

**City Council Building
Chattanooga, Tennessee
July 12, 2005
6:00 p.m.**

Chairman Robinson called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Page, Pierce, Rico and Rutherford present; Councilman Hakeem was 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, Barry Bennett, Executive Director of the Regional Planning Agency, gave invocation.

MINUTE APPROVAL

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

REZONING

2005-058: Sandra K. Miller

Pursuant to notice of public hearing, the request of Sandra K. Miller to rezone a tract of land located at 217 Tremont Street came on to be heard.

The applicant was present; opposition was in attendance.

Chairman Robinson stated Councilwoman Rutherford asked that this matter be moved to the front of the agenda. She stated that the applicant's husband is ill and she needs to return to him, thus the request to move the matter forward.

REZONING (Continued)

Jerry Pace, Director of Development Services with the Regional Planning Agency (RPA), stated that this request is located in the North Chattanooga area for a proposed spa and tea room. He stated the surrounding zoning is R-3, C-5 and C-7. A copy of the site plan was displayed showing the existing structure and proposed parking. He stated there are other commercial and office uses including the Gil and Curt Florist, Aretha Frankenstein's Restaurant, the Plum Nelly Shop and a beauty shop to name a few. He stated Staff made the recommendation to deny as other C-5 properties are planned and Planning made the recommendation to approve with the condition the Traffic Engineer give approval for parking for ingress and egress to the location.

Councilman Benson stated that it was his thought there was another condition and asked to see the site plan. He asked if the residential context would be changed.

Mr. Pace read the conditions listed in the ordinance: *"Approval of their parking by the City Traffic Engineer; the proposed use only; and all existing easements being retained"*.

Councilman Benson stated that he thought there was something else and that he might be wrong; that he thought there was something about keeping the residential nature of the building. He asked if Mr. Pace has seen the new site plan, whether this would be new construction or what.

Mr. Pace stated that the applicant would use the existing structure, which is not a condition. He stated the conditions listed are proper if the City Attorney agrees; that a condition could be added to use the existing structure or defer the matter until a better site plan is submitted. He stated he would abide by whatever the Council wishes to act on.

Councilman Benson inquired as to the district in which this is located.

Chairman Robinson stated this request is in an area where the updated north shore plan is being requested almost immediately. She stated she would be meeting tomorrow to outline the footprint for the updated north shore plan with boundaries from the Veterans Bridge on the east, all the way including Moccasin Bend to the west and along the Tennessee Riverbank and the extension of the Riverpark anticipated on the south that extends into North Chattanooga.

REZONING (Continued)

Chairman Robinson stated the plan she and Councilwoman Bennett would be working on in the next coming week is going to be one that will encourage retail and commercial growth to occur along North Market Street and out Cherokee Boulevard, as well as down Manufacturer's Road that would allow almost a "safety valve" for the kinds of growth that seems to want to come into the Frazier Avenue area. She stated one of the tenants is going to be providing a place for commercial and retail to grow so it does not creep into the neighborhood. She stated this particular area is residential and there are many homes and residents in there that have lived in the R-3 zone for thirty-to-forty years and there is a concern that if we go too far off Frazier up onto Tremont with continuing rezonings and growth into the neighborhood area it will upset that residential balance and it would not be long there would be a zone in the middle of the block that could quickly become shops or stores.

Councilwoman Bennett stated she and Chairman Robinson share District 1 and share some of the concerns. She reiterated there are planned meetings scheduled for the next coming months and she was not sure whether this matter should be deferred until then. She stated this may be a "good fit", but since the study has not been completed she is concerned; that some others have several requests on all streets we have determined in terms of commercial, which would be her concern. She stated since they are so close to actually conducting the study, deferral at this time would be appropriate.

Chairman Robinson stated in examining the existing plan this actually does not fit in with what we have now; however, that is not to say as we go forward with community meetings that they hope to host in September and October on the same order as the plans in the past in Chattanooga that made some of the great plans that have resulted in the public art plan and the downtown development of the riverfront to get public input. She stated it is hoped an update of the north shore plan will bring people from all over Chattanooga to help us; that the new Renaissance Park and Moccasin Bend National Park and the golf course are great opportunities for commercial and retail in the area previously mentioned. She stated it is true this is not in conformity with the plan we now have.

Councilman Benson stated this is still speculative as he has not seen the plan. Mr. Pace stated there is nothing in the RPA regulations that has any description of what a site plan should incur. He stated what was displayed was what was presented and shown and the Planning Commission approved it.

REZONING (Continued)

Mr. Pace stated that he met with Councilwomen Bennett and Robinson and photos were shown at the Planning meeting for this to be used as a day spa and tea room. He stated he does not know if that is considered speculative, but that is exactly what it would be used for.

Sandra Miller, applicant, stated that she did bring a site plan to the Regional Planning Agency and indicated that she has no intention of changing the structure at all; that it would continue to look like a house. She stated she does not plan to reconstruct the house at all, but plans to paint it and make it look nice. She stated she was asked to get a report from the Traffic Engineer and she did and the drawing is what he recommended and approved with off road parking for C-5.

Neal Messler stated that he lives on Tremont and has been a resident and property owner there for ten years. He stated this is a piece of property that is in the midst of other commercial-type zoning, but at the same time still has a residential look. He stated commercial zoning is continuing to come in and asked when it will stop; that a boundary has to be found as to when enough is enough. He stated on Oliver Street, in the heart of a neighborhood, there is balance and continues to set a precedent. He stated he would like for the Council to consider this wisely and realize what it could possibly bring. He stated Mr. Pace noted that the Staff recommended denial and it is his hope the city takes that to heart.

Bryant Strickland stated that he and his wife own a home on Tremont. He stated the way to raise a family is to keep it as much of a neighborhood as possible; that he thinks it is ridiculous to have more commercial when there are unrented buildings on Frazier and Cherokee. He stated he does not see a need to bring commercial over to Tremont and asked the Council to please deny this request.

Ms. Miller stated in the beginning she was denied the first time because no one understood what they wanted to do with the parking. She stated she is very willing to do whatever the Council wants her to do. She stated there would only be three people working at the location and she is not changing the structure; that it will continue to look like a residence. She stated that she plans to make it pretty as it needs painting and other than that it is not going to be a big business and would not incur any problem; that it would be in keeping with the neighborhood. She stated she would make the building look better and it would help beautify the neighborhood a little more. She stated if there was ever a need for it to be a residence it could be zoned back.

REZONING (Continued)

Councilman Page stated that he realizes two Council persons are closer to this area than he is, however, this does not seem to go with the plan. He stated that he agrees with the opposition that there are some unknowns. At this point he **made the motion to defer the matter until the updated plan is complete; Councilman Benson seconded the motion.**

Councilman Pierce stated that it is his thought the Council is hearing a plea from the neighborhood that they would like to stop the encroachment of business in the neighborhood. He stated he could not see any value in tabling the matter for whatever reason as the neighborhood would feel the same about the business coming in the neighborhood. He stated this would go to a commercial zone and he would not be able to support the motion to table. At this point he **made the motion to deny the matter; Councilwoman Bennett seconded the motion.**

Councilwoman Bennett stated this is spot zoning in the middle of R-3 and this is what she and others have been trying to avoid in the North Chattanooga area.

At this point Councilman Page and Benson withdrew their motion and second to defer.

Councilwoman Rutherford asked Mrs. Miller if she owned the property or if there is a sale pending for rezoning.

Mrs Miller responded that she rents it.

Barry Bennett, Executive Director of the RPA, stated if the study is pending and we do not know what will be recommended for this block, he pointed out that the R-3 zone allows for up to twenty units per acre for apartment development which may not be appropriate. He suggested that the applicant be given an opportunity to withdraw at this time and at such time the plan is complete there might be another zone that would be more appropriate than the C-5. He stated if the matter is denied the applicant could not do anything for nine months.

City Attorney Nelson stated that is what he was going to say. He stated it would be different if the matter is withdrawn as it can come back when we know what the recommendation would be from the area plan. He stated if the matter is denied the applicant can not come back for nine months regardless of what the new area plan is.

REZONING (Continued)

Councilman Benson asked if the applicant understands there is a fee to bring it back; that the fee is pretty steep. City Attorney Nelson stated if it is denied there would be and it could not come back for nine months.

Councilman Benson stated if the matter is deferred would she have to pay the fee. City Attorney Nelson stated that is not the motion; the he does not know if it will pass.

At this point, Councilman Pierce called for the question.

On roll call vote on Councilmen Pierce and Bennett’s motion to deny:

| | |
|-------------------|------------------|
| BENNETT | Yes |
| BENSON | No |
| FRANKLIN | No |
| PAGE | Abstained |
| PIERCE | Yes |
| RICO | No |
| RUTHERFORD | No |
| ROBINSON | Yes |

The motion failed.

At this point, Councilmen Benson and Rutherford made the motion to defer the matter until November 8, after the updated plan comes in.

On motion of Councilman Benson, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 217 TREMONT STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was deferred until November 8; Councilman Pierce abstained.

REZONING

2005-033: Chattanooga Neighborhood Enterprise

Mr. Pace stated that the Clerk of Council had been notified by the applicant that this matter should be tabled an additional week.

On motion of Councilman Franklin, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 1902, 1904 AND 1910 ROSSVILLE AVENUE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-3 RESIDENTIAL ZONE AND M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS
was tabled until July 19 at the request of the applicant.

CLOSE AND ABANDON

MR-2005-075: C. L. Gilbert, Jr.

On motion of Councilman Pierce, seconded by Councilwoman Rutherford,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 7500 BLOCK OF PLYMOUTH LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2005-076: C. L. Gilbert, Jr.

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
AN ORDINANCE CLOSING AND ABANDONING A PORTION OF THE 7500 BLOCK OF HEWITT LANE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS
passed second and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

Chairman Robinson declared a public hearing in progress and asked persons wishing to speak for or against this ordinance to come forward; being none, the hearing was duly closed.

On motion of Councilman Benson, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 400, R-4 SPECIAL ZONE TO ADD REGULATIONS ENTITLED "MIXED USE OVERLAY ZONE (MXU-OZ)" FOR THE PURPOSE OF CREATING MIXED USE SUBURBAN DEVELOPMENTS
passed first reading.

NEIGHBORHOOD GRANTS

On motion of Councilwoman Rutherford, seconded by Councilman Franklin,
AN ORDINANCE ALLOCATING PREVIOUSLY APPROPRIATED GENERAL FUNDS RELATIVE TO THE AWARD OF 2005 NEIGHBORHOOD GRANTS
passed first reading.

REZONING

2005-081: Daniel Mitchell Beene

Pursuant to notice of public hearing, the request of Daniel Mitchell Beene to rezone a tract of land located at 5951 Highway 153 came on to be heard.

The applicant was present; there was no opposition.

Mr. Pace stated this request for C-2 is located in the area along 153; that it is currently zoned R-4 with R-1 to the west and R-4 and C-2 to the south, R-5 and C-2 to the north. He stated there is an insurance company currently on the property and the request is for a boat display for the sale of cycle boats. He stated Planning recommends approval subject to the condition there would be only two units on the property displayed at one time and that it could be used for the proposed use only. He stated the Staff recommended denial of the request.

REZONING (Continued)

Mitchell Beene stated that he owns the Allstate agency that is currently on the site and that everything up 153 is pretty much going commercial. He stated he has known Mr. Polk personally for many years and that he (Polk) approached him about renting the space below his office, which has a glass storefront, as a small sales office for his boat dealership. He stated this would fit extremely well with his office and distributed a brochure of the boats which are powered by pedals and is environmentally friendly. He stated Mr. Polk would like to showcase all five models and that he plans to remove a tree in the middle of the property as it blocks his sign and would allow more room for displaying the boats. He stated there would be no problem with traffic because of the way he runs his business and noted that the boats are very attractive. He asked the Council to approve the C-2 to allow the Polks to showcase all their models if at all possible.

Councilman Page stated that there is a business there and Planning did a good thing when they restricted it to use as indicated for two boats only. He asked if two-to-five boats is something Mr. Beene is supportive of.

Mr. Beene responded "yes"; that after talking with the Polks they made the point that they would be more or less limiting their inventory by displaying only two; that they would like to display all five boats. He stated the boats are 70 inches wide and thirteen feet long and the other two are even smaller than that in length; that these are not large boats. He stated the man next door is a seasonal dweller, there is an older lady in the R-4 across from this which is more of an abandoned property and farther up the street is a mobile home. He stated these boats make no noise; Mr. Polk just wants to display his inventory.

Councilman Page stated that the restriction protects the integrity of the community plan and made the motion to approve the matter on first reading to include the display of five boats; Councilman Franklin seconded the motion.

On motion of Councilman Page, 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 5951 HIGHWAY 153, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-085: LDG Construction Inc.

Pursuant to notice of public hearing, the request of LDG Construction Inc. to rezone tracts of land located at 2711 and 2715 Woodside Drive came on to be heard.

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

Mr. Pace stated this request is located in the East Lake area for R-2 rezoning. He stated this is a case that generated questions some months ago when the applicant received a building permit prior to downzoning and due to certain circumstances was unable to get the project completed or underway before the building permit expired. He stated the applicant tried to build around an extension of the permit through the Appeals Board for construction which was denied; that the only other avenue was to request rezoning of the site. He stated the Rossville Boulevard and East Lake areas were downzoned to R-2 and that is why the property is now R-1 and caught in this dilemma. He stated the Staff recommends denial based on the downzoning study and Planning recommends approval for duplex zoning on the two parcels.

Councilman Franklin stated during this process he has had a conversation with Councilman Hakeem who is agreement with this moving forward. He stated Councilman Hakeem is out of the city and asked that the matter be approved on first reading indicating that he (Hakeem) would contact the applicant prior to second reading for any questions he might have about the circumstances of the rezoning request.

On motion of Councilman Franklin, 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 2711 AND 2715 WOODSIDE DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-087: Habitat for Humanity

Pursuant to notice of public hearing, the request of Habitat for Humanity to rezone tracts of land located at 5720 and 5730 Talladega Drive came on to be heard.

Mr. Pace stated this request is located in the Shepherd community near the airport and is currently zoned M-1. He stated there is R-2 to the north and east of the property and the subdivision plat includes the road off Talladega with seven lots of single family residential. He stated the property is currently vacant is recommended for approval from Staff and Planning.

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 5720 AND 5730 TALLADEGA DRIVE, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO R-1 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-090: Deane H. Parker

Pursuant to notice of public hearing, the request of Dean H. Parker to rezone a tract of land located at 613 Merriam Street came on to be heard.

The applicant was not present.

Mr. Pace stated this request is located in the North Chattanooga community and the two streets included with this (Chambliss and Merriam Streets) do not connect; that Chambliss is below grade from Merriam and there is a difference in elevation. He stated the property has a single family residence on it and other single family residences to the south on the same side; that it is directly across from an R-3 development. He stated Staff and Planning made the recommendation to deny the request as it is considered a spot zone and it was felt this would encourage other people in the area to request rezoning to R-3. He stated this is an area that was downzoned a few years ago to protect the neighborhood.

REZONING (Continued)

Councilwoman Bennett expressed support for the recommendation of denial as this community was downzoned and there is a land use plan. She stated that she spoke with the applicant a few days ago.

Councilman Pierce inquired as to the difference in this request and the other requesting to go from R-1 to R-2; that the Council is approving one and denying the other.

Mr. Pace stated that the Staff made the recommendation to deny both and Planning recommended approval of the one in the other area.

Councilman Pierce asked how both could be justified and not raise questions on the second one.

Councilman Franklin stated in the rezoning involving the young man with LDG Inc. construction had already started before the downzoning and the applicant had a hardship. He stated the applicant was very ill and was not able to go on with the project and during that time the downzoning occurred. He stated that he got behind due to illness.

On motion of Councilwoman Bennett, 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 613 MERRIAM STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-2 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was denied.

REZONING

2005-091: Windsor/Aughtry Company, Inc. – Russell Smart

Pursuant to notice of public hearing, the request of Windsor/Aughtry Company, Inc. – Russell Smart to rezone a tract of land located at 107 Walnut Street came on to be heard.

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

REZONING (Continued)

Mr. Pace stated this request is located downtown near the Walnut Street Bridge, noting there is C-3 to the north and west along with R-4 to the south. A very detailed site plan was shown showing the proposal for offices and some commercial development around the perimeter which would back up to the new sculpture garden park. He stated the recommendation is for approval from both Planning and Staff.

On motion of Councilwoman Rutherford, 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 107 WALNUT STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE AND C-2 CONVENIENCE COMMERCIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2005-093: Cessna and Elizabeth Decosimo

Pursuant to notice of public hearing, the request of Cessna and Elizabeth Decosimo to rezone a tract of land located at 1427 Williams Street came on to be heard.

The applicant was not present; there was no opposition.

Mr. Pace stated this is located in the downtown area near where the Southside restaurant is located where there are other mixed uses of M-1 and C-3. He stated there is currently a structure on the property and the request is for approval for mixed commercial and residential use from both Planning and Staff.

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 1427 WILLIAMS STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2005-094: Mountain View Limited Partnership

Pursuant to notice of public hearing, the request of Mountain View Limited Partnership to rezone tracts of land located at 1910, 1912 and 1914 South Kelly Street came on to be heard.

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

Mr. Pace stated this request is located in the Oak Grove community and is the site of what was the old flea market for many years. He stated the Council previously approved lifting conditions from the flea market use to allow for residences; that the developer is planning an apartment complex. He stated the two rezoning requests following this are related to this one and are outparcels surrounding the larger parcel where the apartments will be located; that all three parcels are interrelated. He stated the recommendation is for approval from both Planning and Staff. He stated representatives are present from the neighborhood; that the applicant met with the neighborhood and this is a good example of the applicant and neighborhood working together to work out problems.

Chairman Robinson stated it is nice to know issues were addressed ahead of time to continue the tradition of working cooperatively.

Louise Hammonds of the Oak Grove community expressed appreciation to the developer for coming into their community, explaining things and working with them.

On motion of Councilman Pierce, seconded by Councilman Franklin,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 1910, 1912 AND 1914 SOUTH KELLEY STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-095: Mountain View Limited Partnership

Pursuant to notice of public hearing, the request of Mountain View Limited Partnership to rezone a tract of land located at 2001 South Lyerly Street came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilwoman Rutherford, 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 2001 SOUTH LYERLY STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT OT CERTAIN CONDITIONS
passed first reading.

REZONING

2005-096: William Yarbrough

Pursuant to notice of public hearing, the request of William Yarbrough to rezone a tact of land located at 2003 South Lyerly Street came on to be heard.

On motion of Councilwoman Rutherford, 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 2003 SOUTH LYERLY STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-098: Earlene P. Stewart

Pursuant to notice of public hearing, the request of Earlene P. Stewart to rezone a tract of land located at 2510 Laura Street came on to be heard.

REZONING (Continued)

The Clerk of the Council clarified that this request was deferred until August 9 pursuant to a motion and second by Councilmen Hakeem and Benson at the previous Council meeting (July 5.) She also noted that the matter was left on tonight's agenda because it had been advertised for public hearing for July 12.

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2510 LAURA STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
was deferred until August 9.

REZONING

2005-103: Jack Lamar

Pursuant to notice of public hearing, the request of Jack Lamar to rezone a tract of land located at 2233 Hickory Valley Road came on to be heard.

Mr. Pace stated this request is located in East Brainerd near Shallowford and Lee Highway. He stated a residential structure is presently on the property and the desire is to rezone to C-5 for use as a tea room and catering service. He stated there is a detailed site plan and that surrounding uses include an office zone near Shallowford, R-4 next door to the site, R-1 to the south and commercial to the east. He stated the site plan shows that the structure will retain its residential character and there is a parking plan for the catering business and tea room. He stated approval is recommended from both Planning and Staff with the condition that the existing structure be used and attachment of the site plan.

On motion of Councilman Rico, seconded by Councilman Pierce,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 2233 HICKORY VALLEY ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM RT-1 RESIDENTIAL TOWNHOUSE ZONE TO C-5 NEIGHBORHOOD COMMERCIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

REZONING

2005-105: Harold W. Dingman & David Gardner

Pursuant to notice of public hearing, the request of Harold W. Dingman and David Gardner to rezone tracts of land located at 2107, 2111 and 2113 Mae Dell Road came on to be heard.

The applicant was present.

Mr. Pace stated this request is located in East Brainerd and stated that the staff recommends denial based on the low density residential single family housing and Planning recommended approval as it is a development of single detached lots in the proposed R-TZ zone with some access to Mae Dell Drive.

Councilwoman Rutherford stated that she is totally in favor of the request but would recuse from voting.

On motion of Councilman Rico, seconded by Councilman Franklin,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED AT 2107, 2111 AND 2113 MAE DELL ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO R-T/Z RESIDENTIAL TOWNHOUSE/ZERO LOT LINE ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading; **Councilwoman Rutherford recused herself from voting.**

REZONING

2005-106: Ken DeFoor

Pursuant to notice of public hearing, the request of Ken DeFoor to rezone tracts of land located in the 2400 block of Elam Lane, the 2300 block of Napier Drive, the 2300 block of Timberlane Trail, the 7300 block of McCutcheon Road and 7315 Shallowford Road came on to be heard.

The applicant was present; there was no opposition.

REZONING (Continued)

Mr. Pace stated this request is the first case in the newly adopted zone for the mixed use/overlay zone. He stated this area has been in the development stage for a number of years and the project is agreeable to the neighborhood and will be an asset to Chattanooga and the Hamilton Place area. He stated this site is adjacent to Interstate 75 and is north of Shallowford Road and Napier Drive. He stated the main entrance will be off Timberlane Trail and there will be motels, office space, open space and residential uses in this mixed use development. He stated in looking at the conditions from the Resolution sent to the City Attorney's office, one condition is that the request is to be reviewed by the City Traffic Engineer and the way the ordinance is presently written it states "City Engineer". He stated the Traffic Engineer is a very important component to make sure circulation and traffic in the area is addressed and the applicant is willing to do that. He asked that the correction be made prior to next week's second reading to reflect "*City Traffic Engineer*".

City Attorney Nelson stated there could be consultation in the intervening week and noted that he does not like to leave things to the discretion of city officials subsequent to the action of the Council. He stated if this is done by next Tuesday, the Council could vote on it.

Mr. Pace stated condition two of the ordinance does not go into effect since the new overlay zone will be adopted and is assuming it will be approved by the Council.

City Attorney Nelson stated he has been advised John VanWinkle is on vacation and will be back on Monday.

Deputy Admin. Lee Norris stated that John Wall is the Assistant City Traffic Engineer and is aware of this issue. He stated Mr. Wall had a discussion with Mr. DeFoor and it will all be summarized by next week.

Mr. Pace stated that the Staff and Planning Commission recommend approval. He stated there has been discussion with Mr. DeFoor, the Traffic Engineer, City Engineer and the Administrator of Public Works that five other conditions should be added prior to second reading. He stated the revised conditions should read as follows:

REZONING (Continued)

1. Review by the City Traffic Engineer; 2. Developer to design and install traffic signal at intersection of Timberlane Trail and Shallowford Road. Signal shall tie into existing signalized network in area; 3. Developer shall dedicate to City of Chattanooga the necessary right-of-way along Shallowford Road and Timberlane Trail to accommodate the proposed roadway improvements as outlined in the Traffic Impact Analysis; 4. Developer to improve Timberlane Trail to be three (3) lanes at the intersection with Shallowford Road, as outlined in the Traffic Study; 5. Developer to contribute up to fifty percent (50%) of the costs to procure the additional right-of-way from New Hope Presbyterian Church required to construct two (2) additional lanes of traffic on Shallowford Road; 6. Developer to provide preliminary drawings to the City of Chattanooga outlining the new lane configurations and right-of-way necessary to be obtained from New Hope Presbyterian Church, between Timberlane Trail and Napier Drive; and 7. All existing easements are to be retained.

Councilman Benson stated that he wanted to add another condition. He stated this all started in October 2000 when citizens came to the Council and asked for a land use study. He stated this is the outgrowth of the plan which has been a long, hard successful venture. He stated the neighborhood is happy, the developers are happy and it has been a "marriage made in heaven" to make it work. He stated it would not work if either party had been bullheaded and unwilling to make concessions. He stated he would like to add another condition if both parties are agreeable in coordination with the Traffic Engineer. He stated he would like to see a traffic pattern designed to exclude any outlet from the development onto McCutcheon until Gunbarrel is widened.

Mr. Pace stated if the condition is stated that way, people would not be able to come to Timberlane Trail to get on Napier and McCutcheon. He stated the condition should be stated in such a way as to say any traffic to the east of Timberlane Trail will be able to come out on McCutcheon and come south on Timberlane Trail.

Mr. DeFoor stated he agrees with the conditions if the City Traffic Engineer approves.

Mr. Pace stated the matter could be worked out through the Traffic Engineer.

Councilman Benson stated the Traffic Engineer can do that with speed bumps and everything.

REZONING (Continued)

City Attorney Nelson suggested that what Councilman Benson suggested be looked into so we can see what alternative arrangement there could be for the traffic on McCutcheon.

Councilman Franklin made the motion to approve the matter on first reading with the conditions read by Mr. Pace, as well as the last condition suggested by Councilman Benson; Councilwoman Rutherford seconded the motion.

On motion of Councilman Franklin, seconded by Councilwoman Rutherford,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF LAND LOCATED IN THE 2400 BLOCK OF ELAM LANE, THE 2300 BLOCK OF NAPIER DRIVE, THE 2300 BLOCK OF TIMBERLANE TRAIL, THE 7300 BLOCK OF MCCUTCHEON ROAD AND 7315 SHALLOWFORD ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO R-4 MXU-OZ MIXED USE OVERLAY ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

REZONING

2005-107: Park Mills Properties, LLC

Pursuant to notice of public hearing, the request of Park Mills Properties, LLC to rezone a tract of land located at 200 Manufacturers Road came on to be heard.

Mr. Pace stated this request is located on the north shore on Manufacturer's Road. He stated all property in the area to the east is zoned M-1 and is near the new Renaissance Park currently under development; that there is C-2 to the south along the Tennessee River with mixed use residential and hotel development and C-7 to the north. He stated the recommendation from Planning and Staff is approval with conditions that are applied to all C-3 developments in the downtown area. He stated the developer is aware that one thing that needs to be addressed has to do with eighteen wheelers that maneuver in a loading dock off Manufacturer's Road. He stated there is a policy that the eighteen wheelers are not to use city streets for maneuvering or backing into the loading dock. He stated this has to be addressed on the site plan as they go further with construction plans.

REZONING (Continued)

Councilman Benson stated that he was beginning to get concerned about changing all of the manufacturing and industrial land. He asked if this use is in the land use plan.

Mr. Pace stated this request is located in the area Chairman Robinson addressed earlier; that this case was in process before it was realized the study would be requested. He stated this request is in an area that is in transition but is still productive use of the land that fits into the plan for the north shore, the 21st Waterfront plan and is why it comes with the recommendation for approval.

On motion of Councilman Franklin, seconded by Councilwoman Bennett,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF LAND LOCATED AT 200 MANUFACTURERS ROAD, MORE PARTICULARLY DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

CHANGE ORDER

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 3, RELATIVE TO MOCCASIN BEND WASTEWATER TREATMENT PLANT DIGESTER EQUIPMENT PROCUREMENT, CONTRACT NO. 28K(EP-3), WITH ONDEO DEGREMONT, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY FIVE THOUSAND SIX HUNDRED FOURTEEN DOLLARS (\$5,614.00), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED THREE MILLION SEVENTY-FOUR THOUSAND TWO HUNDRED THIRTY-FOUR DOLLARS (\$3,074,234.00)

was adopted.

CHANGE ORDER

On motion of Councilman Franklin, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2, RELATIVE TO CONTRACT 28K2, MOCCASIN BEND WASTEWATER TREATMENT PLANT PRIMARY SLUDGE SYSTEM IMPROVEMENTS, WITH MAX FOOTE CONSTRUCTION COMPANY, INC., WHICH CHANGE ORDER DECREASES THE CONTRACT AMOUNT BY ONE HUNDRED EIGHTY THOUSAND SEVEN HUNDRED TWENTY-ONE AND 31/100 DOLLARS (180,721.31), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED NINE MILLION FOUR HUNDRED FORTY-FOUR THOUSAND TWO HUNDRED EIGHT AND 69/100 DOLLARS (\$9,444,208.69)

was adopted.

CONTRACT AMENDMENT

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AMENDMENT NO. 4 WITH CONSOLIDATED TECHNOLOGIES, INC. AND ARCADIS, GERAGHTY & MILLER, A JOINT VENTURE (CTI/AGM), FOR PROFESSIONAL SERVICES RELATIVE TO MOCCASIN BEND WASTEWATER TREATMENT PLANT, WHICH AMENDMENT INCREASES THE CONTRACT AMOUNT BY SEVENTY-SEVEN THOUSAND FOUR HUNDRED EIGHTY-TWO DOLLARS (\$77,482.00) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED THREE MILLION EIGHT HUNDRED EIGHTY-FOUR THOUSAND ONE HUNDRED FORTY-SEVEN DOLLARS (\$3,884,147.00)

was adopted.

EASEMENT

On motion of Councilman Page, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FROM ARTHUR AND NELLA DEAN YOTHER AND LARRY AND DONNA YOTHER IN THE 5100 BLOCK OF HIGHWAY 153, PARCEL NO. 110I-J-021.03, TRACT NO. J-21.03, RELATIVE TO THE HAMILL ROAD WIDENING AT HIGHWAY 153 PROJECT, CONTRACT NO. E-02-008, FOR AN AMOUNT NOT TO EXCEED TEN THOUSAND ONE HUNDRED TWENTY-FIVE DOLLARS (\$10,125.00)

was adopted.

EASEMENT

On motion of Councilman Franklin, seconded by Councilman Benson,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY AND TEMPORARY CONSTRUCTION EASEMENT FROM ARTHUR AND NELLA DEAN YOTHER AND LARRY AND DONNA YOTHER AT 5117 HIGHWAY 153, PARCEL NO. 110I-J-023, TRACT NO. J-23, RELATIVE TO THE HAMILL ROAD WIDENING AT HIGHWAY 153 PROJECT, CONTRACT NO. E-02-008, FO RAN AMOUNT NOT TO EXCEED SIX THOUSAND SIX HUNDRED FORTY-FIVE DOLLARS (\$6,645.00)

was adopted.

EASEMENT

On motion of Councilman Benson, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY, PERMANENT DRAINAGE EASEMENT, SLOPE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FROM C. L. GILBERT, JR. IN THE 7500 BLOCK OF IGOU GAP ROAD, PARCEL NO. 159-A-C-025 AND 026, TRACT NO. 28, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED SEVEN THOUSAND SEVEN HUNDRED EIGHT AND 50/100 DOLLARS (\$7,708.50)

was adopted.

EASEMENT

On motion of Councilman Benson, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY, SLOPE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FROM JAMES A. AND LENNIE A. FRANKS IN THE 1800 BLOCK OF CLEARVIEW DRIVE, PARCEL NO. 159A-A-016, TRACT NO. 17, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED FOUR THOUSAND FIVE HUNDRED SEVENTY-TWO DOLLARS (\$4,572.00)

was adopted.

EASEMENT

On motion of Councilman Benson, seconded by Councilman Franklin,
A RESOLUTION AUTHORIZING THE PURCHASE OF A RIGHT-OF-WAY, PERMANENT DRAINAGE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT FROM GARY THOMAS AND SUSAN JANE DAWN IN THE 7500 BLOCK OF IGOU GAP ROAD, PARCEL NO. 159B-B-013, TRACT NO. 42, RELATIVE TO THE IGOU GAP ROAD WIDENING PROJECT, CONTRACT NO. E-03-011, FOR AN AMOUNT NOT TO EXCEED ONE THOUSAND THREE HUNDRED THIRTY-EIGHT DOLLAR S(\$1,338.00)

was adopted.

TEMPORARY USE

Councilman Pierce inquired as to this temporary use request.

David Barlew, architect for the 28th Community Development Corporation, stated that he is working on the project on M. L. King. He displayed a rendering of what is being proposed which would be composed of mixed use retail on the first floor and residential on the second floor. He stated the parking lot would be located on what is now the Siskin office on M. L. King. He stated the intent is that the building would be placed up against the existing sidewalk as all buildings are on M. L. King. He stated what happens in this instance is that the city has a storm sewer culvert and one of the issues brought up during the design phase was the fact that at some point in time there might be the possibility thirty years from now the pipe in the system could deteriorate and cause the building to collapse. He stated they have designed a footing system whereby the footing would actually go down below the culvert so if anything happens the building would not be affected.

Councilman Pierce stated noting would be visible; that it would all be below street level.

Mr. Barlew responded "yes"; that the building itself would be right along the property line.

Councilman Pierce asked Forestine Watson of the 28th Community Development Corporation if the matter had been discussed in one of the Council committees and how soon construction would begin.

TEMPORARY USE (Continued)

Forestine Watson stated that they are continuing to finalize financing and the consultant is working on the final aspect of the funding component. She stated it is hoped they would get started by the end of the month if at all possible.

Councilman Pierce asked if there as any cost to the city. Ms. Watson responded that there is no cost to the city.

Councilman Page stated if the matter had been in committee the Council would have had an opportunity to look at this. He stated this is a pretty big "thing" and he is glad his colleague noted that it should have been discussed in committee.

Councilwoman Rutherford stated that there is no legal reason not to approve what they are doing; that all they are asking for is to put footings on.

Lee Norris, Deputy Administrator of Public Works, clarified that the matter was discussed in last week's Public Works Committee; that this is just a temporary use of a right-of-way.

On motion of Councilman Franklin, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING 28TH COMMUNITY DEVELOPMENT CORPORATION TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 301 MARTIN LUTHER KING BOULEVARD TO INSTALL FIVE (5) COLUMN FOOTINGS IN FRONT OF THE BUILDING, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

TEMPORARY USE

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING AARON SMITH TRUCKING TO USE TEMPORARILY THE CITY'S RIGHT-OF-WAY AT 1201 CRUTCHFIELD STREET TO INSTALL STREET YARD TREES, AS SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

was adopted.

**ADOPTION OF HIXSON-NORTH RIVER
COMMUNITY PLAN REVISIONS**

On motion of Councilman Page, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE
LAND USE PLAN REVISIONS FOR THE HIXSON-NORTH
RIVER COMMUNITY PLAN**
was adopted.

ACCEPT DONATION

On motion of Councilman Benson, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO
ACCEPT THE DONATION OF A 1999 INTERNATIONAL
AMBULANCE FROM HAMILTON COUNTY WHICH WILL BE
USED IN THE POLICE DEPARTMENT'S OPERATIONS AND
EXPRESSING THE GRATITUDE OF THE CITY COUNCIL FOR
SAID DONATION**
was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilman Franklin,
**A RESOLUTION AUTHORIZING THE MAYOR TO ENTER
INTO A CONTRACT WITH THE TENNESSEE DEPARTMENT
OF TRANSPORTATION TO SECURE FUNDING FOR ROAD
WORK AT ENTERPRISE SOUTH**
was adopted.

OVERTIME

Overtime for the week ending July 1, 2005 totaled \$14,720.04 and for the week ending July 8, 2005 totaled \$72,991.90 for a total of \$87,711.94 for the two weeks.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **HEATHER HAMILTON** – Resignation, GIS Specialist, Engineering, effective July 12, 2005.

PERSONNEL (Continued)

CHATTANOOGA POLICE DEPARTMENT:

- **LAKISHA REID** – Resignation, Police Cadet, effective July 5, 2005.
- **JERRY HONEYCUTT** – Death, Police Service Technician, effective July 10, 2005.

CHATTANOOGA FIRE DEPARTMENT:

- **DENNIS COOK** – Retirement, Lieutenant, effective July 8, 2005.
- **RON GILBERT** – Retirement, Captain, effective July 8, 2005.

Chief Coppinger acknowledged the retirement of Lt. Cook and Captain Gilbert. He stated both had 28 years of outstanding service with the department.

PURCHASE

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

SHAW STAINLESS (Lowest and best bid)
R00083371/B0002429

Stainless Steel Weld Pipe

\$25.92 (Cost/foot)

EMERGENCY PURCHASE

The emergency demolition at 3904 St. Elmo Avenue for the Neighborhood Services Department, issued to Pates Hauling and Demolition in the amount of \$17,016.00 was duly reported and signed in open meeting.

BOARD APPOINTMENTS

On motion of Councilwoman Rutherford, seconded by Councilman Franklin, the following board matters were reported:

HUMAN RIGHTS AND HUMAN RELATIONS COMMISSION

- Appointment of **JANET PERFETTI** for a term to expire July 28, 2008 representing District 4.
- Reappointment of **CYNTHIA STANLEY-CASH** and **L. DAVID TURNER** for terms to expire July 28, 2007 representing Districts 5 and 2, respectively.

Admin. Beverly Johnson stated that the Human Rights/Human Relations Commission is a nineteen member Commission and only three members have been officially placed. She stated she would come back to the Council with additional names later.

Councilman Pierce inquired as to the meetings for the Commission.

Admin. Johnson responded that the Commission meets the second Monday of each month at 5:30 p.m.

HOTEL PERMIT

On motion of Councilman Franklin, seconded by Councilman Rico, the following hotel permit was approved:

PETTIT HOUSE BED AND BREAKFAST – 109 Ochs Highway, Chattanooga, TN

REFUND

On motion of Councilman Pierce, seconded by Councilman Franklin, the Administrator of Finance was authorized to issue the following refund for 2004 in lieu of taxes:

| | |
|---|-------------------|
| HESSE GRIESHEIM INDUSTRIES, INC. | \$3,476.89 |
|---|-------------------|

HEARING: SEAN MORRIS

City Attorney Nelson stated a request for a hearing has been received from Sean Morris regarding his termination as a Chattanooga police officer.

A hearing for Mr. Morris was scheduled for July 25 with Councilmen Rutherford, Rico and Pierce serving as the panel; Councilman Franklin volunteered as alternate.

HEARING: STEVE CAMPBELL

City Attorney Nelson reminded Council members of the hearing for Steve Campbell scheduled for Thursday, July 14 beginning at 9 a.m. with Councilmen Robinson, Rico and Bennett serving as the panel.

REZONING MATTERS

City Attorney Nelson stated rezoning in Tennessee is entirely a legislative function, which means the final word must remain in the City Council and can not be delegated to any other source, be it the Mayor, Traffic Engineer or whoever. He stated if we need to have input from the Traffic Engineer, it is his strongest recommendation that that be done in the month between the time that the Planning Commission meets and while it is being advertised so this body is presented with a final recommendation and can vote it up or down. He stated it is not contingent or conditioned upon anything anybody may later do, which is why he raised the objection that legislative decisions are not indelible.

Councilman Benson asked what can the Council do.

City Attorney Nelson stated that if the Council has not acted on second and final reading, it could be done between the two readings.

BOARD APPOINTMENT

On motion of Councilman Benson, seconded by Councilman Franklin, the following board reappointment was approved:

BOARD OF ZONING APPEALS:

- Reappointment of **JACK MCGILL** for a term to expire July 12, 2008 representing District 1.

COMMITTEES

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

Councilman Page stated that the Budget and Finance Committee met today and the Mayor and Daisy Madison presented the 2006 operating budget totaling approximately \$152,000,000 with no tax increase recommended.

ADJOURNMENT

Chairman Robinson adjourned the meeting of the Chattanooga Council until Tuesday, July 19, 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)**