND PARK AND IMPROVEMENTS; PARKING FACILITIES; STREET PAVING; STREET REHAB; CURBS, GUTTERS AND SIDEWALKS; STREETScape; TRAFFIC ENGINEERING PROJECTS; SIDEWALKS; LAND ACQUISITION; AND FIXING THE MAXIMUM RATE OF INTEREST SUCH BONDS SHALL BEAR
 was adopted.

OVERTIME

Overtime for the week ending September 6, 2002 totaled \$104,834.34.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ✍ **ERIC WILLIAMS** – Resignation, Crew Worker, Citywide Services, effective September 4, 2002.
- ✍ **STEPHEN W. SMITH** – Family Medical Leave, Equipment Operator, Sr., effective September 4 – November 27, 2002.
- ✍ **JAMES H. FRANCIS, JR.** – Promotion, Heavy Equipment Operator, Citywide Services, Pay Grade 10/Step 1, \$24,474.00 annually, effective August 28, 2002.
- ✍ **JAMES A. HUDGENS** – Lateral Transfer, Heavy Equipment Operator, Citywide Services, Pay Grade 10/Step 5, \$29,268.00 annually, effective August 28, 2002.
- ✍ **DOUGLAR WEIR** -- Termination, Crew Worker, Sr., Waste Resources, effective August 28, 2002.

PERSONNEL (Continued)

FINANCE DEPARTMENT:

- ✍ **GAIL DUFFEY** – Return from Family Medical Leave, Payroll Technician, Sr., effective August 23, 2002.

CHATTANOOGA FIRE DEPARTMENT:

- ✍ **LESTON K. ROEX** – Promotion, Captain, Pay Grade 4/Step 7, \$44,805.00 annually, effective September 6, 2002.

NEIGHBORHOOD SERVICES DEPARTMENT:

- ✍ **CANDACE M. WALSH** – Resignation, Community Organizer, effective September 12, 2002.
- ✍ **CHUCK GASTON** – Extension of Family Medical Leave through September 23, 2002.
- ✍ **PAM BOWMAN** – Extension of Family Medical Leave through September 13, 2002.

CHATTANOOGA HUMAN SERVICES DEPARTMENT:

- ✍ **CHARLENE CHERRY** – Reinstatement, Cook, Child Care, \$20,800.00 annually, effective September 13, 2002.
- ✍ **JUANITA HOWARD** – Hire, Dietary Aide, Child Care, \$7.25 per hour, effective September 26, 2002.

PURCHASES

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

SPECIALTY PRODUCTS, INC. (lower and better bid)
R0062810/B0000720

Mobile Shot Peening Machine

\$80,887.00

PURCHASES (Continued)

AMERIPRIDE UNIFORM SERVICES (Lowest and best bid)
R0061802/P0018068

(Price information available and filed with minute material of this date)

PURCHASE

On motion of Councilman Hakeem, seconded by Councilman Page, the following purchase was approved for use by the Chattanooga Fire Department:

FDM SOFTWARE LTD (Best proposal meeting specifications)
RFP/R0043081

Operations and Management Software

\$435,381.50

REMEMBRANCE CEREMONY

Chief Coppinger invited Council members to a remembrance ceremony regarding 9/11 at 10 a.m. on Wednesday at Station No. 1 (218 East Main Street).

HOTEL PERMITS

On motion of Councilman Lively, seconded by Councilman Hakeem, the following hotel permits were approved:

THE CHATTANOOGAN – 1201 South Broad Street

INTOWN SUITES, GUNBARREL ROAD, INC. – 1914 Gunbarrel Road

NORTHSIDE MOTEL – 442 Cherokee Boulevard

MOTEL 6 – 2440 Williams Street

KNIGHTS INN (Hamilton Place) – 6914 Shallowford Road

GUESTHOUSE INN – 2201 Park Drive

PURCHASES

On motion of Councilman Taylor, seconded by Councilman Hakeem, the following purchases were approved for use by the Chattanooga Fire Department:

G. T. DISTRIBUTORS (Lowest and best bid)
R0065004/P0018104

Ammunition (Twelve months contract)

(Price information available and filed with minute material of this date)

EAST RIDGE UNIFORMS OF CHATTANOOGA (Best bid)
R0065005/P0018127

Police Uniforms (Twelve months contract)

(Price information available and filed with minute material of this date)

MEMORIAL SERVICE AND DEDICATION OF
COMMAND VEHICLE

Chief Dotson invited Council members and the Mayor to a memorial service and dedication of the command mobile vehicle scheduled for Wednesday at 1:30 p.m. in the rear of the Police Services Center. He stated the command mobile vehicle was made possible from a grant to set up mobile operations away from the Department in the event all communications were down. He stated the vehicle has wireless technology on board; that there will be a ribbon cutting and the vehicle would be on display. He expressed thanks to the Council for their assistance in securing grant funds for the vehicle.

GRATUITY APPROVAL

City Attorney Nelson stated the Aquarium is offering free admission to police officers and fire personnel; that they would have to show their badges or identification to get in. He stated since this is for individual officers and firefighters the request needs Council approval.

On motion of Councilman Benson, seconded by Councilman Page, approval was duly given.

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, September 17 at 3 p.m.**

Councilman Hakeem reminded Council members of the **Public Works Committee meeting scheduled for 4 p.m. on Tuesday, September 17.**

Councilwoman Pro-Tem Robinson stated that the Parks and Recreation Committee had a kickoff of the "Art in Public Places Program" today. She stated the Mayor is inviting everyone interested to participate in finding out about coming attractions. She stated anyone so interested should contact Admin. Jerry Mitchell and anyone in the Mayor's office for a schedule of upcoming events.

PUBLIC MEETING

Councilwoman Pro-Tem Robinson stated that a public meeting is scheduled for Thursday at 6 p.m. at Red Bank High School for individuals living in Councilman Lively's district who are interested in a greenway along Mountain Creek. She stated persons so interested are asked to bring ideas to the meeting in an effort to begin putting some type of description together.

REV. EUGENE OVERSTREET

Rev. Overstreet stated tomorrow, September 11, makes one year that he has been active in funeral service and ministry in Chattanooga after being a resident of New York for 31 years. He stated it has taken awhile but they are getting there and expressed thanks to the Council for accepting them. He stated that he personally wanted to thank "Brother" Littlefield, indicating that they got off on a "bumpy ride"; that he wanted to thank him and make him aware the community has been transformed and the very people who sat in this room to protest his opening are now his best neighbors. He stated the parking lots they feuded about now join each other and there is a certain transcendence introducing itself within the universality of intelligence transcending color, race, creed and sex. He stated that he addressed the funeral board in Nashville today and is certain his funeral business will go a little smoother this second year. He again expressed thanks to the Council and the Mayor for making him welcome; that 52 families have been served since their arrival one year ago not knowing anybody but God. He stated that he knows how difficult it can be when the "powers that be" turn against you and expressed thanks to Councilmen Pierce, Taylor, Hakeem, and Franklin and the other Council members.

REV. EUGENE OVERSTREET (Continued)

Councilman Pierce stated that he recalls Rev. Overstreet making a pledge of \$100,000 to the school system and that the money should be forthcoming this week, September 15. He stated that he spoke with Dr. Register and he is looking forward to receiving the money! He stated that he (Pierce) asked Rev. Overstreet six months ago to write the check!

Rev. Overstreet stated that he does not think the school system would need his money; that Councilman Pierce and his vast expansion of words know the difference between "suggestion" and "pledge"!

GARY BALL

Gary Ball of the Ridgedale Merchants Association stated that he hung around to thank Councilman Hakeem for "hanging in there"! He stated that Councilmen Hakeem and Littlefield have worked with him and he wanted them to know that he appreciates them.

ADJOURNMENT

Councilwoman Pro-Tem Robinson adjourned the meeting of the Chattanooga Council until Tuesday, September 17, 2002 a 6 p.m.

CHAIRMAN

CLERK OF COUNCIL

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