

**City Council Building
Chattanooga, Tennessee
October 12, 2004
6:00p.m.**

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

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Lively gave invocation.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: DELEGATES FROM UZBEKISTAN

Robert McDonald, Vice President of the local Sister City Association introduced Viktor Krymzalov, Zhumanazar Melikulov, Nashibiddin Nosirov, and Abdikayum Yuldashev, four journalists from Uzbekistan, a city north of Afghanistan. He introduced their interpreter/translator as Umid Aripdjanov. He stated their visit is sponsored by the Open World Leadership Program and noted they would be in Chattanooga October 9 through 17. He stated the Open World Leadership Program is a federal agency for international development and the Sister City Association of Chattanooga partnered with the University of Tennessee's Department of Communication to plan and implement their visit here. He stated the four journalists have been exploring our concepts of freedom of press, how we have elections and enjoying great hospitality from UTC and local media groups, including television and radio stations. He stated the theme of their visit is "The News Media in America" and would stay awhile to observe the meeting tonight.

Chairman Benson thanked the delegates for their presence and expressed hope they would come back again.

AMEND CITY CODE: TIMBER REMOVAL

Councilman Littlefield stated this matter has been discussed and is a product of the efforts of a number of different individuals and organizations. He stated minor changes have been made since first reading and he knows of at least a couple individuals that have not had a chance to see it in its finished form. He made the motion to defer the matter an additional week.

On motion of Councilman Littlefield, seconded by Councilman Lively,
AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 31, BY ADDING NEW SECTIONS 31-325.1 THROUGH 325.9 KNOWN AS THE TIMBER REMOVAL ORDINANCE AND BY AMENDING SUBSECTIONS 31-321(b) AND (c)
was tabled one week.

AMEND ZONING ORDINANCE

Jerry Pace, Director of Operations with the Regional Planning Agency (RPA), stated that this amendment to the zoning ordinance deals with the Board of Appeals and Special Permits and the amendment adds the word “*exceptions*” in the permitting process. He stated rather than a special permit the language will be reflected as “*special exceptions permit*”.

On motion of Councilman Littlefield, seconded by Councilwoman Robinson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE VIII, SECTIONS 102(4) AND 107, RELATIVE TO SPECIAL EXCEPTIONS PERMITS
passed first reading.

AMEND ZONING ORDINANCE

Councilman Littlefield stated this item is before the Council for first reading tonight and has been advertised for public hearing. He stated that he talked with most of the individuals who are affected or involved in the preparation of this ordinance and would like to postpone first reading for one week. He stated since the matter has been advertised for first reading if there is anyone wishing to speak they could at this time (no one indicated they wished to speak). He stated that he knows an attorney for the pawn shops that might be affected by it expressed no resistance to coming back next week. He stated the matter would be discussed in next Tuesday’s Legal and Legislative Committee at 3 p.m.

AMEND ZONING ORDINANCE (Continued)

On motion of Councilman Littlefield, seconded by Councilman Lively,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING CERTAIN
SECTIONS OF ARTICLE V AND ARTICLE VIII, SECTION 107, RELATIVE TO
THE LOCATION OF TATTOO AND BODY PIERCING SERVICES AND
NON-BANKING INSTITUTIONS WHICH INCLUDE CHECK CASHING, TITLE
PAWN AND PAWN SHOPS**
was tabled one week.

CLOSE AND ABANDON

MR-2004-021: City of Chattanooga

There was no opposition in attendance.

Councilman Hakeem stated Ordinances (c), (d), (i) and (o) – (r) were discussed in Public Works Committee and are recommended for approval on first reading. He stated it had been suggested in Committee that Ordinance (d) be tabled, however, in a conversation with the City Attorney indication has been given that we are ready to move forward with it.

Mr. Pace explained that this request is for a closure and abandonment of a right-of-way near Riverfront Parkway near the Hunter Museum for reconfiguration of the area for a roadway. He stated approval from Planning, Public Works and Staff is request.

On motion of Councilwoman Robinson, seconded by Councilman Hakeem,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
OPENED 200 BLOCKS OF CUSHMAN STREET AND BACHMAN 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 first reading.

CLOSE AND ABANDON

MR-2004-161: Associated Mechanical Systems, Inc.

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

CLOSE AND ABANDON

On motion of Councilman Littlefield, seconded by Councilman Hakeem,
**AN ORDINANCE CLOSING AND ABANDONING A RIGHT-OF-WAY AT
THE 2800 BLOCK OF ROANOKE AVENUE BETWEEN PINE STREET AND
WALNUT 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 first reading.

REZONING

2004-171: Jo Jo Scott

Pursuant to notice of public hearing, the request of Jo Jo Scott to rezone tracts of land located at 432 and 438 Moccasin Bend Road came on to be heard.

The applicant was not present; opposition was in attendance.

Mr. Pace stated the applicant wants to put warehousing sales and storage on the site, yet there is residential to the north and south. The site plan was displayed by PowerPoint showing the area where the building would be placed and the surrounding sites, including an O-1 that appears to be residentially used and the Moccasin Ben Treatment Plant. He stated even though the Treatment Plant is in a residential area with homes on the north and south, this site is the entrance way to the new Moccasin Bend National Military Park that is being developed. He stated the Planning Commission and Staff recommend denial as it is felt it is inappropriate to have this type proposed use for that site.

On motion of Councilman Lively, 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 432 AND 438 MOCCASIN BEND ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO
M-2 LIGHT INDUSTRIAL ZONE**
was denied.

REZONING

2004-172: City of Chattanooga

Pursuant to notice of public hearing, the request of City of Chattanooga to rezone properties within the Avondale Neighborhood area came on to be heard.

There was no opposition in attendance.

Kelly Martin of RPA stated the rezoning study for Avondale is the culmination of the Avondale Neighborhood Plan, which began in February of this year. He stated based on community meetings it was determined over 99 percent of parcels in Avondale were zoned R-2 and R-3 and 78 percent of the area is still used as single family residences. He stated residents of the neighborhood continuously pointed to the abundance of duplexes in the area and, after a plan was adopted, they were able to put numbers with them and support their claim. He stated the Avondale residential area has 20 percent duplexes, which is far above and higher than any other neighborhood in the City; that because of a number of situations in the Avondale area over the last 45 years, the R-1 change would be in the best interest of the neighborhood.

James Moore, a member of the Avondale Neighborhood Association, stated that they worked very closely with the RPA team and are in agreement with this. He expressed thanks to everyone for their support and stated that all are happy at this point.

Councilman Pierce inquired as to what happens to the duplexes that now exist that are not occupied.

Mr. Martin indicated his thought that they would be grandfathered-in.

Mr. Pace confirmed that they would be grandfathered-in if they are in the process of trying to be rented or put in use. He clarified if they are abandoned or boarded and not in use for 100 days they would revert to the R-1 use and would have to be redone as single-family use. He stated as long as they are in the process of renting or remodeling or any number of things to keep their present use they are grandfathered-in as a duplex.

Councilman Pierce advised the neighborhood residents to be aware of this, indicating that the Ordinance does not go into effect until two weeks from its passage date and for them to keep track of the abandoned duplexes.

REZONING (Continued)

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PROPERTIES
WITHIN THE AVONDALE NEIGHBORHOOD AREA, MORE PARTICULARLY
DESCRIBED HEREIN AND SHOWN ON THE MAPS ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, FROM R-2 RESIDENTIAL
ZONE AND R-3 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE, SUBJECT
TO CERTAIN CONDITIONS**

passed first reading.

REZONING

2004-176: William R. Ring d/b/a/ WHR Properties

Pursuant to notice of public hearing, the request of William R. Ring d/b/a/ WHR Properties to rezone a tract of land located at 1019 Dallas Road came on to be heard.

There was no opposition in attendance.

Mr. Pace stated this request is located in the North Chattanooga area along Dallas Road and was not in the area down zoned R-1 a few months ago. He stated the site is currently vacant and is recommended for approval from Planning and Staff for R-2 zoning.

Councilman Hakeem inquired as to whether there is any particular language or anything placed on this.

Mr. Pace responded there is, however the applicant has assembled several parcels and redeveloped the whole area where the R-2 and R-3 is and will put in a road, eventually. He stated the zoning is being put in place to develop the area.

Councilman Lively stated that he has looked at this and it is his thought the plans will upgrade the area along with the other parcels that are being assembled.

REZONING (Continued)

On motion of Councilman Lively, 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 1019 DALLAS ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL
ZONE, SUBJECT OT CERTAIN CONDITIONS**
passed first reading.

LIFT CONDITIONS

2004-185: Thom Sedgwick c/o Hopkins Survey Group

Pursuant to notice of public hearing, the request of Thom Sedgwick c/o Hopkins Survey Group to lift conditions imposed in Ordinance No. 11579 on property located on the abandoned portion of John Mark Drive and Cowart Drive came on to be heard.

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

Mr. Pace stated this request involves the redevelopment of the Target Center that is underway and the request is to lift conditions to move the utilities that are in the roadway now. He stated approval is recommended from Staff, Planning and Pubic Works.

On motion of Councilman Pierce, seconded by Councilman Littlefield,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT CONDITIONS
IMPOSED IN ORDINANCE NO. 11579 ON PROPERTY LOCATED ON THE
ABANDONED PORTION OF JOHN MARK DRIVE AND COWART DRIVE,
BEING MORE PARTICULARLY DESCRIBED HEREIN, SUBJECT TO CERTAIN
CONDITIONS**
passed first reading.

CLOSE AND ABANDON

MR-2004-186: Thom Sedgwick c/o Hopkins Survey Group

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

CLOSE AND ABANDON (Continued)

Mr. Pace stated that this request is located in the same area as the previous request and the City does not have an interest in the sewer easement in this location. He stated Staff, Planning and Public Works recommend approval.

On motion of Councilman Pierce, seconded by Councilman Lively,

**AN ORDINANCE CLOSING AND ABANDONING A SEWER EASEMENT
LOCATED BETWEEN THE 5600 BLOCK OF WINDING LANE AND
HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN AND AS
SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF
BY REFERENCE**

passed first reading.

REZONING

2004-187: Cenady Rayabchuk

Pursuant to notice of public hearing, the request of Cenady Rayabchuk to rezone a tract of land located at 2322 Guinevere Parkway came on to be heard.

The applicant was not present; there was no opposition.

Mr. Pace stated there is a nursing home facility in the area, R-4 to the west, R-2 to the south and across the road and vacant property, as well. He stated Staff and Planning recommend denial for rezoning in this area.

On motion of Councilman Pierce, seconded by Councilman Hakeem,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 2322 GUINEVERE PARKWAY, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL
ZONE**

was denied.

REZONING

2004-189: Chattanooga Housing Authority

Pursuant to notice of public hearing, the request of Chattanooga Housing Authority to rezone a tract of land located at 3351 Chandler Place came on to be heard.

There was no opposition in attendance.

Mr. Pace stated this request is part of the HOPE VI redevelopment program and approval is recommended from Planning and Staff.

Councilman Hakeem asked if this property is to be used for parking, indicating that he might have this property confused with another.

Mr. Pace stated parking would be allowed on some of it.

Mark Rudisill of the Chattanooga Housing Authority stated that it is their hope the property would be used for jobs by creating an industrial site, noting that Sherman and Reilly, Inc. is across the street and it would be nice to see an expansion, however, they are not interested at this time. He stated the property would be placed on the market for proposal and hopefully jobs can be created through a fabrication-type industrial use; that this was formerly the ball field at the north end of the McCallie Homes site. He stated they are offering as part of the property a substantial landscape buffer between it and the new housing that is proposed.

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 3351 CHANDLER PLACE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO M-2 LIGHT
INDUSTRIAL ZONE**

passed first reading.

REZONING

2004-192: The RLS Group, LLC

Pursuant to notice of public hearing, the request of The RLS Group, LLC to rezone a tract of land located at the 4700 block of Adams Road came on to be heard.

REZONING (Continued)

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

Mr. Pace stated that this request is located in the Hixson area. He stated there is a condition that landscaping be provided against the residential uses. He stated the matter was taken before the Leadership Committee and the zoning is also reflected in the new updated version of the Hixson-North River Plan that was presented for approval at yesterday's Planning meeting. He stated approval is recommended from Planning and Staff.

Shane Lloyd of RLS was present representing the owners of the property for this development and stated there is a tremendous amount of M-2 and M-3 around them; that they are trying to do an upscale warehouse development. He stated they have agreed to do extra screening around their own zoning and the non-residential uses until the next development phase. He stated they have further agreed to keep the screening even wider than required by zoning standards along those areas of R-2 to the southeast of the property.

Richard Welch of Crescent Club Drive stated that he owns five acres and everything to the south of Adams Road is residential and RLS is getting ready to put manufacturing in the residential area. He stated one reason that is happening is because of what is across the street; that back in the early eighties, M&M Concrete came before the city and was approved to put in business across the street from that property and since then people on Adams Road cannot sell their houses, which is his concern, now. He stated this development will come up behind his property on Crescent Club Drive and spot zoning is what he calls it, and noted he would eventually want the same privilege to do so on Crescent Club Drive. He stated after the Planning meeting there was flooding; that every time the Chickamauga Creek backs up the intersection of Crescent Club and Hamill Road floods. He stated two cars were in the water this time up to the windshield, adding that this is a traffic problem area. He stated people are bypassing eight-to-ten lights on Hixson Pike at Northgate and are coming to Adams Road and Crescent Club Drive and back onto 153 and only have two red lights; that this is his concern.

Chairman Benson stated that City Attorney Nelson has indicated that this, legally, is not spot zoning and psychologically it might be because of the manufacturing across the street and diagonally.

REZONING (Continued)

Mr. Welch stated that his concern about the buffer zone is that it would keep out noise, but they would still get the warehousing and have fork trucks backing up with the “beep, beep, beep” sound and all that.

Chairman Benson asked Mr. Lloyd to comment on the noise referenced by Mr. Welch.

Mr. Lloyd stated that their plan is to have a minimal use type thing; that historically in manufacturing zones there is less traffic and everything else than in a residential zone. He stated they are trying to do more of an upscale type warehousing -- small warehousing for people who do not need mega-warehouses and noise will be at a minimum.

Chairman Benson inquired as to the railroad in the area.

Mr. Lloyd stated there is a railroad but they do not plan on having anything to do with the railroad track.

Mr. Pace referenced photos shown of the area by PowerPoint, noting the parcels and businesses in the, as well as the trains that pass. He stated the area is in transition and Crescent Club Drive and Circle are still residential areas. He stated it is their belief this is still far enough away and buffered by a larger R-1 property from the Crescent Club area, which will not be greatly affected by the use.

Councilman Hakeem stated from what he can see and gather the effort has been made to balance what we do here; that this would be considered a low noise use and would be buffered from the residential area. At this point he made the motion to pass the matter on first reading.

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 THE 4700 BLOCK OF ADAMS ROAD, MORE
PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO
M-2 LIGHT INDUSTRIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2004-193: The RLS Group, LLC

Pursuant to notice of public hearing, the request of The RLS Group, LLC to rezone a tract of land located at 5000 Adams Road came on to be heard.

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

Mr. Pace stated this request is for RT-1 use for a condominium development and displayed a sketch of what the building would look like and the other uses along Longview Drive. He stated there is a condition in the ordinance that all easements are to be retained and the packet from the City Attorney's Office only reflected one version, which was the applicant's version. He stated the Resolution from Planning was not included in the packet. He stated approval is recommended from Planning and Staff and the updated plan supports this use of property for RT-1 use.

Councilman Littlefield stated if there is no flaw in the caption read, it could be approved on first reading and make sure everything is handled prior to second and third reading next week.

At this point, City Attorney Nelson amended the caption by adding, "*subject to certain conditions*".

Richard Welch of Crescent Club Drive spoke indicating his concern with regard to the amount of traffic that would be generated from the townhouses, indicating that someone on the Council or with RPA should look into the traffic problem that would be generated. He stated there is a continuous increase daily of people coming from Middle Valley and Hixson Pike onto Adams Road and Crescent Club Drive; that there would have to be a route for tractor trailer trucks as Hamill Road, Crescent Club Drive and Adams Road is posted and do not permit three axle trucks to use the road. He reiterated there would be a problem with traffic; that there is already a problem with the street flooding and traffic continues to come down Crescent Club Drive and turn around in their driveways; that police have set up radar and have written tickets. He again asked that the traffic problem be looked into in this area and indicated Councilman Page has his home up for sale and understands why as Hamill is a very traffic prone area and like the Dam continues to get worse and worse.

Mr. Pace stated the entrance traffic signal will be at Hixson Pike and expressed his belief that traffic would not be generated down Adams into Crescent Club Drive and would be exiting through Hixson Pike and 153.

REZONING (Continued)

Councilman Littlefield stated that it is his thought Mr. Welch has a point; that the traffic situation needs to be looked into, particularly if trucks are causing a problem. He stated changing to a townhouse zone is just about the most benign thing the Council could allow to develop in terms of traffic; that townhouses tend to attract people who are single or "empty nesters" who leave in the morning and come back in the evening. He stated they do not generate many trips and this would be a good use for that property, however, if there are trucks inappropriately using less than adequate streets that is another problem we need to deal with in another way.

Councilman Pierce stated in all fairness the matter should be tabled one week for Councilman Page to come in and speak to the issue.

On motion of Councilman Pierce, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 5000 ADAMS ROAD, MORE PARTIUCLARLY
DESCRIBED HEREIN, FROM M-2 LIGHT INDUSTRIAL ZONE TO RT-1
RESIDENTIAL TOWNHOUSE ZONE**

passed first reading.

REZONING

2004-194: Towne Center North, LLC

Pursuant to notice of public hearing, the request of Towne Center North, LLC to rezone a tract of land located at 1033 Cowart Drive came on to be heard.

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

Mr. Pace stated this request is located in Hixson and is part of the Target development project. He stated it involves two parcels obtained by the developer that was not part of the original site plan; that the house on the property has been demolished and the car lot is gone. He stated approval is recommended from both Planning and Staff for redevelopment of the area.

REZONING (Continued)

On motion of Councilman Lively, 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 1033 COWART DRIVE, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE**
passed first reading.

CLOSE AND ABANDON

MR-2004-195: Towne Center North, LLC

Councilman Hakeem stated this matter was discussed in Public Works Committee and is recommended for approval.

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE
1000 BLOCK OF COWART DRIVE, MORE PARTICULARLY DESCRIBED
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

CLOSE AND ABANDON

MR-2004-199: Chattanooga Housing Authority

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

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE CLOSING AND ABANDONING AN UNNAMED ALLEY
LOCATED AT THE SOUTH LINE OF THE 400 BLOCK OF WATER STREET,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE
MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE**
passed first reading.

CLOSE AND ABANDON

MR-2004-200: Chattanooga Housing Authority

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

CLOSE AND ABANDON (Continued)

On motion of Councilman Hakeem, seconded by Councilman Lively,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF AN
UNNAMED ALLEY LOCATED OFF OF THE NORTH LINE OF THE 600
BLOCK OF WEST 37TH STREET, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
passed first reading.

CLOSE AND ABANDON

MR-2004-201: Chattanooga Housing Authority

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

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**AN ORDINANCE CLOSING AND ABANDONING A PORTION OF AN
UNNAMED ALLEY BEGINNING ON THE WEST LINE OF THE 3800 BLOCK
OF HIGHLAND AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND
AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE**
passed first reading.

LEASE OF PROPERTIES

On motion of Councilman Hakeem, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE
ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE LEASE OF
CERTAIN REAL PROPERTIES LOCATED AT 4333 OAKLAND AVENUE AND
511 WEST 45TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND
AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, TO ST. JOHN MISSIONARY BAPTIST CHURCH
FOR USE AS PARKING**
was adopted.

DONATION OF PROPERTY

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE CITY FINANCE OFFICER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO FACILITATE THE DONATION OF CERTAIN REAL PROPERTY LOCATED AT 908 WEST 38TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, TO CHATTANOOGA NEIGHBORHOOD ENTERPRISE
was adopted.

CHANGE ORDER

Councilman Hakeem stated Resolutions (c) and (d) were discussed in Public Works Committee and approval is recommended.

On motion of Councilman Lively, seconded by Councilwoman Robinson,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 1, RELATIVE TO WALNUT STREET BRIDGE REPAIRS, CONTRACT NO. E-02-013-200, WITH SOUTHERN CONSTRUCTORS, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY FOURTEEN THOUSAND DOLLARS (\$14,000.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED SIXTY THOUSAND DOLLARS (\$260,000.00)
was adopted.

TRANSFER OF CITY'S INTEREST IN RIGHT-OF-WAY

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF CHATTANOOGA TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER THE CITY'S INTEREST IN THE RIGHT-OF-WAY LOCATED IN THE 200 BLOCKS OF 2ND STREET AND LOOKOUT STREET TO THE CHATTANOOGA DOWNTOWN REDEVELOPMENT CORPORATION
was adopted.

RENEWABLE AGREEMENT

On motion of Councilman Hakeem, seconded by Councilman Littlefield,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A RENEWABLE AGREEMENT WITH STOKES BARTHOLOMEW EVANS & PETREE, P.A., RELATIVE TO LOBBYING SERVICES, SUBJECT TO AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00) PER FISCAL YEAR, PLUS REASONABLE OUT-OF-POCKET EXPENSES
was adopted.

OVERTIME

Overtime for the week ending October 8 2004 totaled \$16,655.25.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **WALTER D. YOUNG** – Demotion and suspension (2 days without pay), Crew Worker, Citywide Services, effective September 29, 2004.

CHATTANOOGA POLICE DEPARTMENT:

- **LISA MARTIN** – Hire, Police Records Clerk, Sr. (Part Time), \$9.25 per hour, effective October 5, 2004.
- **DAVID ALLEN** – Suspension (3 days without pay), Police Officer, effective October 8-10, 2004.
- **JANICE M. BRAUCH** – Resignation, Communications Officer, effective October 15, 2004.

CHATTANOOGA FIRE DEPARTMENT:

- **CHAD YATES** – Family Medical Leave, Senior Firefighter, effective October 5 – December 28, 2004.

PERSONNEL (Continued)

- **STEPHEN MCCALLUM** – Resignation, Senior Firefighter, effective October 29, 2004.
- **CHRISTINE WARREN** – Leave of Absence (without pay), Lieutenant, effective November 19, 2003 – November 19, 2004.

PURCHASES

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

HIWASSEE CONSTRUCTION CO. (Best bid)
R0069187/B0001814

Boring and Digging Services

(Price information available and filed with minute material)

ROAD KARE, LTD. (Only bid)
R076036/B0001895

Sixty-six Preformed Speed Cushions

\$53,391.00

HEARING: CHRISTOPHER GAYNOR

City Attorney Nelson stated that the criminal trial for Christopher Gaynor has been reset for November 1 and his personnel appeal is scheduled before the Council next week. He stated the personnel appeal needs to be postponed until sometime after November.

Councilman Pierce inquired as to whether it is mandatory that the entire Council hear the request; that he might have a meeting out of state and cannot be present.

City Attorney Nelson stated it is not mandatory that all on the Council sit on the panel; that it was his thought it was the agreement of the Council that everyone would sit in on it.

HEARING: CHRISTOPHER GAYNOR (Continued)

Councilman Pierce stated agreements can be broken.

Chairman Benson expressed his thought that everyone needs to be present.

The question was raised as to why the hearings are always scheduled on Mondays. City Attorney Nelson responded that Mondays seem to be the most available date for attorneys.

The hearing for Christopher Gaynor was rescheduled for Thursday, January 13, 2005 beginning at 9 a.m. *An alternate date of January 17, 2005 was also scheduled in the event the January 13 date is not feasible.*

HOLLIE MADISON

Chairman Benson recognized the presence of Hollie Madison who "shadowed" the Clerk of Council (Carol O'Neal) this afternoon to satisfy requirements of a Girl Scouts project. He indicated that Hollie is the daughter of Daisy Madison, Assistant Finance Administrator and City Treasurer, and expressed appreciation for her presence, noting that it was a pleasure getting to know her!

COMMITTEES

Councilman Littlefield stated that the **Legal and Legislative Committee would meet on Tuesday, October 19 at 3 p.m.** to consider the discussion of the ordinance limiting pawn shops and tattoo parlors.

Councilman Hakeem scheduled a meeting of the **Public Works Committee for Tuesday, October 26 at 4 p.m.**

Councilman Franklin stated that the Parks and Recreation Committee would not meet next Tuesday.

RONALD JACOWAY

Ronald Jacoway stated he and members of his family have been citizens of this city for over fifty years and was present today concerning his "dealings" with the police department. He stated his son (Ronald, Jr.) was bitten by a police dog; that these are the kinds of things that happened in the 30's - 50's and there is no reason for a dog to be put on anyone in this city.

RONALD JACOWAY (Continued)

Mr. Jacoway stated that he was not in town this weekend as his brother in Nashville had a heart attack and he was at the VA Hospital with him. He indicated another child had been bitten by a dog even more recently and reiterated there is no reason for a dog to be following a patrolman in the city. He stated that he loves children and is speaking not only for his child but for all children that no dog needs to attack any citizen of this city. He stated the police have too much force; that two police officers should be enough to contain a person and there is no need to use a dog. He stated he did not come tonight to be arrogant or belligerent, only to speak about the things happening in our community; that this is happening in East Lake, Avondale, East Side and other predominantly black neighborhoods. He stated this is happening and those of us here in the city must be concerned and this Council has to be concerned. He stated sooner or later this will happen to someone else's child while lying on the ground handcuffed. He stated he does not know where it will "hit", how or who; that change has to be made and he was present to express his opinion on that.

Councilman Franklin stated that it is his thought all on the Council are aware of this and he was made aware of the incident less than 48 hours ago. He expressed concern about the matter as this is not the first one and assured Mr. Jacoway the Council would do their best to look into the matter; that it would be turned over to Internal Affairs of the police department. He expressed appreciation to him for bringing the matter to the Council's attention and indicated matters of this nature should not happen, especially when it is unwarranted. He stated that he did not know the circumstances and knows Chief Cooke is in the audience and has heard what has been stated. He asked that Mr. Jacoway speak with him (Cooke) after the meeting, reiterating that the Council would be looking into the details and how the matter can be rectified.

Councilwoman Robinson stated when the city's canines are involved in any kind of contact with an arrest a special report is made of it, inquiring as to what the report is called.

City Attorney Nelson stated that a Use of Force report is filed after each incident like that.

Councilwoman Robinson asked if someone reviews them to make sure we do not have a rash of unintended injuries.

City Attorney Nelson stated that he presumes that that is why they are filed; that the police department would have to be asked that question.

RONALD JACOWAY (Continued)

Councilman Pierce inquired as to when the incident occurred.

Mr. Jacoway stated that it happened in front of his home at 2117 Duncan in Highland Park.

Councilman Pierce asked Councilman Hakeem if he was aware this happened within his district. Councilman Hakeem responded "no".

Councilman Pierce stated the Use of Force report the City Attorney referred to is rarely reviewed by the public or press and gives more details into what actually happened, however, not in this instance but in most instances when a force of this nature occurs. He asked Chief Cooke if he was aware of the incident.

Chief Cooke stated that he was aware of the incident by word of mouth and has not seen any reports. He stated the Use of Force report is forwarded to Internal Affairs and also to the training division for possible review. He stated after that if the complainant makes a complaint it is looked into and involves the entire, detailed complaint. He reiterated that Use of Force report documents are turned in and reviewed by Internal Affairs and the training division.

Councilman Pierce stated when incidents of this nature happen and a person asks to see the police report, would he also be given this Use of Force report.

Chief Cooke responded "no"; that it depends upon what the person is asking for and how they ask. He stated if they ask for a report on a certain incident they will get the incident report. He stated if they ask for an arrest report they will get an arrest report and if they ask for a use of force report or other type report they may get it, reiterating that it depends upon what is being asked for and the answer that will be given.

Councilman Pierce asked the age of Mr. Jacoway's son. Ronald Jacoway, Jr. responded that he was 25.

Councilman Pierce openly stated that he does not know the reason why the police were at the Jacoway's; that he knows in his community how he would react if this involved drugs. He stated he is sorry it happened and is not supporting it, but still wonders whether it was drugs or not; that it is his thought the police feel justified in using that type force at the house. He stated there are too many instances in our neighborhoods that the first thing we want to do is look at a person's background and record. He stated a person should not be charged on their background, they should be charged on what was done at that time and move forward.

RONALD JACOWAY (Continued)

Councilman Pierce stated it is his thought the police look for justification in doing a lot of things of this nature and does not know if the Council wants to ask Chief Cooke to bring a report back in regard to this incident. He stated he is certain an ongoing investigation by Internal Affairs will occur and he would like to get to the "bottom" of this case. He expressed that he does not think it is necessary to use the dogs the way we use them in our neighborhoods, whether black or white (neighborhoods); that we are human beings, whether selling drugs or selling clear water. He stated we are human being and should be treated as such.

Mr. Jacoway stated the last child bitten was in a parking lot and was fourteen years old. He stated if his son's arm had been bitten any deeper it would have gone toward the vein and he would be dead! He stated they stayed out there two hours after calling an ambulance, indicating that the Council could imagine the type of language he used to make them do certain things, which is not in his character. He stated if the bite had been in the vein his son would have bled to death and that is what he is concerned about.

Councilman Littlefield asked Chief Cooke how many canine units the department has.

Chief Cooke responded there are approximately six units patrolling the entire city.

Councilman Littlefield stated that he thought that to be interesting; that he saw a situation involving another young man where a bunch of young men were in a stolen car.

Chief Cooke stated the department might have seven canine units; that one is strictly used as a bomb unit dog and is not aggressive.

Councilman Lively indicated that he is hearing there have been two cases involving police canines and cannot remember this happening any time prior.

Councilman Hakeem stated that he indicated to Councilman Pierce earlier that the location of this incident is in his district however, it is his thought it is on the border with Councilman Taylor. He stated that he joins with the other Council members in wanting to follow this and asked the Chief to get back with the Council when it is appropriate regarding the results of the investigation. Chief Cooke responded that he would get back with the Council members.

RONALD JACOWAY (Continued)

At this time there was brief discussion as to whether the results of matter should be reported in Safety Committee or before the full Council.

Councilman Lively suggested that the matter come before the full Council and indicated his thought that the Council is getting into administrative matters. He stated that he heard about a dog attacking an individual who was attempting to attack a policeman with a wrench and does not know whether this is the incident or not. He stated the Council needs to get with the police department and allow them to report everything before going on a "crusade".

Chairman Benson asked Councilman Lively if he would like to have the matter discussed in Safety Committee.

Councilman Lively responded that it would be much better to hear from the police department, first; that he does not want to "crucify" them.

Councilman Pierce stated that he would like to ask for a report to the Council.

Councilman Lively scheduled a meeting of the Safety Committee for Tuesday, October 26 following the meeting of the Legal and Legislative Committee.

Chief Cooke stated that he might not be the appropriate person to come to the meeting and indicated he would make sure Chief Parks is aware of it.

Mr. Jacoway clarified that his son did not have a wrench; that he was at his home "parked".

Chief Cooke stated that he is not certain if Mr. Jacoway has filed a complaint with Internal Affairs and indicated that it would take longer than two weeks to appear before Committee, clarifying that it would be detrimental to talk about certain matters publicly if under investigation. He asked Mr. Jacoway if he has filed a report with Internal Affairs.

Mr. Jacoway responded that he was in the process of doing that.

Councilman Lively stated that he would prefer that the investigation "run its course" before asking for a committee meeting; that he would prefer to wait until an investigation has been conducted.

RONALD JACOWAY (Continued)

Chief Cooke stated the preference would be to meet with each Council person in a private setting one-on-one where certain things could be explained. He stated to discuss the matter in a public forum would not be appropriate.

Councilman Franklin stated in listening to what Chief Cooke has stated and the information from the Jacoways, it is his thought it may be premature in having a committee meeting as it relates to the complaint and evidence that would be presented from Internal Affairs. He stated there are other ways to deal with the matter without having a Safety Committee meeting to follow where they are in the case. He stated time should be given to allow Mr. Jacoway to file a complaint through Internal Affairs and then once that has taken place, follow up on that.

Councilman Pierce stated that it is his thought a complaint has been filed right here with the Council and does not see why we could not order an internal affairs investigation rather than having Mr. Jacoway go file another complaint. He stated that the Council would like to review the full circumstances around what has happened and what is the difference if a complaint has been publicly made.

City Attorney Nelson stated when a complaint is filed with Internal Affairs all the facts are given; that what has come out tonight might not be the things they are looking for and it is important that Internal Affairs talk with these folks.

Councilman Pierce stated the purpose of Internal Affairs is to talk and he has no problem with Internal Affairs finding this young man to talk to; that if he (Jacoway) does file a report he can but he does not have to; that it is his (Jacoway's) choice.

Councilman Hakeem stated that it is his hope Chief Cooke does not have the perception that City Council members are on a "witch hunt"; that there are times citizens bring concerns to the Council as legislators and it is his thought the Council is bound to ask questions and seek answers. He stated it may not be what the complainant wants to hear as far as an answer is concerned however the Council strives to seek answers. He stated that he wanted to reiterate what the Council is trying to do is have balance, assuring Chief Cooke that the Council is just asking questions and seeking answers.

Chief Cooke stated that he has no problem with that. He stated to start an Internal Affairs investigation the department normally asks the complainant to come down and submit a written complaint.

RONALD JACOWAY (Continued)

Chief Cooke stated after the complaint is submitted it gives the investigators time to read what is being said and start compiling other information and evidence to support or not support what has been put on paper. He stated what can be done to fast tract the matter is contact to Internal Affairs, instead of waiting on them to contact Mr. Jacoway; that the key is whether Mr. Jacoway can do it tonight or first thing in the morning. He stated the key is taking thirty minutes and writing out a statement and if he does that it will start the process. He stated he would have Internal Affairs make contact in the morning to secure Mr. Jacoway's statement and then start from there.

Chairman Benson expressed hope that after thirty days if Mr. Jacoway is unsatisfied he could feel free to come back before the Council if he wishes.

COVENANT COLLEGE STUDENTS

Chairman Benson recognized the presence of students form Covenant College and expressed appreciation for their presence.

DISTRICT 2 RESIDENTS

Councilman Lively recognized the presence of two gentlemen who were present, "Chuck" O'Mary and Don Schwartz, who manages six radio stations around the area. He expressed that he was happy to see both of them in attendance tonight.

ADJOURNMENT

On motion of Councilman Littlefield, seconded by Councilman Lively, Chairman Benson adjourned the meeting of the Chattanooga Council until Tuesday, October 19, 2004 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)**