

**CITY COUNCIL BUILDING
CHATTANOOGA, TENNESSEE
June 28, 2005**

Chairman Robinson called the meeting of the Chattanooga City Council to order with Councilmen Bennett, Benson, Hakeem, Franklin, 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 Jack Benson, followed by invocation.

MINUTE APPROVAL

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

REZONING

2005-68 Joseph Chaudhari, LLC

Councilman Hakeem asked Mr. Pace, Director of Development Services with the Regional Planning Agency, to go over the conditions in regards to this rezoning.

Mr. Pace listed the conditions as follows: (1) Only the allowable uses in C-5 with the exception that they can sell beer and gasoline products; (2) A twenty (20') Type B landscape buffer as described in the landscaping requirements of the Chattanooga Landscaping Ordinance along Martin Street; (3) All lighting to be directed away from all residential properties; (4) Dumpster operation only from 8:00 a.m. – 6:00 p.m. and (5) All existing easements being retained.

Councilman Hakeem asked that as far as the applicant's ability to sell liquor, would he have to get these conditions removed? Mr. Pace responded "yes"—in order to sell liquor; however the selling of beer is allowed.

Councilman Pierce asked in the event of the transfer of property if the conditions would continue? Mr. Pace responded "yes"—that the conditions go with the property and not the owner; that to sell liquor, one would have to apply for a liquor license.

REZONING (CONT'D)

Chairman Robinson asked that the opposition speak. Councilman John Taylor came forward. Some discussion ensued as to whether the applicant should speak first and Mr. Pace noted that the applicant was present at the first reading and that this case had been delayed to give the neighborhood that was in opposition an opportunity to speak.

Mr. Taylor thanked the Council for the opportunity to address this fine Council, stating that it felt strange to him to be on this side of the podium. He stated that he was present concerning the zoning before us now from C-5 to C-2, which would allow the applicant to sell beer, as well as gas. He gave the following reasons: (1) The sustainability of another gas station, noting that the traffic count is only 15,000 cars in this area, reiterating that he is worried about the sustainability; (2) Liquor License—People will be drinking beer, and they did not want beer on every corner—that the neighborhood was only able to sustain one station, and we see examples every day where a neighborhood gets a new station, and the other one has to close down; (3) The neighborhood was zoned C-5 and a Study had been applied—that they had gone through the Study and now this applicant was requesting C-2; that there was an opportunity for this neighborhood to have a revitalization, and they would like for this to be given consideration; (4) Behind this proposed Conoco station there will be a neighborhood that is flourishing and noise will be a problem. He asked that the Council give this case serious consideration—that things can help or hurt this community, and they were asking for the Council's consideration in not changing the zoning to C-2.

Mr. Robert Schreane, President of the North Brainerd Neighborhood Association, stated that he had looked at Mr. Chaudhari's stores and thinks he (Mr. Chaudhari) understands what he can and cannot do; that there had been several issues concerning liquor, and he was **not** putting a liquor store there; that this Council often has to make decisions that are not popular; that this corner is a prime location, but it has been vacant for the last few years and often is made to look like a "living room" with old chairs and sofas sitting around where people drink; that this will clean it up with landscaping and a Subway and Pizza place have even been mentioned, which would bring economy to the community. He stated that he was asking the Council to take a strong look at how long this property had been vacant—that the community would appreciate it.

Councilwoman Rutherford stated that she was confused about bringing other things in—like the Subway and Pizza place; that she thought it was limited to beer and gas.

Councilman Hakeem pointed out that C-5 zoning will permit a Subway or Pizza place.

REZONING (CONT'D)

Mr. Pace added that C-5 zoning does not permit gas and beer uses but that it does allow other uses; that in a C-5 Zone beer and gas are not permitted; that we will still have C-5 uses but can also have beer and gasoline uses; that any other uses are not permitted.

Chairman Robinson asked if the applicant had agreed to these conditions.

Mr. Pace explained that we do not have a contract with him, as we cannot “contract zone”.

Chairman Robinson asked if the applicant had any objections to these conditions; at which time Councilman Hakeem proceeded to explain the conditions to the applicant, and Mr. Chaudhari stated that he had no objections, prompting Chairman Robinson to state that we would set these conditions.

Councilman Benson stated that this had been discussed at length at the Planning Commission and that he was very familiar with this case; that when he needed gas, he would travel down Brainerd Road, where there is competition, and he would go with the one that was the cheapest; that going down Wilcox you don't have this option; that he would prefer the competition and thought that the Government should stay out of interfering with free enterprise—that we want cheaper gas and cheaper eggs. He went on to say that he did not think that this would make this area more dangerous and thought it would be safe; that there will be good control, and it won't make beer any easier to get, and he did not see any reason for objecting to this.

Councilwoman Rutherford noted that the Police Department had called she and Councilman Hakeem about discussing problems on Tunnel Blvd—that she tended to think that this has to do with young people and that she did not feel comfortable putting more beer at this intersection. She added that she had never had the Police Dept. contact her about anything like this before.

Councilman Hakeem stated that we did not know yet what this meeting would be about; that the reference had been made in regards to the traffic count and what this intersection could maintain; that he thought Mr. Chaudhari had been through this before and was willing to invest his money; that a Neighborhood Plan dealing with C-5 had been mentioned; that there had not been a Neighborhood Plan since 1991; that this property had sat here for 14 years and now we had an individual willing to invest his money and there seemed to be a problem.

REZONING (CONT'D)

Councilman Hakeem went on to say that Councilman Benson had mentioned free enterprise and he made note of the work and sweat that Dr. King had given, stating that he did not think that Dr. King fought for us to turn someone away that we felt would impact the neighborhood in a negative way in regards to another business; that if we as African-Americans wanted to put a business in a predominantly Caucasian area, would we want to be turned away because we were different; that Dr. King fought for the ability to improve conditions.

Councilman Page stated that he respected Mr. Taylor and that he was his “hero” and when he said anything, he listened seriously; however this corner had been an eyesore, and he could not think it would be bad for the community, and he would speak for approval; that he thought it would be good for the community. **Councilman Hakeem moved that this rezoning be approved, seconded by Councilman Page.**

Before the vote was taken, **Cynthia Stanley-Cash**, with the North Brainerd Neighborhood Association spoke. She stated that she did not want the record to reflect racial concerns; that they were concerned about the possibility of another business moving next door and what the concerns would be and that this was not a racial issue; that she had met with Mr. Chaudhari and his wife and that his wife was a lovely woman. She added that they wanted it in writing that you can’t have a liquor store in C-5.

Mr. Joe Ramsey, Chairman of the Eastdale community, spoke next. He noted that most of the people who were speaking do not live in the Eastdale area and that he had 300 signatures of people who did not want this rezoning accepted; that we already have a car wash on Wilcox Blvd. and no police patrolling it; that this will just be another service station with loud music, which cannot be controlled; that you cannot turn into this section without causing a traffic jam.

Councilwoman Bennett stated that she would like to have the citizens for and against this to stand—that she would like to know the representation. Chairman Robinson asked those for the rezoning to stand (only a few) and those against (a greater number).

Councilman Hakeem stated that Mr. Ramsey represents this neighborhood but that he had received different messages from his conversations and meetings with people in Eastdale and he inferred that his remarks were a reflection of his communication with the people in Eastdale, and he did not see how they could have gotten 300 neighbors to sign a petition based on what the people in the area had told him.

REZONING (CONT'D)

On motion of Councilman Hakeem, seconded by Councilman Page,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 3420 WILCOX BOULEVARD, 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 with Councilwomen Rutherford and Bennett voting “no”.

At this point Councilwoman Rutherford stated that she had to leave to attend a neighborhood meeting and moved that Ordinance 6(d) First Reading, be moved to this part of the agenda. This was seconded by Councilman Pierce.

**AMEND CITY CODE
PARKING**

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND CHATTANOOGA CITY CODE, PART II, CHAPTER 24, SECTION 24-305, RELATIVE TO PARKING
passed first reading.

**CITY ATTORNEY
GREGORY BECK RULING**

Councilman Pierce asked that Attorney Nelson address this issue before Councilwoman Rutherford left.

Attorney Nelson explained that he had intended to bring this up under his City Attorney’s report; that it concerns whether the Council wants to appeal the Chancery Court Decision on Gregory Beck; that there had been some discussion on the part of the Council on whether to appeal this decision or not; that each Council person had been given a copy of the Chancery Court Decision but had not taken a vote. He stated that he was ready to answer any questions that the Council might have but needed to know if he was to go forward with an appeal.

GREG BECK RULING(CONT'D)

Councilman Benson stated that he was inclined to say “we have already let the horse out of the fence”; that he would rather approach this by going to the source of the problem, which is the ambiguity of the meaning of “officer” or “office”; that he would prefer to drop pursuing this in Court and go about correcting the ambiguity in the Code and that he would ask the City Attorney to proceed to work in this fashion in order to avert this same situation in the future; that we had already spent time in Chancery Court and had gotten a ruling. **He moved that we proceed in this fashion without an appeal. This was seconded by Councilman Hakeem.**

There was some question as to Councilman Benson’s motion and Attorney Nelson explained that Councilman Benson wishes not to appeal the Decision of Chancery Court but to proceed with an Ordinance amendment to clarify what is an officer and what is an employee situation and to work with the judges to tighten up the regulations.

Councilman Page stated that he would speak for the motion in favor of a “friendly” amendment to increase our communication with City Judges; that communication with the judges is a Council responsibility.

Councilman Pierce stated that he felt we have a Charter and that the Charter has been violated and that the Judge ruled against the Council; that he did not value all judges’ opinions and would support continuing to appeal this because if we “relax” this part of the Charter, we will “relax” other parts; that if our Charter provides for not having two jobs, and we go ahead with this ruling, then it tells him that we are not standing up for what we are sworn to uphold; that the City Attorney had given us the explanation that we can appeal but not the guarantee that we would win. **Based on this, he voted “no” to the previous motion “not to appeal”. Councilwoman Rutherford also voted “no”. The motion carried not to appeal.**

(COUNCILWOMAN RUTHERFORD LEFT THE MEETING AT THIS POINT.)

REZONING

2005-082 (Michael A. Dowlen)

On motion of Councilman Rico, 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 5506 CASSANDRA SMITH ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-5 RESIDENTIAL ZONE TO R-1 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

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

AMEND CITY CODE
SIGNS

Councilman Benson stated that this has been discussed at many Legal and Legislative Committee meetings and comes with a recommendation for approval.

On motion of Councilman Benson, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND PART II, CHATTANOOGA CITY CODE, CHAPTER 3, ARTICLE I, SECTION 3-19, ARTICLE VII, SECTION 3-71, ARTICLE IX, SECTION 3-92 AND ARTICLE X, SECTION 3-102, RELATIVE TO SIGNS
passed first reading.

CLOSE AND ABANDON

MR-2005-060 (T. Gene Edwards, Inc.)

On motion of Councilman Pierce, seconded by Councilman Franklin,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED ALLEY LOCATED NORTH OF THE 1300 BLOCK OF APPLING 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-2005-065 (Dale M. and Connie C. Smith)

Councilwoman Bennett questioned why the Planning Staff had recommended denial of this and Planning and Public Works had recommended approval.

Mr. Pace explained that the Staff recommended a Temporary Use instead of closure and abandonment.

Councilman Pierce asked Councilwoman Bennett if she understood why the Staff was making this recommendation, and she did not.

Mr. Pace explained that the applicant is operating on the north side and that we might want to extend; that with a Temporary Use, the City is able to retain the right-of-way where as by closure and abandonment, the City loses the right-of-way.

**CLOSE AND ABANDON
(CONT'D)**

Councilman Page questioned whose district this was in, stating that we might want to defer this for a week.

Mr. Pace stated that it was in Councilman Rico's district, near the Krystal and that he was ready to approve this.

Councilman Pierce asked that this be tabled since there was confusion about Temporary Use and Closure and Abandonment; that with due respect, he did not know if Councilman Rico understood the difference.

On motion of Councilman Rico, seconded by Councilman Hakeem,

AN ORDINANCE CLOSING AND ABANDONING THE EASTERN HALF OF THE UNOPENED 3600 BLOCK OF WALTHALL AVENUE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

passed first reading.

CONTRACT

On motion of Councilman Hakeem, seconded by Councilman Franklin,

A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. R-04-003, BUSHTOWN NEIGHBORHOOD ASSOCIATION COMMUNITY CENTER ADDITION, TO EASTMAN CONSTRUCTION FOR A TOTAL AMOUNT NOT TO EXCEED ONE HUNDRED TWENTY THOUSAND DOLLARS (\$120,000.00), INCLUDING A CONTINGENCY AMOUNT OF TWO THOUSAND DOLLARS (\$2,000.00)

was adopted.

EASEMENT PURCHASE

On motion of Councilman Page, seconded by Councilman Hakeem,

A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FROM ARCHIE L. LEDFORD AT 7554 IGOU GAP ROAD, PARCEL NO. 159A-D-002, TRACT NO. 38, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED FIVE HUNDRED FOURTEEN AND 50/100 DOLLARS (\$514.50).

was adopted.

EASEMENT PAYMENT

On motion of Councilman Franklin, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING PAYMENT IN THE AMOUNT OF TWENTY-EIGHT THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$28,750.00) TO CSX TRANSPORTATION, INC. (AGREEMENT NOS. CSX-048915 AND CSX-048022) FOR SECURING AN EASEMENT FOR CONSTRUCTION OF SANITARY SEWERS UNDER CONTRACT NO. 48A, LAKE HILLS INTERCEPTOR SEWER RELOCATION
was adopted.

TEMP. R-O-W USE

On motion of Councilman Hakeem, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING JAMES E. CITY TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 138 MARKET STREET TO INSTALL AN AWNING AT THE FRONT ENTRANCE OF THE BUILDING, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
was adopted.

TRANSFER OF FUNDS

On motion of Councilman Hakeem, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS FROM THE CHATTANOOGA HIGH SCHOOL MEDAL FUND AND THE OCHS-0AKES HIGH SCHOOL MEDAL FUND TO THE HAMILTON COUNTY DEPARTMENT OF EDUCATION TO CONTINUE TO PROVIDE STUDENT MEDALS
was adopted.

CONTRACT

On motion of Councilman Franklin, seconded by Councilman Hakeem,
A RESOLUTION AUTHORIZING THE CITY OF CHATTANOOGA TO ENTER INTO A CONTRACT WITH DEBORAH MADDOX FOR CLERICAL/CONSULTANT SERVICES JANUARY 1, 2005 THROUGH SEPTEMBER 30, 2005 FOR A TOTAL AMOUNT NOT TO EXCEED SIXTEEN THOUSAND DOLLARS (\$16,000.00)
was adopted.

OVERTIME

Overtime for the week ending June 24, 2005 totaled \$89,009.61.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- ❖ **PAUL E. BLACK**—Voluntary Demotion to Crew Worker, Pay Grade 3/9, \$23,856.00, effective 7/6/05.
- ❖ **MARTY D. HAWKINS**—Three-day Suspension without pay for Engineering Designer, effective 6/8/05—6/10/05.
- ❖ **GERALD D. MADDEN**—Hire as Crew Worker, Pay Grade 3/1, \$18,850.00 annually, effective 6/17/05.
- ❖ **JOSHUA L. JONES**—Dismissal of Crew Worker, effective 6/23/05.

CHATTANOOGA FIRE DEPARTMENT:

- ❖ **GARY TAYLOR SPANGLER**—Voluntary Demotion from Firefighter to Building Maintenance Mechanic, Pay Grade 7/4, \$24,788.00 annually, effective 6/21/05.
- ❖ **MICHAEL JASON MOSES**—Transfer to Firefighter, Pay Grade F-1/5, \$32,361.00 annually, effective 6/27/05.

PURCHASES

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

T.T. WILSON (Only bidder)
R0080566

Sand, Cement & Mortar Mix

\$36,000.00

PURCHASES (CONT'D)

VULCAN CONSTRUCTION MATERIALS, LP (Only bid received)
R0082339/B002433

Emulsion

\$20,000.00

KEY-JAMES BRICK & SUPPLY, INC. (Only Bidder)
R0081804/B0002303

Common Brick

\$30,000.00

NORTH AMERICAN SALT (Single Source Purchase)
R008292

Salt for Ice Removal

\$50,000.00

eWorkz (Best bid meeting City Specs.)
R0082811/B0002402

Four (4) Fujitsu Lifebook Tablet Personal Computers

\$9,481.00

BROOKER FORD (Lowest and best bid meeting City's Specs.)
R0070769/B00023134

One (1) Super Duty F-450 Cab & Chassis

\$29,816.65

PURCHASE

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

ADD-RITE BUSINESS SYSTEMS, INC. (Lowest and best bid meeting City's Specs.)
R00822235/B0002384

Lektriver File System

\$59,280.00

PURCHASE

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

LEE-SMITH, INC. (Lowest and best bid meeting City Specs.)
R00082495/B0002405

One (1) Ford F350 Supply Truck

\$32,019.00

PURCHASES

On motion of Councilman Franklin, seconded by Councilman Hakeem, the following purchase was approved for use by the Finance & Administration Department:

COLEMAN TECHNOLOGIES (Single Source Purchase)
R0083466

Cisco Network Security Appliance for IS

\$14,497.10

On motion of Councilman Pierce, seconded by Councilman Franklin, approval is given to reject all bids for a requirements contract **to supply welding gases & supplies for the Fleet Maintenance Division—R0080927/B0002307.**

HEARING: PATRICK WELLES

City Attorney Randall Nelson noted that a Police Hearing was held for **Patrick Welles**, yesterday, June 27, 2005. He asked the Chairman of that hearing to give a report.

Councilman Dan Page acted as chair and reported that he, Councilman Rico and Councilman Pierce participated in this hearing and unanimously voted to uphold and sustain the recommendation for dismissal by the Chattanooga Police Department.

COMMITTEES

Councilman Benson scheduled a meeting of the **Legal and Legislative Committee on Tuesday, July 5, 2005, at 3:00 P.M.** He also at this time recognized Herman Wang, reporter for the Chattanooga Times-Free Press, and welcomed his fiancée, who was also present.

Councilman Franklin scheduled a meeting of the **Parks and Recreation Committee on Tuesday July 12, 2005, at 4:00 P.M.**

Councilman Hakeem scheduled a meeting of the **Public Works Committee on Tuesday, July 5, 2005 at 4:00 P.M.** He stated that one of the items to be discussed is a Pavement Management piece. Mr. Norris added that he would provide each Councilperson with the document pertaining to the meeting next week; that it contains what they should know, and he urged each Councilperson to peruse this before the meeting, even though it is a holiday weekend, so that we can speed things along.

In the absence of Councilwoman Rutherford, Councilman Hakeem noted that a meeting of the **Safety Committee has been scheduled to immediately follow the Legal and Legislative Committee on Tuesday, July 5th.** This will be a presentation of findings of a group of citizens that could lead to better relations between the police department and the community.

SABRINA PALMER

Councilman Pierce stated that he had guests in the audience whom he wished to recognize. They were Mr. **Stanley Thurman** of the Electric Power Board and **Ms. Sabrina Palmer**. Councilman Pierce indicated that Mr. Thurman had told him that Ms. Palmer was interested in government work and wanted to see how it operated. He asked Ms. Palmer to address the Council.

Ms. Palmer stated that she had been in Chattanooga for a month and a half; that she was from Raleigh, North Carolina and was an engineer with the Electric Power Board and wanted to get more involved in City government and affairs.

Councilman Benson asked her where she lived, and she responded in Hixson, prompting Councilman Page to note that this is a good area!

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga City Council until Tuesday, July 5, 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)**

