

**Chattanooga Council
Chattanooga, Tennessee
November 12, 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 out of the City on business. 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, Councilwoman Robinson gave invocation.

MINUTE APPROVAL

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

AMEND CITY CODE

On motion of Councilman Lively, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 18, ARTICLE VII, SECTION 18-123(h); CHAPTER 21, ARTICLE I, SECTIONS 21-1 THROUGH 21-25; CHAPTER 21, ARTICLE II, SECTIONS 21-26, 21-28, 21-30; CHAPTER 21, ARTICLE III, SECTIONS 21-36 AND 21-40; CHAPTER 21, ARTICLE VII, SECTIONS 21-101 AND 21-123; CHAPTER 24, ARTICLE X, DIV. 3, SECTIONS 24-341(c) AND 24-345(c); CHAPTER 31, ARTICLE I, SECTION 31-2(b); AND CHAPTER 32, ARTICLE VIII, SECTION 32-174, RELATIVE TO NEIGHBORHOOD SERVICES

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

CLOSE AND ABANDON

MR-2002-154: Timothy Scott Voss

On motion of Councilman Page, seconded by Councilwoman Robinson,
**AN ORDINANCE CLOSING AND ABANDONING THE 3000 BLOCK OF
30TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN
ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY
REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

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

AMEND CITY CODE

Chairman Littlefield stated this matter was heard in committee and approval is recommended.

On motion of Councilman Taylor, seconded by Councilman Page,
**AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE,
CHAPTER 24, ARTICLE IX, SECTION 24-271, RELATIVE TO TRAFFIC
CONTROL DEVICES**

passed first reading.

REZONING

2002-155: Dale Rhea

Pursuant to notice of public hearing, the request of Dale Rhea to rezone a tract of land located at 4502 Oak Hill Road came on to be heard.

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

Jerry Pace, Director of Operations with the Regional Planning Agency, stated this request is located in the Highway 58 area for C-2 zoning. He stated there is a church located behind this site and another building for storage; that the site is located on a narrow residential street. He stated the recommendation for approval comes from the Staff and Planning Commission with conditions.

Henry McDay, sales agent for the property, stated that the request for C-2 is for the highest and best use for the property and it is not anticipated there would be any retail uses. He stated the request is in accordance with the plan and is a "win" for the community.

REZONING (Continued)

Chairman Littlefield asked if Mr. McDay's client is aware of the conditions. Mr. McDay responded affirmatively.

Councilman Page stated that the applicant has been thorough in preparation for the zoning request and has agreed to widen Oak Hill Road where the business is located.

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 4502 OAK HILL ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM C-5 NEIGHBORHOOD COMMERCIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2002-177: Marguerite W. Parker

Pursuant to public notice, the request of Marguerite W. Parker to rezone a tract of land located at 3204 Riverside Drive came on to be heard.

The applicant was not present; there was no opposition in attendance.

Mr. Pace stated this request is located in the Ridgeside community and is in a residential neighborhood trapped within an industrially zoned area. He stated the Staff recommended approval as it is totally surrounded by industrial.

Chairman Littlefield inquired as to the situation with regard to financing. Mr. Pace responded that the applicant was at Planning and (he) is not sure why they are not present tonight. He stated the matter should be approved on first reading and he would contact them to make sure they are present for second and third reading.

Chairman Littlefield clarified that the recommendation is for approval from both Planning and Staff.

REZONING (Continued)

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 3204 RIVERSIDE DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO R-1
RESIDENTIAL ZONE**
passed first reading.

REZONING

2002-182: Mitch and Celeste McGrath

The applicant was not present.

Mr. Pace stated the request is for C-5 and is located in a mostly single family residential area with Tremont being the major street off Barton Avenue and Frazier. He stated the request would be a spot zone and would not be in character with the area to have this commercial use in a residential community. He stated both Staff and Planning recommend denial.

On motion of Councilman Pierce, 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 606 LYTLE STREET, MORE PARTICULARLY DESCRIBED
HEREIN, FROM R-2 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD
COMMERCIAL ZONE**
was denied.

REZONING

2002-187: David Andrew Bostain

Pursuant to notice of public hearing, the request of David Andrew Bostain to rezone a tract of land located at 16 Inglenook Drive came on to be heard.

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

Mr. Pace stated this request is located in the Brainerd community and is surrounded by R-1 with the exception of C-2 across Inglenook. He stated the site is presently vacant with C-2 on Brainerd Road to the south and O-1 at Talley Road.

REZONING (Continued)

Mr. Pace stated there was a nightclub there previously and the Staff recommended denial and the Planning Commission recommended approval. He stated it was felt with the comments from the Traffic Engineer with regard to traffic at Brainerd and Talley Roads and Corbly Drive, it was felt Inglenook is a very narrow road with barely one car going through at a time. He stated there are residential uses beyond this location, which goes back to a dead end street. He reiterated that the Staff recommends denial and the Planning Commission approval.

Marti Rutherford of the Realty Center represented the applicant and distributed maps. She stated even though the map reflects R-1 behind the vacant lot, that house is being used and has been used for years by Heritage House Art and Framing and is actually used for retail. She stated this request is located at the entrance to her neighborhood and noted she would never recommend anything that would be harmful to her neighborhood. She stated that it is felt this is the best use to rezone the property R-4, limited to office or day care. She stated the house has been appraised at \$72,000 and she is very concerned if it sells as residential what that would do to the neighborhood. She stated this is an old farmhouse and the person who owned it (Mr. Bostain) recently died and this is in his estate, which is why it is on the market. She stated as far as traffic on Inglenook, this house has the very first driveway and parking is in the rear; that there would be just a few feet of driving on Inglenook. She stated that she spoke with the neighbors and had a neighborhood meeting and there is no opposition; that there was one fellow from North Brainerd who came to the Commission Meeting and it was her understanding he was not really opposed. She urged the Council to rezone the property to R-4 with limited use as an office or day care. She stated that she has a contract pending and her clients are not willing to pay for inspection until the zoning goes through. She stated an accounting company plans to locate in this building.

Councilman Benson stated there was no opposition at the time at Planning; that he really does not know if this property is suitable for anything else. He stated that he has concern about the domino effect and what it might do with someone behind this house saying they want to be commercial; that there seem to be some natural barriers. He inquired as to how far Ms. Rutherford lives from this site. Ms. Rutherford responded "two blocks, roughly".

Councilman Benson stated it is not close enough for Ms. Rutherford to profit by making hers commercial. He stated that he looked at all the motivations and the only problem he has is that it is in the specialty range; that so often when the Council rezones on speculation when it opens up, in hindsight, there is always the thought conditions should have been placed on it.

REZONING (Continued)

Ms. Rutherford stated what they want is to be limited to office use or day care; that she has a contract pending zoning and inspection for an office to be located there.

Councilman Benson stated there are some office uses he would not want next to him.

Ms. Rutherford stated that she is talking about an accounting company and does not know what kind of office Councilman Benson is referring. She stated R-4 says all kinds of things can be located within this zone and she does not want any of that; that she just wants a clerical office or day care.

Councilman Benson stated his problem has to do with specialty use.

Chairman Littlefield stated that the Ordinance does not contain limitation as an office or day care. He stated it could be rewritten to substitute between now and second and third reading. Ms. Rutherford stated that would be fine with her.

Councilman Pierce stated that it is his thought that Councilman Benson was indicating regardless of what limitation the Council places on it, it is still speculative to the extent of day care or office use. He stated in listening to the Staff's recommendation for denial based on traffic and other conditions, he does not feel comfortable opening it up. He stated that he is sure the neighbors support it and there is no opposition, however, sometimes they don't come and express themselves and the decision is made. At this point he **made the motion to deny based upon the Staff's recommendation. The motion died for lack of a second.**

Councilman Benson again stated that he could name a lot of offices Ms. Rutherford would not want to be next to her. He suggested that the matter be deferred until something concrete would be going in and make conditions to protect properties.

Ms. Rutherford stated that she has a contract and in the "real estate world" people are not going to spend hundreds of dollars to have property inspected and all that type thing when zoning is not where they can use it. She stated that this is a legitimate company and it is in her neighborhood that she has lived in for thirty-three years and hopes to stay another thirty-three years, reiterating that she would not do anything to harm her neighborhood.

REZONING (Continued)

Ms. Rutherford stated if someone stands on the porch of this property they would be looking at the Electric Power Board lines in the center of Brainerd Road, a barbecue restaurant and the back of a transmission company!

Councilman Hakeem stated from what his colleague has stated, he could see where this could be perceived as speculative or inconclusive and would be setting a precedence to go ahead and pass for others who may come in and say we did it for one, legitimately or not, and not do it for others. He stated normally, unless there is a use that has been specified, the Council does not zone for speculative reasons.

City Attorney Nelson stated each piece of property is different; that just because property is rezoned in one part of the City does not mean it has to happen in another part of town. He stated, generally, it is good to keep the same general set of principles as the way you will rezone or will not rezone, which has to be judged in light of location of property and potential uses it might have. He stated what the Council might want to do in light of the fact Ms. Rutherford has professional office thinking of one of the categories under R-4, the Ordinance could be amended to reflect *“professional, medical or dental office or clinic or as a day care home”*.

Councilman Lively made the motion to approve the request subject to conditions of use as a professional, medical or dental office or clinic or as a day care home; Councilman Taylor seconded the motion.

Chairman Littlefield stated as the Councilman for District 6 he looked at this and it is a unique house; that the way it is situated and faces the road it is very exposed, even though it is set back far from Brainerd Road. He stated the whole area up to the house is cleared and the house is not the same quality of even the house next door, not to say it is of low quality. He stated it is an old farmhouse and looks like it will serve very nicely as an office and not very well for a house. He stated this is moving in the right direction as far as he is concerned and if he had to vote to break a tie he would vote in favor of it.

City Attorney Nelson stated reconsideration is needed to amend the caption to make *“subject to certain conditions”*, as it is not in the caption now. He stated the remainder of the Ordinance would be amended during the rest of the week.

Councilmen Taylor and Lively made the motion and second to amend the caption of the Ordinance to reflect *“subject to certain conditions”*; the motion carried with Councilman Benson voting “no” and Councilman Pierce abstaining.

REZONING (Continued)

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 16 INGLENOOK DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

Passed first reading; **Councilman Benson, Pierce and Hakeem voted “no”** .

REZONING

2002-189: Susan and John Dever

Pursuant to notice of public hearing, the request of Susan and John Dever to rezone a tract of land located at 3960 Tennessee Avenue came on to be heard.

The applicants were present; there was no opposition.

Mr. Pace stated this request is located at the base of the Incline for rezoning to C-2 to make it more desirable to fit into the redevelopment of the St. Elmo business district. He stated the surrounding property is all C-2 with the exception of R-3 to the south and there is a funeral home in the area that has been there for a number of years. He stated the structure will remain the same and the request is recommended for approval from both the Planning Commission and Staff.

John Dever introduced his wife, Susan, and stated that they are interested in purchasing the property from the Veterans for the purpose of developing it into a business for three potential clients, an insurance firm, possibly a rehab center to support the Alexian effort in the area and the third a coffee distribution and design company that is national in scope. He stated that it is his thought one of the benefits in doing this is that the property would go from not being on the tax roles to being a tax generation place.

Councilman Taylor stated that this property is located in the “heart” of the St. Elmo “downtown” area and would enhance the renaissance that is taking place. He stated that the request ties in with the master plan set forth for the St. Elmo community.

REZONING (Continued)

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 3950 TENNESSEE AVENUE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

FINAL PUD

2002-065: S. Reginald Ruff, III

Mr. Pace stated this request is located in the Alton Park community and is part of the HOPE VI redevelopment of that area. He stated even though this is the final plan for the PUD, Regional Planning Agency (RPA) Staff have concerns that this is not the final version that has been reviewed by the Urban Design Studio; that the matter has been assigned to the Chattanooga Housing Authority (CHA) to develop the final PUD plan for this project. He stated Mr. Ruff is present to make comments as to why the matter should be adopted, reiterating that there are concerns even though the matter is not official until it is recorded. He suggested that the matter be tabled until a final presentation could be made.

Reginald Ruff stated that the process started in March and has gone through many changes. He stated the project has been divided into phases and the demolition process has begun. He stated the major part of this has to do with tax credits; that they have filed for and have been notified that the first phase has been approved. He stated without approval of the PUD, they basically do not have zoning of the property. He stated one requirement of tax credits is the project has to be zoned to build as the PUD plans propose; that the changes made do not change the major street structure but does affect the area. He stated 37th Street, Highland and Kirkland stay the same and the turn around circle has been taken out; that they would be coming back with the changes. He stated that he had a meeting this morning with Stroud Watson of the Design Center and couple designers to finalize the changes. He stated if they do not keep the PUD in place they basically do not have zoning; that the tax credit status has been approved and the property is zoned R-3; however, they cannot build on the current R-3 due to the setbacks with the current PUD.

Councilman Pierce inquired as to the time element with regard to finalizing the changes.

FINAL PUD (Continued)

Mr. Ruff stated the change they are talking about with the Urban Design Studio will increase the boundary and they are trying to prevent having to start all over, as it would take about ninety days. He stated the tax credit status requires them, between now and the time of financing the closing, to prove they have the zoning and they cannot make the change and take it through Planning and get it back in time to have the zoning in place. He stated the HOPE VI process goes through a lot of revisions and the Urban Design Studio approved the original plans. He stated this summer CHA decided they wanted to increase the vision, so this plan does not just take in the McCallie Homes area, but the whole neighborhood; that in going through that process a couple shifts were made. He stated they had started the demolition process and had to apply for tax credits, which were awarded in September. He stated everyone has agreed to that plan, and the only reason the plan has changed is due to CHA's decision to broaden the scope and encompass not only McCallie Homes, but also the whole neighborhood.

Councilman Taylor stated basically this takes the place of zoning. Mr. Ruff responded that they need the change in zoning for the tax credits.

Councilman Taylor stated that he did not see a zoning change mentioned within the final PUD.

Mr. Ruff stated by doing the PUD it would automatically change the zoning. He stated it is now R-3 and allows for setback requirements as to how the houses will be on the street and changes how far to set the houses apart. He stated if they do not do that, under the present R-3 they cannot build what they are proposing; that they have to have the PUD to allow for that. He stated they do not plan to record it just now.

Councilman Taylor inquired as to what procedure would be followed if the plan changes again. Mr. Ruff stated once the increase in boundary is made to include Alton Park, then it becomes an administrative process that everything else will be done in-house.

Councilman Taylor stated approval of the PUD gives authorization to keep moving.

Mr. Pace stated the PUD does not become official until it is recorded. He stated RPA had concerns and will work with CHA and the Design Studio to make the project a success; that they would certainly like for the final PUD plan to reflect the desires of CHA and the Design Studio.

FINAL PUD (Continued)

Mr. Pace stated that he does not know of any way to approve this subject to official recording and does not know if language could be added.

Councilman Taylor asked if CHA and RPA were working closely together. Mr. Pace responded "yes".

Chairman Littlefield stated he has concern about approving something that is basically incorrect. He stated Mr. Ruff has indicated the "round abouts" are being taken out and the street layout is changing; that technically a stop work order should be issued!

Mr. Ruff stated they are not doing any construction and this project will go through multiple phases; that there would be four phases and this is the first.

Chairman Littlefield inquired as to the deadline for the tax credits. Mr. Ruff stated that they close financing in February and that it takes ninety days to go through the process. He stated they do not want to start over; that if for some reason this does not "get through" the Council they cannot close financing and would lose the tax credit status.

City Attorney Nelson inquired as to what would be wrong with sending the matter back to Planning tonight for their meeting in December; that the matter could be approved by the Council in January.

Mr. Pace stated that they have to have a plan to review; that the plan has not been finalized.

City Attorney Nelson inquired as to how long it would take. Mr. Ruff stated that he did not know; that they have been working with a team of master planners since September and it takes awhile to agree. He stated they have agreed in principle and will meet tomorrow to get on the "same page". He stated CHA is their client and they cannot record without their approval and do not want to "mess up" the financing. He stated if they cannot close on the tax credits they will not give anymore and they will not be able to finance the multiple phases of the project.

Councilman Taylor stated that this approval tonight, then, becomes a very crucial part. Mr. Ruff stated they are working in sequence; that the other part is infrastructure, which is the City's part. He stated before starting the units they have to have all parties to agree. He stated the sequence of phases would be demolition, infrastructure and then the units.

FINAL PUD (Continued)

Councilman Page asked if there is a way to approve this project with certain covenants and conditions that they would lose the zoning if, in fact, the final plans of the PUD are not approved. He stated that it seems like a simple matter to him and appears that is all that is needed.

Mr. Pace stated the matter could be approved subject to the Traffic Engineer, which does have to meet his approval. He stated that is one of the main components, configuration of the streets, which could be a condition. He stated when the plan is redesigned and the Traffic Engineer looks at it, then it will be the final PUD and could be recorded. He stated recording the plan is what makes it final and would have to be built to those specifications.

Councilman Page asked if HUD would approve without the plan being recorded. Mr. Ruff stated the only thing they are looking for is the fact that they have the zoning. City Attorney Nelson stated that they do have the zoning.

Mr. Pace responded "not necessarily"; that an R-3 PUD is different; that it is a different zone because of the requirements of setback and density and is essentially two different zones.

City Attorney Nelson asked what standards the Traffic Engineer would use in granting his approval. Mr. Pace stated the Traffic Engineer has been involved in the planning process with CHA; that one thing that is different from this is having the grid system in place.

Chairman Littlefield stated if the matter were granted approval, Planning would come back with an amended PUD plan. Mr. Ruff responded "yes".

Chairman Littlefield stated this is not substantially different from other ways the Council has handled matters; that there are a lot of controls even if this were a perfectly private planned unit development.

Councilman Lively asked if the changes are an afterthought someone came up with after the plan was approved.

Mr. Ruff stated that it is his thought they are trying to improve the neighborhood so that what is done would have a long term effect; that basically the HOPE VI process is really focusing on the McCallie Homes site.

Councilmen Taylor and Page made the initial motion to adopt this Resolution.

FINAL PUD (Continued)

Councilman Lively asked if adoption at this time is worth losing financing?

Mr. Ruff stated that they have to make sure whatever they do in long term improvements is worthwhile for the whole community. He stated that there is a broader \$80 million investment to make sure this investment looks at a ten year redevelopment of the whole Alton Park area.

Mr. Pace stated there appears to be a lot of confusion between Public Works, Planning and the applicant. He asked that the matter be deferred one week so proper dialogue could take place between the three parties.

On motion of Councilman Hakeem, seconded by Councilwoman Robinson,

A RESOLUTION APPROVING A PROPOSED FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS THE SPENCER J. MCCALLIE HOMES PLANNED UNIT DEVELOPMENT, ON A TRACT OF LAND LOCATED AT 3500 KIRKLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE FINAL PLANNED UNIT DEVELOPMENT PLAN ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was deferred one week.

ADOPTION OF REUSE PLAN

Councilmen Page and Robinson made the motion to move Resolution 7(k) forward on the agenda; the motion carried.

On motion of Councilman Taylor, seconded by Councilman Page,

A RESOLUTION ADOPTING A REUSE PLAN FOR THE TENNESSEE PRODUCTS SUPERFUND SITE AND THE CHATTANOOGA COKE SUPERFUND SITE, A COPY OF WHICH IS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

SPECIAL POLICEMAN

On motion of Councilman Pierce, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE APPOINTMENT OF LEE STRAWTER AS SPECIAL POLICEMAN (ARMED) FOR ERLANGER HEALTH SYSTEMS TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

was adopted.

ENTERPRISE SOUTH INDUSTRIAL PARK

Councilman Hakeem stated Resolutions 7(c) – (j) were discussed in Public Work Committee and approval is recommended.

On motion of Councilman Hakeem, seconded by Councilman Lively,

A RESOLUTION AUTHORIZING THE ESTABLISHMENT OF DEVELOPMENT CONTROLS FOR THE USE OF THE INFRASTRUCTURE CONSTRUCTED IN ENTERPRISE SOUTH INDUSTRIAL PARK WITH THE ASSISTANCE OF THE ECONOMIC DEVELOPMENT ADMINISTRATION AND ADOPTING THE DEFINITION OF JURISDICTIONAL FRESH WATER WETLANDS AS DEFINED BY THE U.S. ARMY CORPS OF ENGINEERS MANUAL

was adopted.

AMEND RESOLUTION NO. 23184

On motion of Councilman Lively, seconded by Councilman Page,

A RESOLUTION AMENDING RESOLUTION NO. 23184, ADOPTED NOVEMBER 6, 2001, RELATIVE TO CHANGE ORDER NO. 2, CONTRACT NO. RW-6-00, FREDERICK STREET IMPROVEMENTS, SO AS TO DELETE “FOR A REVISED CONTRACT PRICE OF ONE HUNDRED THIRTY-SEVEN THOUSAND NINE HUNDRED EIGHTY AND 38/100 DOLLARS (\$137,980.38)” AND SUBSTITUTE IN LIEU THEREOF “FOR A REVISED CONTRACT PRICE OF ONE HUNDRED FORTY-SIX THOUSAND EIGHT HUNDRED FIFTEEN AND 37/100 DOLLARS (\$146,815.37)”.

was adopted.

TEMPORARY USE

On motion of Councilman Page, seconded by Councilman Pierce,

A RESOLUTION AUTHORIZING HIGHER TECHNOLOGY SERVICE, INC. TO USE TEMPORARILY THE CITY’S RIGHT-OF-WAY AT 745 EAST MAIN STREET FOR INSTALLATION OF AN AWNING, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilman Lively, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING FLETCHER RIGHT COMPANY TO USE TEMPORARILY THE CITY’S RIGHT-OF-WAY AT 508 BROAD STREET FOR INSTALLATION OF AN AWNING, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilwoman Robinson, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING SUCK CREEK CYCLE TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 501 CHEROKEE BOULEVARD FOR INSTALLATION OF AN AWNING, SUBJECT TO CERTAIN CONDITIONS
was adopted.

SEWER EASEMENT

On motion of Councilman Lively, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM BAY POINTE HOME OWNERS ASSOCIATION, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 011, FOR A TOTAL CONSIDERATION OF TEN THOUSAND SIX HUNDRED FIFTY DOLLARS (\$10,650.00)
was adopted.

SEWER EASEMENT

On motion of Councilman Hakeem, seconded by Councilman Benson,
A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM GLEN MICHAEL VEY AND SHELLEY RUCKER GRANT, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 014.1 FOR A TOTAL CONSIDERATION OF SEVEN HUNDRED FIFTEEN DOLLARS (\$715.00)
was adopted.

SEWER EASEMENT

On motion of Councilman Page, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SEWER EASEMENT FROM GLEN MICHAEL VEY AND SHELLEY RUCKER GRANT, RELATIVE TO CONTRACT NO. 73B-3, HIXSON MARINA COLLECTION SYSTEM, TRACT NO. 013.1, FOR A TOTAL CONSIDERATION OF TWO THOUSAND THREE HUNDRED SEVENTY-FIVE DOLLARS (\$2,375.00)
was adopted.

OVERTIME

Overtime for the week ending November 8, 2002 totaled \$10,785.05.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

MALCOLM D. GRIER – Promotion, Superintendent, Sewer Construction & Maintenance, Citywide Services, Pay Grade 25/Step 6, \$52,207.00 annually, effective November 11, 2002.

KIMBERLY MCCLURKIN – Family Medical Leave, Recycling Supervisor, Citywide Services, effective November 1, 2002 – January 24, 2003.

AARON A. ATKINSON, SR. – Dismissal, Equipment Operator, Waste Resources, effective November 1, 2002.

JAMES DAVID MYERS – Resignation, Equipment Operator, Sr., Waste Resources, effective November 5, 2002.

MICHAEL JOSEPH MORRISON – Resignation, Light Equipment Operator, effective November 7, 2002.

BOSSIE HALE – Return from FMLA, Crew Worker, Citywide Services, effective November 6, 2002.

MICHAEL SIMS, ZACHARIAH N. BELL – Hire, Concrete Worker, Citywide Services, Pay Grade 6/Step 1, \$19,834.00 annually, effective November 11, 2002.

COMMUNITY SERVICES DEPARTMENT:

CHRISTINA W. DAVIDSON, RODERICK MORTON – Hire, Community Development Specialist, Pay Grade 15/Step 2, \$31,760.00 annually, effective November 1, 2002.

NEIGHBORHOOD SERVICES DEPARTMENT:

CHARLES W. GASTON – Retirement, Codes Enforcement Inspector, effective October 31, 2002.

PERSONNEL (Continued)

CHATTANOOGA POLICE DEPARTMENT:

IAN KIRK – Resignation, Police Cadet, effective November 4, 2002.

ELMA A. SMITH – Hire, School Patrol Officer, \$26.01 per day, effective November 6, 2002.

FINANCE AND ADMINISTRATION DEPARTMENT:

KENNETH KITCHEN – Promotion, Assistant Direction, Information Systems, Pay Grade 32/Step 9, \$71,258.00 annually, effective November 15, 2002.

PURCHASE

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

VULCAN MATERIALS (Single Source)
R0062084/P0018416

Emulsion and Emulsified Asphalt per TCA 6-56-304.2

(Price information available and filed with minute material)

REFUND

On motion of Councilman Hakeem, seconded by Councilman Lively, the Administrator of Finance was authorized to issue the following refund:

BUNGE FOODS CORPORATION – Amended report from taxpayer to move idled Group 5 (manufacturing equipment) to Group 7 (scrap) -- \$8,154.10.

LIQUOR LICENSE NAME CHANGE

Deputy Admin. Madison requested Council signatures for a change in ownership of a tobacco and package store at Northgate Mall. She stated a background check has been conducted and everything was found to be “clean”. She reiterated that the request is for a change of ownership and would appreciate five signatures.

LIQUOR LICENSE NAME CHANGE (Continued)

Chairman Littlefield stated five Council members have to sign the document; that the Council has run into a few problems with such requests lately and it puts the Council members "on the spot".

Ms. Madison stated the request is for the Bacchus Liquor store at Northgate Mall.

Councilman Lively stated this is an existing facility and is just "changing hands"; that signatures are not being requested for a new license.

Councilwoman Robinson clarified that by signing the documents it in no way leaves an individual liable if problems occur with the operation of the business. City Attorney Nelson responded "true".

Chairman Littlefield stated the bizarre thing is if five signatures are not affixed the applicant will still get the license with a sixty-day delay; thus, the Council is really not approving the license change.

BETTER HOUSING COMMISSION RECEPTION

Admin. Curry reminded Council members of the final meeting of the Better Housing Commission scheduled for Wednesday, November 20 at 2 p.m. He stated the Commission would meet for one hour and a reception would follow at 3 p.m. in the Council building lobby. He reminded the Council that Brian Smith would be honored during this time.

HEARING: BRIAN K. LITTLE

City Attorney Nelson stated the appeal of termination has been requested from Brian Little and reminded Council members that Atty. Parker indicated this hearing would probably last longer than most; that the Council might want to schedule the hearing earlier in the day on the day it begins.

Councilman Pierce inquired as to whether the Council has the authority to terminate hearings at any given point as a Judge does when it is felt enough information has been heard.

City Attorney Nelson responded "no" because there may always be some other information that may be introduced. Chairman Littlefield interjected that the request can be made to move the hearing along.

HEARING: BRIAN K. LITTLE (Continued)

A hearing date for Mr. Little was scheduled for Monday, December 9 beginning at 2 p.m. with Councilmen Littlefield, Franklin and Hakeem serving as the panel hearing the request.

NEIGHBORHOOD SERVICES OPEN HOUSE

Admin. Curry stated the Neighborhood Services building would be completed this month and the department would be moving in on December 2. He requested that the open house for the new facility be a joint event for all neighborhoods associations in concert with the Neighborhood Services Department to view the newly renovated building and have that serve as the Council's invitation to the neighborhood associations throughout the community. He stated the open house is scheduled for December 13 at 2 p.m.

On motion of Councilman Hakeem, seconded by Councilman Pierce, approval was given to invite the neighborhood associations in a joint effort with Neighborhood Services' Open House event.

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee for Tuesday, November 19 at 3 p.m.**

Councilman Hakeem stated the Cash Canyon community was present at the **Public Works Committee** today and it was determined it will be an item taken off the Committee's agenda. He stated it is the understanding of those on the Committee that the proposed applicant would be withdrawing his interest in the logging trucks coming down that road. He stated until more is heard from the applicant or the community, all action regarding the matter is being suspended. He stated the residents were interested in requesting some repairs in regard to the road and the matter was referred to Admin. McDonald, who is out of the City. He stated Councilman Lively would be the communications person between the Department of Public Works and the community. He reminded Council members of the Committee meeting **scheduled for Tuesday, November 26 at 4 p.m.**

HEARING: GERRY DAVIS

Councilwoman Robinson stated that she is scheduled to be part of the panel hearing the Gerry Davis matter on Monday, November 18 at 3 p.m.; however, has found she has an obligation that conflicts with this date and time. Councilman Page volunteered to serve along with Councilmen Benson and Pierce.

PUBLIC ART PUBLIC MEETING

Councilwoman Robinson stated the first public meeting regarding the public art program was held on Monday evening with the consultants the City Council approved this summer. She stated the process has been on a very quick timeline and a report will be forthcoming within ninety days on the public art program. She expressed excitement at having over 500 persons present for the meeting; that it was a "standing room only" crowd. She stated people stayed throughout the entire meeting and were seated on the floor around the room completing questionnaires and making their views known; that it was the largest public meeting that has been held relative to planning in the City! She stated the Mayor welcomed everyone and introduced the consultants; that the meeting lasted an hour and a half, as promised. She stated the study was funded by the City Council and funding for the program is something that will be worked on as we go forward through the process; that it will definitely be a public/private partnership. She expressed thanks to Councilmen Page and Littlefield for attending the meeting; that County Commissioners Cotton and Vandergriff attended, also. She stated Commissioner Cotton remarked that he was jealous of the City and its ability to get such a large crowd to attend!

AMENDMENT TO ZONING ORDINANCE

City Attorney Nelson stated that the proposed Yard Sale Ordinance discussed in today's Legal and Legislative Committee should go to Planning for an amendment to the Zoning Ordinance. He requested that the Council offer a motion to appropriately refer the matter.

On motion of Councilman Benson, seconded by Councilman Hakeem, the Yard Sale Ordinance was referred to the Planning Commission for consideration as an amendment to the Zoning Ordinance; the motion carried.

SISTER BEY

Sister Bey stated that the United Nations would be holding a meeting on December 2 and she plans to attend and take the Emancipation Proclamation and a document from People Wanting a Change for both to be ratified. She referenced her strong displeasure of the Election Commission finding 500 missing votes from the recent election and indicated that she didn't know what was happening! She stated property is being seized and "her people" don't know what is going on!

BRUCE CRANE

Bruce Crane stated that he owns property on Crane Road across from Erlanger East and had the property up for rezoning in July 2000; that it was denied or indefinitely deferred. He stated he had been approached by several people and (he) wanted to find out if the property could be rezoned, as he did not want to waste his time or the time of those who have inquired.

Chairman Littlefield stated this property is located in the Hamilton Place area and since the Hamilton Place study several other pieces have been rezoned, one on Gunbarrel and the other at Ziegler and Joiner and Applegate. He stated the matter was deferred indefinitely.

Mr. Pace stated the request was not denied; that it was deferred along with other cases in the Farris Road area.

Chairman Littlefield asked if it should be referred back to Planning to see where it stands.

Mr. Pace stated that question would have to be asked of the City Attorney; that it was deferred through this body and could be brought back for reconsideration or go back to Planning. He stated if it goes back to Planning for any kind of major request, that is different; that the request is the same today as when it was deferred. He stated he has not talked with Mr. Crane about any desire he might have for changing the request.

City Attorney Nelson stated that the rezoning study could be looked at to see how it complies with this and address that with an amendment that may or may not allow continuance with the zoning case.

Chairman Littlefield stated there is only one case that is similar; that it would be helpful if Mr. Crane had a specific use since several realtors had talked to him.

BRUCE CRANE (Continued)

Councilman Benson stated that he and Mr. Crane talked about a year ago. He stated the plan has been adhered to with the exception of Applegate and the Zeigler and Joiner Road people who asked that the plan be "fine tuned" because they had a specific proposal of what they wanted to do there. He stated they had a potential buyer with the type of building they planned to build with an architectural design and everything. He stated that he took the matter back to the people after the Planning meeting and informed them of the plan. He stated the Council did not break the plan: that Planning came back with an amendment to the plan; that Mr. Crane's place and Clearview are right on the border. He suggested that Mr. Crane find a buyer, have a site use plan, ask for rezoning and see if Planning can take it back to the public and get the public to say this is not going to harm anyone's property and would be within the "spirit" of the plan. He stated the plan has not been violated in that district; that it has been "fine tuned" with the agreement the people made.

Chairman Littlefield asked if there was no frontage on Gunbarrel and whether something new has developed.

Mr. Crane responded, "yes" that the Eye Clinic is on the corner and the other Gunbarrel property adjoins his.

Councilman Benson stated if Mr. Crane gets a tangible buyer and comes back with a site plan, it might be suitable for amending the plan. He stated what Mr. Crane is talking about was already zoned commercial before the plan came into existence; that nothing was downzoned out there and the property is grandfathered in; that the Eye Clinic was all zoned that way before the plan.

Chairman Littlefield stated if a realtor or prospect is willing to come up with a site plan there might be something workable; that Mr. Crane is better off now than he was. He stated there is no precedent for the Council approving a rezoning there that is not consistent with the plan and one that has no specific use indicated.

Councilman Benson indicated that he would talk with Mr. Crane immediately following the Council meeting.

ADJOURNMENT

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

CHAIRMAN

CLERK OF COUNCIL

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