

**City Council Building
Chattanooga, Tennessee
April 26, 2005
6:00 P.M.**

Chairman Robinson called the meeting of the Chattanooga City Council to order with Councilmen Bennett, Benson, Franklin, Hakeem Page, Pierce, Rico, and Rutherford present. City Attorney Randall Nelson, Management Analyst Randy Burns, and Shirley Crownover, Assistant Clerk to the Council, were also present.

**PLEDGE OF ALLEGIANCE
INVOCATION**

The Pledge of Allegiance was led by Councilman Page, followed by invocation.

ZONING ORD. AMEND.

On motion of Councilman Page, seconded by Councilman Pierce,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS
AMENDED, KNOWN AS THE ZONING ORDINANCE, BY
DELETING ARTICLE VI, SECTION 109, RELATIVE TO THE
NON-CONFORMING PLAN EXCEPTION**
passed second and final reading and was signed in open meeting.

REZONING

2005-035 (Priscilla Johnson)

On motion of Councilman Benson, seconded by Councilman Rico,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS
AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS
TO REZONE A TRACT OF LAND LOCATED AT 8494 EAST
BRAINERD ROAD, MORE PARTICULARLY DESCRIBED
HEREIN, FROM R-1 RESIDENTIAL ZONE AND R-5
RESIDENTIAL ZONE TO O-1 OFFICE ZONE, SUBJECT TO
CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

REZONING

2005-039 (Ken DeFoor)

On motion of Councilman Benson, 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 7440
GOODWIN ROAD, MORE PARTICULARLY DESCRIBED
HEREIN, FROM C-5 NEIGHBORHOOD COMMERCIAL ZONE
TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO
CERTAIN CONDITIONS**

passed second and final reading and was signed in open meeting.

CLOSE & ABANDON

MR-2004-236 (Joe V. Williams, II)

Mr. Jerry Pace, Director of Development Services with RPA, explained that this case was deferred for 90 days; that we did have new members of the Council who had not heard the first discussion. He explained that this was the alley between 25th and 26th Streets in the South Broad area; that the property is currently vacant on either side of the alley with one tract being M-1 and the other C-2. This comes with a recommendation for approval by both Planning, Staff, and the City Engineer. He noted that this was heard earlier in committee.

Councilman Hakeem stated that this was discussed in the Public Works committee and after adequate discussion it comes to the Council without a recommendation.

Mr. Pace noted that the applicant has made application for the property that is zoned M-1 to become M-3, which is a condition for closure.

The applicant, **Mr. Williams**, went over the order of procedures, stating that Public Works met with him, and their concern was the use, and they wanted a site plan and contract, and the Council gave him 90 days to get this; that he had two prospects but did not have a site plan; that he had made one offer for a contract and did not hear back from the party.

CLOSURE (CONT'D)

Mr. Williams stated that he had gone through the hurdles and had three interested in buying the property, one being a very well known homebuilder; the other group is a grocery store; and the third one a strip developer from Knoxville. He reiterated that he did not have a site plan.

He went on to say that his reasoning for this closure was that the alley is surrounded by property that he controls, and he needed to be able to control the alley. He stated that he had not talked to the City Attorney but was willing to keep the alley open and use it as an entrance and exit for a strip development. He mentioned a utility sewer easement for the buildings in the front and stated that the Water Co. has no problem with this. He mentioned that one developer had planned to put his development facing Broad and would have parking in the C-2 zoned area.

Mr. Williams stated that he respectively needed more time and was asking for a continuance of 30 days.

Ms. Ann Weeks, President of the South Broad Development Group, spoke in opposition. She mentioned that she owned a company here and that the Rug Rack and her company used this alley—that the alley is being used. She went on to say that Mr. Williams had not shown due diligence for the M-3 zoning; that he was supposed to have met with the South Broad Development Group, and this has not been done; also there had been no meeting with the Design Studio. She stated that they wanted the best and proper use of this land and did not see any reason to abandon this alley; that once it was closed, it would be hard to open it up again.

Councilwoman Rutherford stated that she would like for Mr. Williams to explain why he needs this alley to be abandoned.

Mr. Williams responded that the property would accommodate a 20,000 sq. ft. building on one parcel and a 21,000 sq. ft. building on the other parcel; that parking would be place in either the C-1 or C-2 zone; that the idea would be for the building to be near the alley, crossing over onto the other property. He mentioned that he had worked for an owner at Northgate with such a thoroughfare open and that it had hampered business; that if the alley is left open it could become a dangerous situation and would not be safe.

CLOSURE (CONT'D)

Mr. Williams stated that as to Ms. Weeks' indication that he should have met with her group that he was not aware that he was supposed to meet with them; that he delivered an offer to her, and she did not respond; that he could not negotiate if they were not willing to negotiate.

Ms. Weeks stated that one thing she did not mention earlier—that they were in the middle of a zoning study; that until there is some real development on this site, their group did not feel the need to be closing anything.

Councilman Benson stated that he thought this was more speculative now than it was at the first; that he was hesitant about rezoning a “pig in a poke”; that he was not certain that 30 days would be enough time to get out of this speculative arena; that he would make the motion that it be 90 to 180 days.

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE CLOSING AND ABANDONING AN OPENED ALLEY LOCATED BETWEEN THE 300 BLOCKS OF WEST 25TH STREET AND WEST 26TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was denied.

SPECIAL POLICEMAN APPOINTMENT

On motion of Councilman Page, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE APPOINTMENT OF JUDY A. SMITH AS SPECIAL POLICEMAN (ARMED) FOR THE CHATTANOOGA POLICE DEPARTMENT, TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS
was adopted with Councilman Pierce voting “no”.

FINAL PUD

2004-121 (BARRY A. PAYNE)

On motion of Councilman Benson, seconded by Councilman Franklin,
**A RESOLUTION APPROVING A PROPOSED FINAL PLANNED
UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A
PLANNED UNIT DEVELOPMENT KNOWN AS KIRKMAN
ROAD PAYNE PLANNED UNIT DEVELOPMENT ON TRACTS
OF LAND LOCATED AT 2817 AND 2827 KIRKMAN ROAD,
MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN
ON THE FINAL PLANNED UNIT DEVELOPMENT PLAN
ATTACHED HERETON AND MADE A PART HEREOF BY
REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
was adopted.

FINAL PUD

2004-170 (WATERHAVEN DEVELOPMENT PARTNERSHIP)

On motion of Councilman Hakeem, seconded by Councilwoman
Rutherford,
**A RESOLUTION APPROVING A PROPOSED FINAL PLANNED
UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A
PLANNED UNIT DEVELOPMENT KNOWN AS WATERHAVEN
PLANNED UNIT DEVELOPMENT ON A TRACT OF LAND
LOCATED AT 2869 HARRISON PIKE, MORE PARTICULARLY
DESCRIBED HEREIN AND AS SHOWN ON THE FINAL
PLANNED UNIT DEVELOPMENT PLAN ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO
CERTAIN CONDITIONS**
was adopted.

Councilman Franklin noted that this developer had been in contact
with neighborhood associations and had made a sizeable
investment, which had been excellent so far; that he had gone
through the necessary hoops.

ROW & EASEMENT PUR.

Councilman Hakeem stated that Resolutions (d) thru (h) were discussed in the Public Works Committee and come with a recommendation for approval.

On motion of Councilman Hakeem, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FROM VIRGIL RAYMOND CATLETT, III AND RUTH ANN H. CATLETT AT 2111 HAMILL ROAD, PARCEL NO. 110J-A-013, TRACT NO. A-13, RELATIVE TO THE HAMILL ROAD WIDENING AT HIGHWAY 153 PROJECT, CONTRACT NO. E-02-008, FOR AN AMOUNT NOT TO EXCEED TWENTY THOUSAND THIRTY-TWO DOLLARS (\$20,032.00)

was adopted.

**PERMANENT SEWER
EASEMENT PURCHASE**

On motion of Councilman Benson, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE PURCHASE OF A PERMANENT SANITARY SEWER EASEMENT FROM RICH, LLC AT 6960 LEE HIGHWAY, PARCEL NO. 148D-H-011, TRACT NO. 67, RELATIVE TO THE SHALLOWFORD ROAD SEWER RELOCATION PROJECT, CONTRACT NO. W-03-004, FOR AN AMOUNT NOT TO EXCEED NINE THOUSAND SIX HUNDRED THIRTY DOLLARS (\$9,630.00)

was adopted.

CONTRACT C.O.

On motion of Councilwoman Rutherford, seconded by Councilman Hakeem,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 3 (FINAL), RELATIVE TO THE MOCCASIN BEND WASTEWATER TREATMENT PLANT FILTER PRESS SYSTEM INSTALLATION, CONTRACT NO. 28L, WITH JAKE MARSHALL, LLC, WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY NINE THOUSAND SIX HUNDRED SEVENTY-FOUR AND 04/100 DOLLARS (\$9,674.04), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED SIX MILLION FIVE HUNDRED FIFTY-THREE THOUSAND SIX HUNDRED FIFTY-THREE AND 04/100 DOLLARS (\$6,553,653.04)

was adopted.

AGREEMENT

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH SL KING & ASSOCIATES, INC., RELATIVE TO CONTRACT NO. S-05-001-101, PRIVATE DETENTION POND INSPECTIONS, IN AN AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000.00)
was adopted.

TEMP ROW USAGE

On motion of Councilman Franklin, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING CHATTANOOGA CHRISTIAN ASSEMBLY CHURCH TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY ON 8100 BREMERWOOD DRIVE FOR PARKING, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

CONTRACT

Councilman Franklin noted that Resolutions (i) thru (k) came before the Parks, Recreation, Arts & Culture Committee and come with a recommendation for approval.

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A CONTRACT WITH COMPETITION ATHLETIC SURFACES FOR THE RESURFACING OF BRAINERD AND CHAMPIONS TENNIS CLUB IN AN AMOUNT NOT TO EXCEED FORTY-FOUR THOUSAND FIVE HUNDRED FORTY-FOUR DOLLARS (\$44,544.00)
was adopted.

LEASE AGREEMENT

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,

A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO EXECUTE A LEASE AGREEMENT WITH FRIENDS OF THE FESTIVAL FOR THE PERIOD OF JUNE 1, 2005 THROUGH JUNE 25, 2005, RELATIVE TO RIVERBEND FESTIVAL 2005

was adopted.

DONATION OF VAN

On motion of Councilman Franklin, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PARKS, RECREATION, ARTS & CULTURE TO ACCEPT THE DONATION OF A HANDICAP-ACCESSIBLE VAN FROM ALEXIAN BROTHERS COMMUNITY SERVICES

was adopted.

PROPERTY PURS.
HUDSON COMPANY

After the Resolutions were read, Councilman Benson stated that he understood that the Hudson Company Resolution was to come before the Council tonight. He asked Mr. Hudson, who was in the audience, if that was his understanding, and it was.

Councilman Page stated that even though it was on next week's agenda, he would move that it be brought forth tonight.

Councilman Benson stated that Mr. Pfitzer had asked for it to be on tonight's agenda; that it is only for the transfer of the property to the City and is to be done in phases.

Councilman Pierce seconded the motion made by Councilman Page to bring this forth tonight.

HUDSON CO. (CONT'D)

Assistant Clerk, Shirley Crownover, read the Resolution that was presented to her; Attorney Nelson, however, stated that this was not the correct Resolution and read from the body of the Resolution that should be acted on tonight.

Councilman Benson asked Mr. Hudson to come forward and give us an understanding of what he thought was to be acted on tonight. Councilman Benson stated that he thought at the end of the Legal and Legislative Committee that we accepted the property from EPB, subject to conditions and deed restrictions, and it would be sold from us to Mr. Hudson.

Mr. Hudson stated that he understood the action to be a transfer of the property to the City from EBP and then it would be sold to his company.

On motion of Councilman Benson, seconded by Councilman Pierce,
**A RESOLUTION TO ACCEPT THE PROPOSAL OF HUDSON
COMPANY TO PURCHASE REAL PROPERTY LOCATED NEAR
THE INTERSECTION OF FRAZIER AVENUE AND TREMONT
STREET, TAX MAP NOS. 135E-3-01100 AND 01101,
SUBJECT TO NEGOTIATIONS BY THE MAYOR OF A
SATISFACTORY AGREEMENT AND OTHER CONDITIONS
AND AUTHORIZING THE MAYOR TO EXECUTE ALL
NECESSARY DOCUMENTS FOR TRANSFER OF SAID
PROPERTY**

was adopted.

OVERTIME

Overtime for the week ending April 22, 2005 totaled \$19,119.82.

PERSONNEL

Personnel matters for the various departments are as follows:

PUBLIC WORKS DEPARTMENT:

- ❖ **ERIC T. CROSS**—Suspension of Equipment Operator, 4/18/05 thru 4/21/05.
- ❖ **JESSE THORNTON**—Lateral transfer to Equipment Operator, Sr., Pay Grade 8/11, \$35,080.00, effective 4/20/05.
- ❖ **LABRONE PARIS**—Lateral transfer to Equipment Operator, Sr., Pay Grade 8/6, \$28,391.00, effective 4/27/05.
- ❖ **GEORGE W. DERAMUS**—Lateral transfer to Equipment Operator, Sr., Pay Grade 8/1, \$22,818.00, effective 4/27/05.
- ❖ **PATRICIA E. DARR**—Promotion to Equipment Operator, Sr., Pay Grade 8/1, \$22,818.00, effective 4/27/05.
- ❖ **JERRY MCCULLOUGH**—Hire as Crew Worker, Pay Grade 3/1, \$18,643.00, effective 4/19/05.
- ❖ **ALONZO STRICKLAND**—Suspension of Equipment Operator, 4/22/05 thru 4/28/05.

CHATTANOOGA POLICE DEPARTMENT:

- ❖ **WYNETTA MCLEAN**—Promotion to Communication Officer, Sr., Pay Grade 13/4, \$33,031.00, effective 4/29/05.
- ❖ **JANIE REEVES**—Promotion to Communication Officer, Sr. Pay Grade 13/8, \$39,249.00, effective 4/29/05.
- ❖ **JASON JONES**—Voluntary Demotion to Communication Officer, Pay Grade 11/7, \$34,424.00, effective 4/29/05.

PERSONNEL (CONT'D)

- ❖ **MAX LEE**—Voluntary Demotion to Communication Officer, Pay Grade 11/7, \$34,424.00, effective 4/29/05.
- ❖ **ADAM PATTERSON**—Resignation of Officer, effective 5/01/05.
- ❖ **SHIRLEY B. CURTIS**—Retirement of Police Records Clerk, effective 4/29/05.
- ❖ **TARRANCE D. MEADOWS**—Resignation of Officer, effective 4/28/05.

PURCHASES

On motion of Councilman Franklin, seconded by Councilwoman Rutherford, the following purchase was approved for use by the Public Works Dept.:

MUNICIPAL SALES (Lowest and best bid);
Requisition R0079882/B0002054

Requirements Contract for Chemical Root Cleaning

(See minute material for prices)

On motion of Councilman Hakeem, seconded by Councilman Franklin, the following purchase was approved for use by the Public Works Dept.:

STOWERS MACHINERY CORP. (Only bid received)
Requisition R0079850/B0002127

One (1) Crawler Tractor for Landfill

\$211,198 (Bid total)
125,000 (Less Buy Back)
\$ 86,198

Councilman Hakeem verified that on the first purchase there were 25 bids and only three received back.

HEARING:
STEVE CAMPBELL

Attorney Nelson related that we had rescheduled a hearing for Steve Campbell for May 12th. They were now asking that this date be rescheduled again because the necessary witnesses will be out of town that week.

Councilman Hakeem asked how many times we had put this off and was told a total of five times.

Councilman Pierce inquired as to what the charges against Mr. Campbell were. Chief Cooke explained that it was a termination case in regards to the Kanku Store. Councilman Pierce noted that there was a lawsuit pending in this case, and he thought the attorneys were prolonging this.

Attorney Nelson suggested that after the first or second time that a defendant asks for a rescheduling that we ask them to come in and explain why they need a different time. He stated that he would draft a change to the Council rules in regards to this.

Councilman Pierce asked if the defendant or attorney would need to be present.

Attorney Nelson noted that in this case they said their witnesses would be out of town. He reminded the Council that we do have the power of subpoena if we have to use it.

Councilman Hakeem stated that he would suggest setting this hearing for May 12th; that if the attorney or defendant wants to come in and ask that this be rescheduled then we can afford them this opportunity; that after one or two times, he thought this should be done.

Attorney Nelson reminded the Council that they (Council) had asked that this be rescheduled one time. Councilman Hakeem responded that they had still asked for rescheduling four times. Attorney Nelson noted that we have two meetings before May 12th and that he would draft a change in the rules to be discussed at the Legal and Legislative committee next week.

Councilman Pierce asked what would happen if we just dismissed ourselves from hearing this and let it go to Chancery Court.

HEARING (CONT'D)

Attorney Nelson explained that Chancery Court would have nothing to review unless the Council had first heard this and Chancery Court would send it back to the Council.

Councilman Pierce stated that it was within our rights to come in on May 12th and if they did not show to dismiss this.

Attorney Nelson asked for a motion to have the attorney come in and explain why they need a new time; that they come in on May 3rd and explain why this needs to be put off.

Councilman Benson made the motion to deny this present request for a postponement and to re-affirm the hearing for May 12th; that if the attorney would like to appeal this, he can come to the Council meeting on May 3rd and present their reasoning. This was seconded by Councilman Hakeem.

COMMITTEES

Councilman Benson scheduled a **Legal and Legislative Committee** meeting for **Tuesday, May 3rd at 3:00 P.M.**

Councilman Franklin scheduled a **Parks and Recreation Committee** meeting for **Tuesday, May 3rd at 4:00 P.M.**

Councilman Hakeem scheduled a **Public Works Committee** meeting for **Tuesday, May 10th at 4:00 P.M.**

Chairman Robinson took this opportunity to announce the new chairmen of the various Boards. They are as follows: **Budget & Finance/Personnel Committee—Councilman Page; Economic Development and Planning Committee—Councilwoman Bennett; Public Works Committee—Councilman Hakeem; Safety & Security Committee—Councilwoman Rutherford; Legal and Legislative Committee—Councilman Benson; Parks, Recreation, Arts & Culture Committee—Councilman Franklin; and Health, Education, Human Services & Housing Opportunities Committee—Councilman Rico.**

She thanked Councilpersons for agreeing to serve.

JAMES GILLIAM

James Gilliam was present to let the new Councilmembers know that he would working with all of them and would be calling them.

SHIRLEY DEAKINS

Shirley Deakins was present, stating that she would be brief; that she had managed to get the County's end of the CNE debacle; that Mr. Bennett sent out people and found out information that CNE said her house was inhabitable and CNE had not mentioned what repairs she had done, nor did they report an accurate age. She stated that CNE had deliberately tried to set her up; that the second mortgage was 0% interest, which they did to have leverage and to get her property. She stated that she thought it was appropriate to ask for forgiveness of this loan—that it says "Title Transfer Loan", which is a "crock"; that she had been trying for years to get help—that Councilwoman Rutherford knows this and that Chairman Robinson has seen this. She stated that she wanted to be heard and would like some results; that people need help and CNE should give help.

SUSAN POSS

Ms. Poss, an instructor with the Chattanooga Fitness Center, was present to invite everyone to a celebration on **Monday, May 2nd at 11:30 A.M. to 1:00 P.M.** There will be refreshments and everyone will have an opportunity to take a look and see what they are doing at Warner Park.

VISITORS

Councilman Hakeem stated that he was interested in knowing who the two young people were that were sitting with Chief Coppinger. Chief Coppinger responded that the young lady was his niece, Katy Coppinger. She is a senior at Red Bank High School; that the young man was her boyfriend, who is also a student at Red Bank High School. They are in a government class and needed to attend this meeting. He expressed appreciation to Councilman Hakeem for recognizing them.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga City Council until Tuesday, May 3rd, 2005 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)**