

**City Council Building
Chattanooga, Tennessee
November 18, 2003
6:00 p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Benson gave invocation.

AGREEMENT: KEN DEFOOR PROPERTIES

Councilman Page made the motion to move Resolution (c) forward on the agenda; Councilman Lively seconded the motion; the motion carried with Councilman Pierce voting "no".

Councilman Page expressed thanks to Councilmen Robinson and Lively and indicated that they worked well together. He added that this is truly a North River facility that is not for District 3, but includes the whole area. He recognized persons present in support of this motion and asked that they stand. He indicated that several served on leadership committees and did a yeoman's work in getting this to reality. He expressed special thanks to Everett Fairchild, Chair of the Planning and Leadership Steering Committee, for all his efforts. At this point he read a letter from Joseph Janosko, Group Manager of General Growth Properties at Northgate Mall, expressing deep pride in the Hixson community with a check for \$25,000.000 enclosed as a contribution toward the facility.

Councilman Littlefield commended Councilman Page for "filling in the blanks" over the last week and taking Council members out to tour the proposed facility. He indicated plans and a more detailed proposal were produced and everyone is more comfortable with it. He stated during the week's interim, a \$25,000.000 contribution was secured form Northgate Mall and speculated that if the matter had been deferred more than a week there probably would have been more contributed!

AGREEMENT: KEN DEFOOR PROPERTIES
(Continued)

Councilman Littlefield stated that he would support the proposal and expressed that he was impressed with the turnout of people from Hixson, many of whom he knows believes the facility will be used well and in a space that, should we decide we might want to build a separate free standing facility in Hixson, has other uses and unlike most facilities we invest in. He stated the City would very likely recover the investment, again reiterating his support.

Councilwoman Robinson extended a very special thank you to all the citizens who came together two years ago at community meetings and indicated over 300 people came and put forth a plan that includes arts and culture activities, health screenings, club meetings, community activities and gatherings. She commended everyone for their leadership and expressed appreciation. She joined the Council in thanking Councilman Page for "carrying the ball" and commended him for a job well done! She stated everyone would enjoy the civic center soon!

On motion of Councilman Page, seconded by Councilman Lively,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A LEASE AGREEMENT WITH KEN DEFOOR PROPERTIES, IN THE FORM ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, RELATIVE TO A SITE LOCATED AT 1001 RING ROAD FOR USE AS A HIXSON CIVIC CENTER

was adopted, Councilman Pierce voted "no".

AMEND ZONING ORDINANCE

On motion of Councilman Benson, seconded by Councilman Lively,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 1208, SUBSECTION (I), TO INCORPORATE NEW LANGUAGE RELATIVE TO SITE IMPROVEMENTS IN A PLANNED UNIT DEVELOPMENT (RESIDENTIAL)

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

AMEND ZONING ORDINANCE

On motion of Councilman Lively, seconded by Councilman Littlefield,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE II,
DEFINITIONS, TO INCORPORATE NEW LANGUAGE RELATIVE TO THE LOT
SIZE FOR FLAG LOTS**

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

REZONING

2003-168: Barbara Davis

On motion of Councilman Hakeem, 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 1900 BROAD STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

CLOSE AND ABANDON

MR-2003-169: Will Smith

On motion of Councilwoman Robinson, seconded by Councilman Taylor,

**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED RIGHT -
OF-WAY LOCATED BETWEEN THE 400 BLOCK OF WEST 47TH STREET AND
THE CENTRAL OF GEORGIA RAILROAD RIGHT-OF-WAY, MORE
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

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

REZONING

2003-171: Napier Associates

On motion of Councilman Lively, seconded by Councilman Littlefield,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2313 TIMBERLANE TRAIL, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

CLOSE AND ABANDON

MR-2003-173: Joseph S. Hailey

On motion of Councilman Lively, seconded by Councilman Littlefield,

AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY BEGINNING AT THE EAST LINE OF THE 2400 BLOCK OF BROAD STREET TO THE WEST LINE OF THE 2400 BLOCK OF COWART STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, WITH TENNESSEE-AMERICAN WATER COMPANY AND BELLSOUTH TELECOMMUNICATIONS, INC. RETAINING THEIR RESPECTIVE EASEMENTS IN THE FULL WIDTH OF THE EXISTING RIGHT-OF-WAY

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

REZONING

2003-172: Napier Associates

On motion of Councilman Hakeem, 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 7301 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

REZONING

2003-174: Thomas C. Rumph

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 8402 EAST BRAINERD ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL
ZONE, SUBJECT TO CERTAIN CONDITIONS**

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

CLOSE AND ABANDON

MR-2003-176: Joe McNew

On motion of Councilman Hakeem, seconded by Councilman Taylor,
**AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY
LOCATED IN THE 3200 BLOCK OF EAST 43RD STREET, MORE
PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP
ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**

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

REZONING

2003-178: Harold Lasater, Jr.

On motion of Councilman Lively, seconded by Councilman Benson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED AT 1610, 1612 AND 1618 51ST STREET, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO
M-2 LIGHT INDUSTRIAL ZONE**

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

CLOSE AND ABANDON

MR-2003-170: Turning Point Ministries – National Center for Youth Issues

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA) stated that this sewer abandonment is in an industrial park off Bonny Oaks Drive. He stated approval is recommended from the Public Works Department.

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
**AN ORDINANCE CLOSING AND ABANDONING A SEWER EASEMENT
AND SEWER LINE ON A TRACT OF LAND LOCATED IN THE 6100 BLOCK
OF PRESERVATION DRIVE, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
passed first reading.

REZONING

2003-107: City of Chattanooga

Chairman Franklin indicated that Ordinance (c) should be discussed prior to Ordinance (b).

Councilman Taylor made the motion to move Ordinance (c) forward on the agenda; Councilwoman Robinson seconded the motion; the motion carried.

Mr. Pace stated months ago the Council requested a study for rezoning of this area that is basically R-2. He stated this Council approved the Hill City-North Chattanooga Plan back in April of this year and several recommendations were made in that report. He stated one recommendation was to solidify the single family residential character of the area; that a portion should be rezoned to R-1 to accommodate that request and both the RPA Staff and Planning recommend approval. He stated the area is predominantly single family residential with a few duplexes and multi-family uses, which are all grand fathered-in. He stated one reason to look at this is due to the vacant area that is still in the study area; that residents that participated in the community plan felt it was necessary to protect the area from becoming duplexes and develop single family uses to fit with the character of the area. He stated there is a commercial node along Dallas road with storage buildings and offices, which are not recommended for a change in zoning as they will remain as they are, as well as existing zoning for duplexes along Dallas Road.

REZONING (Continued)

Mr. Pace stated properties facing Market Street to Hamilton Avenue will not change and will remain as they are for business and industrial uses. He stated the Staff and Planning recommend down zoning the area predominantly from R-2 to R-1; that there would be two commercial areas going to R-1, one at Goodland and Manning where used cars are stored and the portion facing Woodland. He stated the hillside up behind the storage buildings and the slope of the hill presently zoned commercial will go to R-1 single family. The existing land use and current and proposed zoning photos were displayed by PowerPoint. He stated several people present representing the neighborhood are in favor of this and there might possibly be some in opposition to the down zoning. He stated the recommendation is for approval from Planning and Staff.

At this point, Chairman Franklin declared a public hearing in process for persons wishing to speak "for" or "against" the matter.

Linda Bennett, President of the Northside Community Association, stated the community is in support of the plan and down zoning. She stated they have worked for the last few years requesting stabilization for their community; that there was input and the recommendation is for approval from three neighborhood associations. She stated this request is consistent with the down zoning on the west and east side of North Chattanooga. She stated due to the property bordering on Council districts, somehow this sliver of land was omitted; that this down zoning makes it consistent with the rest of North Chattanooga. She asked the Council to support the down zoning as it reflects the voice of the community and landowners.

Jim Crooks spoke in opposition to the request, stating that he owns property at 607 Franklin Street, which is in the proposed area. He stated he lives on Forest Avenue and lives closer to the zone than anyone in favor of the issue. In referencing a copy of the Hill City Plan, he stated there is nothing in the zoning recommendations of the Plan for down zoning this area. He stated the String Ridge area is mentioned and is about a mile away from this area. He stated where the down zoning comes from he is not sure; that a number of people have properties that are vacant in this area who are interested in developing them. He stated for purposes of development, single-family use would be on a very hilly, steep area and chances they are developed are very slim until the values upgrade. He stated a developer could get more density in the area than R-1.

REZONING (Continued)

Mr. Crooks stated when this matter came before the Council the last time it was deferred; that it was his understanding the neighborhood groups and the people in opposition owning about ten percent of the property in the outlying area were to have meetings and come to a consensus about what to do. He stated the developers and people in opposition have "give and take" and tried to get to the meetings and could not. He asked the Council to vote again or defer the matter for another period of time so they could meet. He stated it was said to him "one hundred percent of nothing is still nothing"; that if we want this area to develop and be nice there has to be some "give and take". He stated it is hilly as it is and R-1 is not good zoning; that he is losing a right to something he paid for. He stated the question in his mind is whether this is legal to do; that there is some precedence both ways to go to court. He asked for more time to come to common ground or for the Council to vote against the issue.

Councilman Hakeem inquired as to how long this process with the community has been going on.

Jerry Pace stated that RPA met with everyone in opposition to the rezoning request and that the process of the neighborhood plan took several months to do; that there were several public meetings wherein the recommendation came to go to single family residential. He stated it may not say so in the text (of the plan) that there needs to be a down zoning, yet it does come with the recommendation for the area that is low density to be single family residential and to achieve that there has to be down zoning to implement the plan.

Councilman Hakeem asked whether this was shared with the community at-large and whether it is a surprise to anyone.

Mr. Pace responded "no" (it has not been shared); that it has now.

Councilman Hakeem stated that he heard Mr. Crook reference how steep some of the properties are.

Mr. Pace stated it is fairly steep; that they have gone through this and many are here tonight because of water drainage off properties being cut. He stated North Chattanooga is very hilly and some areas are probably over twenty-five percent grade and hard to develop. He stated single family is much easier than multi-family on steep property; that either way, single family is valuable, however values in North Chattanooga have zoomed over the last few years from single family developments. He stated remodeling and refurbishing of homes has increased in value going from duplexes to R-1.

REZONING (Continued)

Councilman Benson stated that it sounds like structured, planned zoning. He stated on every down zoning there was nearly a whole consensus among the community that there be blanket down zoning. He stated that he realizes Mr. Pace stated there is some down zoning from R-2 to R-1 that could enhance the value of those properties because of the general upgrade of the community to single family residential. He stated he really has some unreadiness today to vote on this; that it was his thought people had gotten together and come to somewhat of a consensus about how to blanket zone and accomplish what they are trying to get to. He stated Ms. Bennett has done a tremendous job in negotiating with Moccasin Bend and he cannot see why there cannot be some type of resolution if all parties go into it with the will to make it work.

Ms. Bennett stated that she tried but did not have a lot of success in getting a meeting; that she tried to coordinate it.

Rich Bailey stated if the Council looks at what happened with earlier considerations as to the land use plan in considering the hilly and flat areas and the difficulty of development, questions are not adequately addressed by a combination of land use and zoning. He stated that it is his thought what is needed in this area is something like a C-7 zone on Frazier; something that has some kind of a more detailed recommendation of what type of recommendation might work on hilly areas. He stated what he and Ms. Bennett heard from association members and at the public process is a reluctance to accept some of the odd kinds of development you can see on odd parcels. He stated this is a very unusual area and they have gone through several years of unfortunate experience with design review. He stated if there were some mechanism that could be created through different zones, something using a tried and true method like C-7 or some type of negotiation that takes it from zoning as opposed to negotiation between parties, there would be a more favorable solution. He stated he and Ms. Bennett found through hard experience with the Johnson Mental Health Center when there is no mechanism by which a neighborhood association can negotiate from a position of straight equality negotiations are very one-sided.

Councilman Taylor stated the groups should have gotten back together; that the neighborhood, as well as the landowners in opposition, should have finished that "bridge". He stated there probably needs to be dialogue to see what we can "bridge" together.

REZONING (Continued)

Mr. Bailey stated that it was agreed they would do that at the last City Council meeting when this was scheduled on the agenda, yet no meeting was set up; that one was set up close to tonight's deadline and that may have had some effect.

Councilman Taylor put forth the recommendation to see if a meeting could be scheduled to address both parties.

Mr. Pace stated a meeting would be scheduled if he (Taylor) promises to be there.

Councilman Taylor stated he would be present along with Councilman Lively.

Mr. Pace stated the North Chattanooga process has been going on since 1990 when there were four down zonings. He stated other areas of down zonings have flourished in that area and property values have zoomed; that going to R-1 did not stymie that. He stated the area to the west was down zoned R-1 a few years ago and that area has continued to grow. He stated there could be meetings, but from experience in this area and others with the two groups "for" and "against" he does not know if the two will ever come to a perfect agreement to satisfy everyone. He stated that he came to the Council with a hard task for a decision and recommendation. He stated if extra meetings are needed we would have them, yet it is very hard to get everyone to agree to everything. He stated the neighborhood is in support and a few individuals are in opposition and he does not know what else to do; that they could come back next week and do the same thing.

John Wise, a developer in the area, stated that he has a fair amount of investment in the area; that this is an odd situation. He stated he listened to Rich and finds himself falling in opposition, yet he is one hundred percent in favor. He stated if there could be some means to allow architectural controls he would not be opposed and referenced a four million dollar development in the area on Bell, which was left R-2. He stated the property across the street that is considered for down zoning needs to stay R-2 as an enlargement for his development. He stated that he has another tract on Forest Avenue that is R-3 with a higher density. He stated he does not know what the answer is and that he understands Jerry's point. He stated there are five developers looking at larger projects other than that of individual homeowners. He stated he is holding a substantial amount of property and owns a larger percentage than anyone at this meeting.

REZONING (Continued)

Mr. Wise continued by stating if the Council votes tonight and his property is down zoned, he would have to come back and ask to rezone from R-1 to R-3 or RT-Z, indicating that it is harder to zone "up" than "down". He stated his only opposition is he has property that would have to be zoned back up. He stated there is a substantial amount of property held by a few people who are about to be affected and if this happens there would be tracts of land that would get down zoned and property values will go up; that R-1 properties "tweak up" slowly. He stated before a decision is made to defer he asked that Council members look at those who have substantial tracts of land and negotiate some type of settlement before down zoning. He stated this is almost like spot zoning.

Don Wiley stated he owns property at Manning and Abernathy Streets and always planned to build some R-2 "thing". He stated there has not been room for compromise; that RPA is interested in doing a plan and that is it. He stated one lot he owns is in a block of a southwestern corner and asked if the plan could be moved beyond this block. He stated the plan is taking its own momentum and there has not been room for any type of compromise. He stated Ms. Bennett indicated she would be willing to look at a compromise, yet RPA has not been willing to compromise. He asked the Council not to vote and work on a compromise rather than blanketing every lot.

Rich Clay, architect for Wise Construction, stated no one is a larger proponent of saving neighborhoods than he; that it is a wonderful effort and difficult task. He underscored that there are several people living in the area who have huge stakes and have made huge financial commitments. He stated a lot of their work is on Frazier, North Market and Cherokee; that nothing they intend to do has any negative impact on economic growth of the area. He stated they do already have huge economic stakes and have made a commitment, which is something that should be considered. He stated it is also his thought that there should always be room for compromise; that he and others would be willing and would welcome architectural controls on any development in the area. He stated he does not want to put anything in an area that does not make money for all.

Gary Bonner stated that he has five lots on Dallas and nothing there is conducive to R-1. He stated when he looks at rezoning it should be consistent; that diversity is what made the north shore so successful and there is R-2 around his property. He stated some consideration should be given that everything should not be R-1.

REZONING (Continued)

Councilman Littlefield stated he is safe in saying in his neighborhood in 1970 the practice of down zoning started and recounted the history of the experience of down zoning to R-1. He stated the neighborhood has remained sound and property values have gone up many times over. He stated confidence is an important factor in development of this part of Hill City and the Council should do whatever they can to maintain a higher level of confidence. He stated from the discussion in Committee today there is one more map and inquired about the map that was shown that dealt with the controversial area and was "boiled down" a bit.

In showing the map, Mr. Pace identified the properties of persons RPA met with indicating that all are on the perimeter of the boundary except one on Hamilton. He stated those could be eliminated and left R-2 which would be the properties owned by the persons who spoke tonight. He stated there was discussion in Committee about this being a compromise by leaving them as they are presently.

Councilman Littlefield stated some of the individuals who spoke in opposition have high regard for the integrity of the neighborhood and would do good things (for the neighborhood). He expressed agreement with what they said and indicated there are still builders who would buy whatever exists and put what they can on the property to make a general profit which would be a disastrous thing to happen to Hill City. He asked those who spoke in opposition if this seemed like a good compromise for their properties to be excluded. The response was affirmative.

Councilman Littlefield stated that he would like to propose the Council move one step in the interest of getting this resolved and pass this rezoning on first reading with this zoning pattern with these nine controversial areas remaining R-2 and then come back and deal with it more creatively. He stated some might want to go in and look for more creative zoning solutions down the road. He **made the motion to pass the ordinance on first reading with this zoning pattern excluding the nine areas; Councilman Benson seconded the motion.** He stated the Ordinance could be revised prior to second and third reading next week.

Councilman Hakeem asked for comments from Ms. Bennett and Mr. Bailey regarding Councilman Littlefield's motion.

REZONING (Continued)

Mr. Bailey stated this is difficult in principle with the idea that as soon as something becomes controversial it would simply be moved to get a good response. He stated with all due respect and consideration he is not sure he agrees. He stated what he and Linda found through experience on another question removed from consideration is without the leverage of zoning neighborhoods have very little standing and little ability to influence how property is developed. He stated while he supports the idea that negotiation and compromise is possible, it is his thought it needs to be more nuance and thoughtful compromise than simply removing properties that have come into question from rezoning areas. He stated he is not so opposed to specific development; that he is opposed to varying indiscriminately from the land use plan that was so laboriously created a few months ago.

Ms. Bennett stated if the properties remain R-2 or R-3 there would be no community input in terms of development. She stated in order for property to be developed the developer could bring the plan back to the community and then the community process would take place. She expressed agreement with Mr. Wise in that this does require a cooperative effort; that the urban mixed-use community does have special needs. She stated this could go over-and-over and they would find themselves back at the same place unless there is a plan to come with a different vehicle to effect change that will allow us to work together with the developers.

Councilman Hakeem stated he has taken into consideration comments by residents of the area and that he has no problem with the concerns of the developers. He stated that he has heard three different points of view and all are correct; that he would like to see everyone get together and come back with one right concept. At this point he **made the motion to defer the matter sixty days or whatever time is needed to sit down with Planning and talk about it; Councilman Taylor seconded the motion.**

Councilman Taylor asked for a specific date the matter would be on the agenda. City Attorney Nelson indicated that the matter would be before the Council again on January 27, 2004, sixty days from now.

Mr. Bailey asked if there could be a third party facilitating the meeting, perhaps someone from the Design Center or RPA.

Mr. Pace stated the Design Studio is RPA; that a planner is assigned to this area that works at the Design Studio. He stated that it might help to have a third party; someone separate and apart from this.

REZONING (Continued)

Councilman Lively stated the first time one of these came before Council he had a difficult time supporting it; that it is his thought that there has been down zoning in everyone's areas that has started to upgrade. He stated as much as it does not make any sense for the entire area to be R-2 he saw this alternate plan and thinks it would be a good plan that neither side would be completely happy with but everyone could live with. He stated the matter could be deferred until the "cows come home"; yet thinks it makes sense for everyone on the border area if the neighborhood association could consider it. He stated eventually some action would have to be taken, indicating that he goes along with deferring the matter sixty days.

Councilman Page suggested that there be a compromise with both parties and expressed favor with the motion to defer.

Councilman Littlefield stated that he also supports the motion to defer; that it seems to make both sides happier. He warned both sides, those representing the neighborhood and development community, that all want the same thing; that there is a high quality for development in this area. He warned, also, that there is a lot of vulnerable property. He encouraged all concerned to use the sixty-day deferment to a maximum and bring the matter back as soon as a conclusion is reached.

Councilman Taylor reminded everyone that there is a moratorium on building that goes along with this deferral that was put in place awhile back and a definite time was not placed on it. He stated he would also like to meet with the neighborhood association and other interested persons after tonight's meeting to set dates and start moving quickly.

At this point, Councilman Benson "called for the question".

Chairman Franklin declared the public hearing duly closed.

On motion of Councilman Hakeem, seconded by Councilman Taylor,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PROPERTIES WITHIN THE AREA BEING GENERALLY BOUNDED ON THE SOUTH BY MANNING STREET, ON THE NORTH BY OXFORD STREET, ON THE EAST TO THE REAR PROPERTY LINES OF PARCELS WITH FRONTAGE ON FOREST AVENUE AND MISSISSIPPI AVENUE, AND ON THE WEST TO NORTH MARKET STREET, DALLAS ROAD AND HAMILTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAPS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE,

REZONING (Continued)

FROM R-2 RESIDENTIAL ZONE, R-3 RESIDENTIAL ZONE, R-4 SPECIAL ZONE, C-2 CONVENIENCE COMMERCIAL ZONE, M-1 MANUFACTURING ZONE AND M-3 WAREHOUSE AND WHOLESALE ZONE TO R-1 RESIDENTIAL ZONE
was deferred sixty days (January 27, 2004).

REZONING

2003-080: Neal Spurling

On motion of Councilman Taylor, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 600 AND 606 HAMILTON AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3MD MODERATE DENSITY ZONE
was deferred sixty days (January 27, 2004).

AGREEMENT: VOLKERT & ASSOCIATES, INC.

On motion of Councilman Littlefield, seconded by Councilman Benson,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH VOLKERT & ASSOCIATES, INC., RELATIVE TO ENGINEERING SERVICES FOR CONTRACT NO. E-02-008, HAMILL ROAD FROM SR-153 TO CSX RAILROAD, FOR A TOTAL FEE NOT TO EXCEED ONE HUNDRED FORTY-SEVEN THOUSAND DOLLARS (\$147,000.00)
was adopted.

AGREEMENT: VOLKERT & ASSOCIATES, INC.

On motion of Councilman Littlefield, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH VOLKERT & ASSOCIATES, INC., RELATIVE TO ENGINEERING SERVICES FOR CONTRACT NO. E-03-030-101, CARTER STREET STREETScape, PHASE IV, FOR A TOTAL FEE NOT TO EXCEED FORTY-EIGHT THOUSAND FOUR HUNDRED DOLLARS (\$48,400.00)
was adopted.

AGREEMENT

Councilman Littlefield stated this matter was discussed in detail in the Legal and Legislative Committee today. He stated approval is recommended.

On motion of Councilman Page, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN OFFER TO PURCHASE AGREEMENT WITH THE UNITED STATES GENERAL SERVICES ADMINISTRATION ("GSA") FOR THE PURCHASE OF THE RAIL SYSTEM OF THE FORMER VOLUNTEER ARMY AMMUNITION PLANT ("VAAP") AND AUTHORIZING THE MAYOR TO SIGN ANY AND ALL NECESSARY CLOSING DOCUMENTS TO ACQUIRE SAID RAIL SYSTEM
was adopted.

AGREEMENT

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A REAL ESTATE PURCHASE AGREEMENT WITH THE UNITED STATES GENERAL SERVICES ADMINISTRATION ("GSA") FOR THE PURCHASE OF EIGHT (8) ACRES OF THE FORMER VOLUNTEER ARMY AMMUNITION PLANT ("VAAP") AND AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL NECESSARY CLOSING DOCUMENTS TO ACQUIRE SAID PROPERTY
was adopted.

AMEND AGREEMENT

Councilman Littlefield stated Resolutions (f) and (g) were discussed in the Legal and Legislative Committee several times. He stated this item was reviewed last week and was recommended for approval and placement on tonight's agenda. He stated this Resolution extends the previous contract and enables us to pay under the same terms.

On motion of Councilman Littlefield, seconded by Councilman Benson,
A RESOLUTION AUTHORIZING THE AMENDMENT OF THE AGREEMENT BETWEEN THE CITY OF CHATTANOOGA, TENNESSEE, AND THE HUMANE EDUCATIONAL SOCIETY OF HAMILTON COUNTY, INC. SO AS TO EXTEND SAID AGREEMENT THROUGH NOVEMBER, 2003
was adopted.

AGREEMENT

Councilman Littlefield stated this contract is the result of negotiation between the Humane Society and the City of Chattanooga and indicated Councilman Benson was very helpful in the negotiations. He stated there are a number of new provisions and is an improvement in the previous contract.

Councilman Benson stated the City has spent half a million dollars in this contract and there is the question of whether we have been at a disadvantage of quality service by not having representation on the Board. He stated this contract calls for the Mayor to appoint and the Council approve a member to be placed on the Board of Directors and any Executive Committee as full voting members. He stated this is a good contract and recognized the presence of Guy Bilyeu, Humane Society Director. He welcomed Mr. Bilyeu to Chattanooga and extended his wish for successful service.

Councilman Littlefield acknowledged the presence of persons from the Council's Animal Task Force and asked them to stand.

On motion of Councilman Benson, seconded by Councilman Littlefield,

**A RESOLUTION AUTHORIZING THE CHIEF OF THE CHATTANOOGA
POLICE DEPARTMENT TO ENTER INTO AN AGREEMENT BETWEEN THE
CITY OF CHATTANOOGA, TENNESSEE, AND THE HUMANE
EDUCATIONAL SOCIETY OF HAMILTON COUNTY, INC., IN THE FORM
ATTACHED HERETO, FOR THE OPERATION OF AN ANIMAL SHELTER FOR
A PERIOD NOT TO EXCEED ONE (1) YEAR**

was adopted.

OVERTIME

Overtime for the week ending November 14, 2003 totaled \$68,589.55.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ✍ **SAM O. HAYNES** – Hire, Crew Supervisor, Citywide Services, Pay Grade 11/Step 1, \$26,402.00 annually, effective November 10, 2003.

PERSONNEL (Continued)

- ✍ **WILLARD G. TROTTER** – Suspension (7 days without pay), Equipment Operator, Sr., Citywide Services, effective November 7, 10, 11, 13,14,17, 2003.
- ✍ **WILLIAM P. MILES** – Termination, Equipment Operator, Sr., Citywide Services, effective November 6, 2003.
- ✍ **WALTER C. PATTERSON** – Resignation, Plant Maintenance Lubricator, Waste Resources, effective October 25, 2003.
- ✍ **GARY E. MCGILL** – Retirement, General Supervisor, Citywide Services, effective December 31, 2003.
- ✍ **WILLIAM D LANFORD** – Promotion, Equipment Operator, Sr., Citywide Services, Pay Grade 8/Step 1, \$22,818.00 annually, effective November 12, 3003.

CHATTANOOGA FIRE DEPARTMENT:

- ✍ **CHRISTINE WARREN** – Family Medical Leave, Lieutenant, effective November 19, 2003.

EMERGENCY PURCHASE

The emergency purchase for repair of a Kruger Model 280 Centrifuge, Serial JA627A for the Moccasin Bend Wastewater Treatment, Public Works Department, issued to Bird Machine Company in the amount of \$54,739.00 was duly reported and signed in open meeting.

PURCHASE

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

SOUTHERN LIGHTING & TRAFFIC SYSTEMS, LLC (Lower and better bid)
R66189/B000920

Poles

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

HOTEL PERMITS

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

MAINSTAY SUITES – 7030 Amin Drive, Chattanooga, TN

HAMPTON INN -- 3641 Cummings Highway, Chattanooga, TN

FAIRFIELD INN BY MARRIOTT – 2350 Shallowford Road, Chattanooga, TN

COMFORT SUITES – 7324 Shallowford Road, Chattanooga, TN

RAMADA LTD. – 2361 Shallowford Village Drive, Chattanooga, TN

LAQUINTA INN – 7015 Shallowford Drive, Chattanooga, TN

RIGHTWAY INN MOTEL – 6200 Fisk Avenue, Chattanooga, TN

RED ROOF INN #162 – 7014 Shallowford Road, Chattanooga, TN

SKY HARBOR BAVARIAN INN – 2159 Old Wauhatchie Pike, Chattanooga, TN

PARK CITY HOTEL – 2747 Cannon Street, Chattanooga, TN

PARK INN – 7638 Lee Highway, Chattanooga, TN

KNIGHTS INN – 3655 Cummings Highway, Chattanooga, TN

BEST WESTERN/ROYAL INN – 3644 Cummings Highway, Chattanooga, TN

BEST INN – 7717 Lee Highway, Chattanooga, TN

BEST VALUE INN & SUITES – 103 Patton Chapel Road, Chattanooga, TN

PURCHASE

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

PURCHASE (Continued)

TRI-STATE GOVERNMENT SERVICES (Lowest and best bid)
R0054795/B0001040

Hazardous Waste Removal

\$ 95.00 per 55 gallon drum (non-regulated waste)
\$200.00 per 55 gallon drum (regulated waste)

REFUND

On motion of Councilman Pierce, seconded by Councilman Lively, the Administrator of Finance was authorized to issue the following refund due to an amended report from tax management audit (included Software in their Tangible Personal Property Report that is Non-Taxable):

UNUM PROVIDENT CORP. -- \$83,768.69

PURCHASE

On motion of Councilman Page, seconded by Councilwoman Robinson, the following purchase was approved for use by the Department of Finance and Administration, Information Services Division:

ORACLE (Single source)
R0069645

Annual Software Maintenance & Support Renewal

\$39,831.58

CANCELLATION OF DECEMBER 23 AND 30
COUNCIL MEETINGS

City Attorney Nelson stated that Council meetings fall on December 23 and 30 this year. He inquired as to whether the Council has considered whether there would be meetings or not so that Ordinances and Resolutions could be scheduled around those dates. He stated if the Council chooses to take either of those nights off now is the appropriate time to consider that. He indicated that the Charter requires two meetings per month.

**CANCELLATION OF DECEMBER 23 AND 30
COUNCIL MEETINGS (Continued)**

Councilman Littlefield expressed concern with regard to rezoning issues. City Attorney Nelson assured Councilman Littlefield that rezoning issues would be heard on first reading on December 9 and second and third reading on December 16.

On motion of Councilman Littlefield, seconded by Councilman Lively, the Council meetings for December 23 and 30 were cancelled.

NORTH CHATTANOOGA ASSOCIATION

Councilwoman Robinson announced that the North Chattanooga Neighborhood Association would meet on November 20 at 6:30 at Northside Presbyterian Church.

DISTRICT 7 CHRISTMAS PARTY

Councilman Taylor invited everyone to the District 7 Christmas party at Alexian Court in St. Elmo. He extended a special invitation to the City's administrators as a way of thanking them for the services they have given over the past year in District 7.

COMMITTEES

Councilman Lively scheduled a meeting of the **Safety Committee for Tuesday, December 2 immediately following the Parks and Recreation Committee** as a follow-up to the discussion heard earlier today from representatives of the Firemen and Policemen's Pension Fund.

Councilman Littlefield scheduled a meeting of the **Legal and Legislative Committee for Tuesday, November 25 at 3 p.m.** He stated an attempt would be made to get back to some of the issues that had been put aside.

Councilman Hakeem reminded Council members of the meeting of the **Public Works Committee scheduled for 4 p.m. on Tuesday, November 25.**

DISTRICT 4 MEETING

Councilman Benson reminded everyone of the District 4 meeting scheduled for Thursday, December 4 beginning at 7 p.m. at Erlanger East. He stated Congressman Wamp would be present to talk about the INS situation and it is hoped every department would be represented to answer questions and concerns about the services that are being delivered.

RECOGNITION OF ELECTED OFFICIALS

Chairman Franklin recognized the presence of County Commissioners Curtis Adams and Larry Henry and Sheriff John Cupp.

(COUNCILMAN LIVELY EXCUSED HIMSELF FROM THE MEETING AT THIS POINT.)

RESIDENTS OF THE EAST BRAINERD COMMUNITY

Councilman Benson recognized citizens from the East Brainerd/Concord Heights community and stated all present have concerns.

Jill Montrey of the Concord Highlands Neighborhood Association and President of the Residents of East Brainerd, a large non-profit group who have come together for the improvement of East Brainerd, stated several of the neighborhood associations are present, including Audubon, Kenmoor, Audubon Acres, and Friends of Mountain Creek. She stated their concern is prompted by the property located at the corner of East Brainerd and Panorama Drive where they have seen clear cutting. She stated two issues need to be addressed and one is the zoning of that property; that they were present at the Council meeting two months ago when the owner of the property applied for zoning to be changed from R-1 to C-2. She stated when the owner of the property saw that so many were present in opposition the request was withdrawn at the time. She stated the Council very generously allowed them to speak and express their opposition to the property ever being C-2 and the Council committed to the R-1 zoning of that acre. She expressed thanks to the Council ahead of time for keeping that in mind.

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Ms. Montrey stated the second issue has to do with clear cutting indicating that this is the second episode in East Brainerd with the first on North Concord Road in May of 2002 and the second in November 2003. She expressed thanks for the efforts made to enforce existing regulations and ordinances; that they know there is nothing "on the books" that can prevent large scale clear cutting as long as the drainage and runoff is taken care of. She stated they asked in May of 2003 and again two months ago for the Council to look at a possible ordinance that would control this, protect them and keep this from happening again.

Ronald Kiselik stated that he lives on Kenmoor Drive and owns the property that backs up to the Fowler property bounded by East Brainerd Road, Panorama Drive and Kenmoor Drive. He stated the area of Kenmoor, Panorama, Concord Highlands, Concord Road and Radmoor are all included in the Audubon Association and are not commercial areas, contrary to Mr. Fowler's thoughts as quoted in today's newspaper. He stated this is a residential area. He stated Mr. Fowler is also quoted as saying he and his attorney are looking all options as far as zoning and mentioned zoning the acres from R-1 to C-2. He stated Mr. Fowler's property and many neighborhoods surrounding it are all zoned residential; that commercial would bring many problems for hundreds of people who live in the neighborhoods that surround this property. He urged the City Council to keep Mr. Fowler's property residential. He stated on November 3, Mr. Fowler's attorney agreed to an order for the twenty acres he owns; that on twelve of the acres that are already clear-cut, he indicated he would clear off the trees that are already cut. He stated on the remaining eight acres, he indicated he would only cut pine trees and not hardwood trees. He stated the problem is on the twelve acres where the unsightly tree stumps and limbs remain and need to be removed and grass planted. He stated on the remaining eight acres, large equipment has come through and cut down all the trees in the center of the woods; that he took down the hardwood as well as pine trees. He urged that the cutting of hardwood trees be stopped. He stated he is for progress but not for progress at the expense of our citizens!

Jack Vincent distributed photos of the area that were taken last week. He stated the property has been R-1 for a long time and Mr. Fowler purchased the property four years ago. He stated Mr. Fowler's land has been clear-cut and he heard last year that the Council had said a permit would be required to remove stumps. He stated the ground has been bulldozed and it was not necessary to cut this land as there were giant oaks that would have enhanced the property if Mr. Fowler intended to make residential, he could have laid out plans and left the trees.

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Mr. Vincent stated that he tried to find out how many permits Mr. Fowler had and the only one mentioned was just the one he found; that he heard someone say it was stated that Mr. Fowler indicated it was his land and he could do what he wanted. He stated Mr. Fowler's strategy is to make the land look so bad people would be glad to see it commercial than to see it other than just "ground". He stated traffic is a consideration, which will increase if it is commercial property; that Gunbarrel and East Brainerd Road are high traffic accident areas.

Mr. Vincent continued by stating Mr. Fowler was told not to cut the hardwood trees but they are down; he has piled up the logs and there is much debris as evidenced in the photos. He stated landowners should have rights for misuse of private land; that the private landowner does not have the right to change the zoning and should have to go through the proper channels. He stated on April 22, 2003 in a case before the Supreme Court, the Court ruled and sided with the neighborhood; that neighborhoods do have rights. He stated neighborhoods have rights and the City should be able to prevent individuals from doing as they please. He stated the City could stop individuals from doing what they want to if it is in regard to property rights and zoning restrictions. He stated Mr. Fowler thinks he can "buck" the City and county; that he cannot do anything but build houses on this property. He stated that he wants to send a message to Mr. Fowler to ask him to call him and Councilman Benson and have lunch with them; that the twenty acres was beautiful land and now all they have are twenty acres of ugly land! He stated he could not make it clearer unless he (Fowler) has been given bad advice from his attorney, John Anderson, who was or is his attorney. He stated people are concerned and he hates it if Mr. Fowler thinks business (commercial) would be good; that traffic would be so bad.

County Commissioner Larry Henry stated that he represents County District 7 just east of Gunbarrel Road. He stated that he is present to support Councilman Benson and County Commissioner Adams in their district. He stated he has had several telephone calls from people concerned about this problem; that two neighborhood associations called him today and he was on the phone for the greater part of the afternoon as people are concerned when this happened one year ago and have become more concerned, now. He stated he is a native of East Brainerd and lived there fifty-four years; that East Brainerd is a beautiful place. He stated when clear cutting occurs the very quality of life the people in East Brainerd have enjoyed for years is taken away. He stated he cannot dictate what anyone can do with their property, however, when a property owner comes in and "rapes" and demolish property that has been a part of the heritage of that place for many so many years is an atrocity!

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

County Commissioner Henry stated persons in his district are supportive and as far as the situation is concerned it should remain R-1. He stated it is a shame hardwood trees were cut out; that there is no reason for them to have been cut! He reiterated that the property should remain R-1.

Sheriff Cupp stated that his wife and her husband lived on Kenmoor for over thirty years. He stated he has been married to Betty for over three years and this is one of the nicest neighborhoods he has ever lived in. He stated he saw what happened off Concord Road and it was sickening and now what happened near Panorama is sickening again. He stated he does not want that to happen because this is a good neighborhood; that they will have to put up with tremendous traffic from now until Christmas. He stated in the mornings when he goes to the red light he has to wait and we do not need any more traffic there. He stated he is glad to have good residents, he likes the neighborhood and it is a tremendous place to live. He asked that the property remain R-1 where it belongs.

Councilwoman Robinson stated that it is her thought that people operate with the premise "forgiveness is easier than permission", but this is unforgivable. She stated this is the second time this has happened and has been brought to our attention. She stated the property may be zoned R-1 but in her mind tonight "R" stands for "ruined"! She stated she does not know what to do to stop it; that there have to be ordinances in other cities we might be able to use as a model. She stated someone called her today to ask that we please get the ordinance from Davidson County that is being used to protect their countryside and trees. She stated if anything we can do something, anything to stop this! She stated that she would like to see this moved fast forward.

Councilman Littlefield stated many know this has been discussed before the Legal and Legislative Committee a number of times; that he has been working with the Public Works Department, the City Attorney and others over the past two years in trying to find a way to deal more effectively with this and is glad to hear Davidson County has found a way. He stated with Tennessee being an agricultural state, there are written exemptions into law, which preclude us from doing many things we would like to do. He stated we have written and rewritten provisions and attempts with some limited success to employ a moratorium and do things our way to prevent things we knew would happen. He stated we have been wrestling with the larger question of stormwater; that each time it rains he wonders what is happening and how much rain in East Brainerd fills up the ditches and drainage ways.

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Councilman Littlefield stated over \$350,000 worth of engineering work has been conducted in recent months in an effort to enable the City to deal more effectively and more aggressively toward stormwater, in general. He stated there are state permits based on federal law that requires us to do a number of things to control stormwater and development practices throughout the city.

Councilman Littlefield stated we are moving as fast as we can; that a provision was just passed to establish a more technical board to advise the Council and City in adopting new regulations and enforcing them. He expressed agreement with Councilwoman Robinson and quoted the Golden Rule as it relates to getting along with neighborhoods, yet, there are people who have forgotten or never knew it and go about whatever way they can to make a profit and it is unfortunate. He stated we are moving as rapidly as we can to put practices into law and make them effective; that enforcing laws is a difficult matter. He stated we are restricted under State law and under municipal law if the matter is taken to court enforcement is limited to \$50 a day. He stated many developers cut down a whole forest and get cited to court, pay the \$50 and move on. He stated when that came up to be voted on talk radio and others took pleasure in making sure they did whatever they could to keep the \$50 limit in place. He stated this is a good example of what happens when restricted to the \$50 limit; that we cannot always find ways to deal effectively; that we can go to Chancery Court and seek injunctions.

Councilman Littlefield continued by stating some City Judges can make the \$50 fine for every instance, which could be a stiff fine; that there are a number of things that limit and restrict. He asked the residents for their advice, assistance, prayers and indulgence; that we all live in this City, too. He stated all districts have good neighborhoods, which are precious to us and all are affected when things happen in your area. He stated the Council will do everything they can to make to stop these practices.

Councilman Benson expressed thanks to everyone for coming stating that hardships have been endured on the eastern and western sides of Concord. He expressed that he was thankful that he serves with a Council who has the understanding of the proper use of land. He stated that it is his thought it is an educational problem; that he spent thirty-five years in education and has never been confronted until recently with what can happen when people do what they want. He stated that some have a "frontier attitude" and indicated we are not "living on the prairie" anymore!

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Councilman Benson stated we cannot burn trash in our backyard and cannot pour oil on our lawns; that there is a lack of vision concept of what is required in a civilized society when someone says, "I can do with my land what I want to" when it comes up to the point it hurts someone else and detracts from property values. He stated it is hard to change that mentality. He stated it is his understanding the person who has this land went on television and said, "nobody could tell him what he could do with his land". He stated commercial cannot survive without neighborhoods; that the land use plan calls for clusters of neighborhoods and this property is right in a cluster of neighborhoods. He stated on both sides are small commercial service activities and that makes good sense and is good planning.

Councilman Benson expressed confidence in Admin. McDonald and the City Attorney and indicated both are on the way to trying to come up with an ordinance to help mitigate some of this problem that would provide freedom and use of land without harming others. He stated the Council supported the Concord Land Use Plan and all are working in harmony and getting a lot accomplished. He stated there is not a lot of acrimony between the commercial owners and residents and there is only one little "scab" like this. At this point he **made the motion for the Council to affirm its confidence in the Concord and East Brainerd Land Use Plans as it relates to planned structured zoning for the purpose of providing for vitality of both residential and commercial growth; Councilman Littlefield seconded the motion.**

Chairman Franklin clarified that the motion affirms the Council's commitment and makes sure everything will be done to make sure this will not happen again. **The motion carried.**

Councilman Hakeem stated that frustration can set in and there is the possibility of others "lashing" out. He stated the elected City and County officials are working diligently to try to resolve the situation. He asked that consideration be given to continue support of elected officials; that more can be accomplished in working with them than not working with them. He stated everyone is pulling in the same direction; that it may not happen in the time frame we want, but to be successful the support of everyone is needed.

Annette Cray, President of the Audubon Neighborhood Association, stated other communities are going through the same thing; that they want to know what they can do. She referenced the article in today's payer wherein it was indicated no hardwood trees were cut, however, there are no hardwoods standing; that pine beetles do not attack hardwoods!

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Ms. Cray expressed appreciation to the City and County officials as they have been behind them the entire way. She stated they live in a nice quiet community and do not like what is happening, reiterating that they want to know what they can do to change and stop it.

Jack Vincent spoke again and asked if the City could require a developer to have all the plans in place before developing; that it seems Mr. Fowler is intent to go commercial.

Chairman Franklin stated normally in similar processes site plans are required; that actual architectural plans for R-1 limits developers. He stated this frustrates Council members as much as it does the residents; that we are all in this together.

Councilman Taylor asked if there is a time line to resolve this; that it has been expressed there are some concerns on the State's side. He asked what could be done for a quick resolution.

City Attorney Nelson asked that he be given another "crack" at it; that he may have found something today.

Councilman Hakeem indicated that a few young persons were present and expressed appreciation for their fortitude in being present to hear this discussion.

At this point, Mrs. Bryant introduced her son, Jonathan Bryant, both of whom are residents of the Audubon neighborhood.

Other students present introduced themselves as students of UTC and Red Bank's American Government class.

Sylvia Bennett expressed thanks to the Council for signing the Humane Society Contract stating that she realizes the contract is not exactly what she and others wanted, however, they are ready to work and help in any way.

Tracy O'Neill, of the Tennessee Forestry Association stated that she knows there is concern with the East Brainerd and Panorama Drive properties. She stated she was not present to defend the landowner or any other property other than to represent the State. She stated the issue is a development issue and not a clear cutting issue; that the practice of harvesting trees in her industry can be backed up by numerous reports.

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Ms. O'Neill stated at this point the Tennessee Forestry Association wants to help cities; that she looked at this property and understands everyone's concerns. She stated she wanted to work with the Council and cautioned them in addressing something they do not mean to. She referenced the ordinance in Nashville, indicating that she is very familiar with it and that it is probably not what the Council would want. She indicated that she would secure a copy of the ordinance for the Council, again indicating she would assist in any way she can with the problem they are facing. She reiterated that she was not present to defend the landowner; that she really wanted to caution the Council when looking at regulations that deal with the issue at hand.

Lou McKenzie expressed thanks for the work done on the animal initiative for a shelter and spay and neuter program in Chattanooga. She thanked Councilman Benson for being an exemplary leader and Councilman Littlefield for having the public hearing to "put this on the table" and thanked as Council members for "coming on board". She encouraged them to keep the focus in working on this. She stated that she lives in Hamilton County and people have wondered why she comes and spends time as she does in Chattanooga. She stated Chattanooga is in Hamilton County and what Chattanooga does affects the County. She stated she wants the County on board to help support this coalition of whole community to work toward getting this new shelter and spay and neuter program.

Councilman Littlefield asked Ms. O'Neill to stay behind and talk with him. He stated that he understands laws enacted by the insistence of membership in her industry are laws people use to hide behind to do things like we have seen on two occasions in Chattanooga. He stated he does not fault Ms. O'Neill's organization for it; that he knows the law says a person can go in and harvest trees; that we are talking about a mass destruction of tree cover on a grand scale - a depressingly large scale. He stated people who do this seek cover behind this and go to court and "tie" our hands long enough to get the damage done. He stated Ms. O'Neill knows what the loop holes are, again asking that she stay behind to tell Council members what they are; that the Council will help employ good practices.

Michelene Walker stated that she lives in Concord Highland and is not an animal activist. She stated she spent \$150 go get a raccoon out of her house because of this that is going on!

RESIDENTS OF THE EAST BRAINERD COMMUNITY
(Continued)

Leon Stone stated his family has lived in East Brainerd since 1932 and all those years they have paid taxes on the property, which has brought about no equity. He stated homesteading and commercial are two different animals; that people buy properties with the intention of getting them rezoned to make a profit and immediately turns around and sells it. He stated ever since civilization began it means you organize your living space; that people have been voting for 200 years and still can't get it right!

ADJOURNMENT

Chairman Franklin adjourned the meeting of the Chattanooga Council until Tuesday, November 25, 2003 at 6:00 p.m.

CHAIRMAN

CLERK OF COUNCIL

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