

**City Council Building
Chattanooga, Tennessee
December 12, 2006
6:00 p.m.**

Chairman Pierce called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Franklin, Gaines, Page, Rico, Robinson and Rutherford present. City Attorney Randall Nelson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Franklin gave invocation.

MINUTE APPROVAL

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

APPROPRIATION

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE APPROPRIATING FROM THE PARKS AND RECREATION
CAPITAL FUND TO THE TRUST FOR PUBLIC LAND THE AMOUNT OF FOUR
HUNDRED THOUSAND DOLLARS (\$400,000.00) FOR THE SOUTH
CHICKAMAUGA CREEK GRENWAY PROJECT**
passed second and final reading and was signed in open meeting.

AMEND ZONING ORDINANCE

Pursuant to notice of public hearing, the following amendment to the Zoning Ordinance came on to be heard.

Councilman Rico stated this request was discussed in Public Works Committee and approval is recommended.

AMEND ZONING ORDINANCE (Continued)

On motion of Councilman Rico, seconded by Councilman Franklin,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V,
TABLE 1700, PARKING REQUIREMENTS, BY ADDING LANGUAGE TO
REFER TO TABLE 1703 FOR ADDITIONAL PARKING REQUIREMENTS FOR
SPECIFIC ZONES**
passed first reading.

REZONING

2006-180: Birmingham Asset Management, Inc.

Pursuant to notice of public hearing, the request of Birmingham Asset Management, Inc. to rezone a tract of land located at 2100 Market Street came on to be heard

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

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this request is for the purpose of building a motel and commercial building. Surrounding properties were displayed by PowerPoint wherein it was noted that the Southside Plan recommends a medium business mix for this site. He stated Planning recommends approval subject to conditions.

Councilman Franklin inquired as to the number of additional rooms that could be added to the site.

Charles King was present representing the applicant and stated that a motel is planned; that what will be constructed are office buildings. He stated that the offices have to be built first before they could begin work and planning on the motel portion of the project.

Councilman Franklin asked if this would be a phase-type scenario.

Mr. King responded "correct".

REZONING (Continued)

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 A TRACT OF
LAND LOCATED AT 2100 MARKET STREET, MORE PARTICULARLY
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE AND C-2
CONVENIENCE COMMERCIAL ZONE TO C-3 CENTRAL BUSINESS ZONE,
SUBJECT TO CERTAIN CONDITIONS**
passed first reading.

REZONING

2006-224: Earthworx, LLC

Pursuant to notice of public hearing, the request of Earthworx, LLC to rezone tracts of land located on part of a property located in the 5500 block of Hixson Pike came on to be heard.

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

Mr. Haynes stated that the request is for the proposed development of a grocery store. He stated there is a footnote in regard to this case wherein a cul-de-sac is required in compliance with City standards that is to be built by the Hixson Church of Christ at the end of Clear Creek Road. He stated the cul-de-sac has not been built and the right-of-way is not officially closed until all the conditions of Ordinance No. 11540 are met. He stated this will have to be built before the right-of-way will be closed. He stated there are no conditions on this case and it conforms with the Hixson-North River Plan; that Planning recommends approval.

Councilman Benson stated there was more than a footnote about the cul-de-sac when it came before Planning and there was a condition.

Mr. Haynes stated this is not the case Councilman Benson is referencing; that there is no closure on Clear Creek Road.

Councilman Benson stated that the neighborhood requested no construction in front of their homes as long as other entrances are used.

Mr. Haynes stated as far as construction, he is not sure; that the plan shows no access from Clear Creek Road.

REZONING (Continued)

Councilman Page asked Mike North to address the issue of the cul-de-sac, lighting and the garbage pickup for the neighborhood. He stated that he has a petition in regard to the cul-de-sac.

Mike North distributed engineering drawings of the project and stated on the latest engineering plan, plans have been submitted to the city engineer for review. He stated the cul-de-sac is a part of the actual design plan for this site and the timing of the construction of the cul-de-sac is going to have to coincide with construction and the required retention basin. He stated the road will be barricaded and traffic signs installed that will direct all construction to enter off Hixson Pike; that there is no question in any way, form or fashion of Clear Creek Road being used for construction traffic. He stated the construction of the retention pond will prohibit Clear Creek being used as a construction entrance due to grading as there is a substantial change in elevation from Clear Creek Road to the site and that is not going to be an issue. He stated after the cul-de-sac is constructed, there is no allowance for any through traffic from the cul-de-sac to Bi-Lo due to the utility ponds and slopes.

Mr. North stated as for lighting, the electrical plan designed by Burdett Engineering took into consideration possible nuisances to the surrounding residential area, even though the nearest residence is over a hundred feet away. He stated they would be using full cut-off lighting fixtures that project at a 90 degree angle down toward the ground. He stated the overall grading on the Bi-Lo side is lower than Holiday Bowl and Holiday Bowl is lower than the surrounding property. He stated the lights would be directed down and can not travel uphill and will not be a nuisance as engineering has taken care of that completely. He stated trash collection will not be taken by a dumpster; that they are going to use compaction units, which will not be the standard trash collection and residents will not have to worry about garbage being picked up at 4 a.m. in the morning.

Councilman Page stated that he would add the following condition on the zoning, "*subject to no vehicle access to the property from Clear Creek Road*".

Mr. North stated there would be no vehicle access to Bi-Lo from Clear Creek Road; that Tom Hamilton of Bi-Lo is present and can address that.

Councilman Page asked Mr. Hamilton if he agrees there would be no vehicle access to the property being rezoned from Clear Creek Road.

Mr. Hamilton stated that he has no problem with it; that there would be no access to the Bi-Lo property from Clear Creek Road.

REZONING (Continued)

Councilwoman Robinson inquired as to what is meant by a “45 foot spillway”.

Mr. North explained that it involves large 40 foot wide slopes and big rocks, similar to rip rock.

Councilwoman Robinson then inquired as to the retention pond that would drain.

Mr. North stated that TDEC was at the site today with the design engineer looking at the proposed site and the ponds to make sure we are in compliance.

City Attorney Nelson stated if TDEC was out there today, he knows they regarded the area out there as sufficiently being from the flood point.

Mr. North responded “yes”; that they delineated the floodway. He stated the State required a setback for any field and construction which is twenty feet from the limits of the floodway itself. He stated those matters have been addressed by the design engineers; that Bi-Lo is in no way near the flood plain or the 100 year floodway.

On motion of Councilman Rico, seconded by Councilman Page,

**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF
LAND LOCATED ON PART OF A PROPERTY LOCATED IN THE 5500
BLOCK OF HIXSON PIKE, MORE PARTICULARLY DESCRIBED HEREIN,
FROM R-2 RESIDENTIAL ZONE TO C-2 CONVENIENCE COMMERCIAL
ZONE**

passed first reading.

REZONING

2006-227: N. H. Partners, L.P.

Pursuant to notice of public hearing, the request of N. H. Partners, L.P. to rezone a tract of land located at 1906 Gunbarrel Road came on to be heard.

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

Mr. Haynes displayed a copy of the site plan and the existing uses, noting that the property is surrounded by commercial and is in conformance with the Hamilton Place Land Use Plan. He stated Planning recommends approval.

REZONING (Continued)

Councilman Benson inquired as to the whether the curb cuts were just on that one street of Gunbarrel.

Mr. Haynes responded "yes".

Councilman Benson asked if there would be nothing out back or on the side.

Mr. Haynes stated that this site is surrounded by land uses.

Councilman Benson asked if the traffic engineer approved this.

Mr. Haynes stated that the applicant could respond to that question as he had to get a permit.

Pat Neuhoff was present representing N. H. Partners and stated that the plan submitted was reviewed by the traffic engineer who approved the conceptual site plan.

Councilman Benson inquired as to what is proposed for the site.

Mr. Neuhoff stated for this one in the commercial zone there would be some type of C-2 appropriate use, not a restaurant, possibly a cellular phone company; that the building is over 4,000 square feet.

Councilman Benson stated that there had been discussion that there would not be a drive-through.

Mr. Neuhoff responded "correct"; that there is not enough room for parking for any type of restaurant use.

Councilman Benson stated that he is thinking of the next case on Igou Gap Road. Mr. Neuhoff responded "yes".

Councilwoman Robinson asked if she is correct that the building is already there.

Mr. Neuhoff responded "yes"; that the proposed site plan reflects demolition the existing building and a new one built.

Councilwoman Robinson stated that it is so hard for her to understand, wanting to know what new business will be going in there.

REZONING (Continued)

Mr. Neuhoff stated that he has received interest from two-or-three tenants; that one is a cellular telephone company and the other is an office supporting retail business. He stated it would be a C-2 type business and parking would be restricted.

Councilman Benson stated that this is a little more speculative than when we first talked. He asked if space would be leased. Mr. Neuhoff responded "yes".

Councilman Benson asked Mr. Haynes what is covered under the C-2 zone.

Mr. Haynes stated that C-2 is the least restrictive commercial zone; that even though it may appear to be speculative because the tenant is not identified, it is in conformance with the land use plan and everything down that strip is either commercial and/or office. He stated one thing the Staff looked at is if there are some places where a speculative zone would still be appropriate, unless there is a specific use not wanted there, such as a liquor establishment.

Councilman Benson stated that was discussed and it was stated there would be no liquor store.

Bassam Issa stated that was discussed for his rezoning request which is next.

On motion of Councilman Benson, seconded by Councilwoman Robinson,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF
LAND LOCATED AT 1906 GUNBARREL ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-2 CONVENIENCE
COMMERCIAL ZONE**

passed first reading.

REZONING

2006-228: Bassam Issa

Pursuant to notice of public hearing, the request of Bassam Issa to rezone a tract of land located at 1853 Gunbarrel Road came on to be heard.

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

REZONING (Continued)

Mr. Haynes displayed the site plan for this request and noted that it is in compliance with the Hamilton Place Plan as commercial development is recommended for this corner site. He stated Planning recommends approval subject to conditions listed in the ordinance.

Councilman Benson asked if the applicant agrees not to have a liquor store or a drive-through.

Bassam Issa, applicant, responded "yes"; that he does not mind the restriction for no liquor stores or a drive-through. He stated that he has a report of the traffic study that was done.

Councilman Benson responded "very good"; and noted that there are about fourteen cars a day at peak times. He stated there would be a light in the road and a deceleration turning lane.

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 1853 GUNBARREL ROAD, MORE PARTICULARLY
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO C-2
CONVENIENCE COMMERCIAL ZONE, SUBJECT TO CERTAIN
CONDITIONS**

passed first reading.

TEMPORARY USE

There was no opposition present in regard to this Resolution.

Councilman Rico stated this matter was discussed in the Public Works Committee and the recommendation is for denial.

On motion of Councilman Rico, seconded by Councilwoman Bennett,
**A RESOLUTION AUTHORIZING T-MOBILE SOUTH, LLC TO USE
TEMPORARILY A CERTAIN PORTION OF THE RIGHT-OF-WAY AT THE
INTERSECTION OF CAMDEN STREET AND WILCOX BOULEVARD AT THE
WESTERN ENTRANCE TO THE WILCOX TUNNEL TO INSTALL AS 40'
TELECOMMUNICATIONS TOWER AND SUPPORTING EQUIPMENT, AS
SHOWN ON THE DRAWING ATTACHED HERETO AND MADE A PART
HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**

was denied; Councilwoman Gaines abstained (on advice of Counsel).

AD VALOREM TAXES

Councilman Page stated this matter was discussed before the Economic Development Committee last week and Atty. Faires is present for any questions Council members may have. He expressed appreciation for the company having confidence in Chattanooga and the jobs that will be provided.

On motion of Councilman Page, seconded by Councilwoman Robinson,
A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO SPHERE ONE, INC. PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE COUNTY OF HAMILTON, TENNESSEE, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

was adopted.

DONATION

On motion of Councilwoman Rutherford, seconded by Councilwoman Bennett,
A RESOLUTION ACCEPTING A DONATION TO THE CHATTANOOGA FIRE DEPARTMENT FROM WAL-MART, INC. IN THE AMOUNT OF FIVE HUNDRED DOLLARS (\$500.00) TO BE USED TO FUND FIRE PREVENTION WEEK ACTIVITIES AND EXPRESSING THE GRATITUDE OF THE MAYOR AND THE CITY COUNCIL FOR SAID DONATION

was adopted.

CONTRACT

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
A RESOLUTION AUTHORIZING THE AWARD OF THE CONTRACT TO P & C CONSTRUCTION, INC. FOR ITS LOWEST AND BEST BID IN THE AMOUNT OF ONE HUNDRED FIFTEEN THOUSAND DOLLARS (\$115,000.00) FOR THE ANNEX - PHASE II, BALLISTICS LAB PROJECT

was adopted.

FINAL PUD

2006-062: Webb Road Properties, LLC

Mr. Haynes displayed the site plan for this request and noted that there is an easement across the site to the south. He stated surrounding uses reflect a town home development and single family residential.

FINAL PUD (Continued)

Mr. Haynes stated the Council approved the preliminary plan in April and the final plan conforms with the preliminary plan and has been reviewed by the RPA staff; that approval is recommended with conditions.

Councilman Franklin asked if there is a new residential development to the south, proximity wise.

Mr. Haynes responded his belief that there is a new development to the south.

On motion of Councilman Page, seconded by Councilman Rico,

A RESOLUTION APPROVING A PROPOSED FINAL PLANNED UNIT DEVELOPMENT SPECIAL EXCEPTIONS PERMIT FOR A PLANNED UNIT DEVELOPMENT KNOWN AS WINDWARD PRESERVE PLANNED UNIT DEVELOPMENT ON A TRACT OF LAND LOCATED AT 4221 WEBB ROAD, 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.

DECLARE SURPLUS

MR-2006-230: Paul Page, Director General Services

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

Mr. Haynes stated this request is to declare surplus the former ABB building and Planning recommends approval.

On motion of Councilman Rico, seconded by Councilwoman Robinson,

A RESOLUTION DECLARING AS SURPLUS CERTAIN REAL PROPERTY LOCATED AT 1301 RIVERFRONT PARKWAY, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

AMEND COUNCIL RULES OF PROCEDURE

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

A RESOLUTION AMENDING SECTION E, SUBSECTION 1, OF RESOLUTION NO. 24117 ENCAPTIONED, "A RESOLUTION REPEALING RESOLUTION NOS. 18697, 18710, 19757, 20026 AND 20480, AND ESTABLISHING A NEW RULES OF PROCEDURE FOR THE CITY COUNCIL OF THE CITY OF CHATTANOOGA, TENNESSEE", TO REORGANIZE THE COUNCIL COMMITTEES

was adopted.

WAIVER

On motion of Councilwoman Gaines, seconded by Councilman Rico,

A RESOLUTION AUTHORIZING THE WAIVER OF THE SANITARY SEWER TAP FEES OF \$800.00 PER LOT FOR LOTS 1-14 OF THE JEFFERSON HEIGHTS PROJECT ALONG EAST 18TH STREET, AS SHOWN ON THE ATTACHED DRAWING, FOR CHATTANOOGA NEIGHBORHOOD ENTERPRISE (CNE) OR ITS BUILDERS AND AUTHORIZING THE DEPARTMENT OF PUBLIC WORKS TO REFUND ANY OF SAID FEES ALREADY PAID BY CNE OR ITS BUILDERS

was adopted.

PROPERTY EXCHANGE

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

On motion of Councilman Rico, seconded by Councilwoman Rutherford,

A RESOLUTION DECLARING 4,134 SQUARE FEET OF REAL PROPERTY ALONG THE INTERSECTION OF CHEROKEE BOULEVARD (REFERRED TO AS "OLD UPPER FERRY ROAD" IN THE DEED) AND MARKET STREET AND THE SUNTRUST BANK PROPERTY, WHICH PROPERTY IS DESCRIBED AS PARCELS 1-4 IN EXHIBIT A ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, AS SURPLUS PROPERTY, AND AUTHORIZING THE EXCHANGE OF SAID PROPERTY WITH SUNTRUST BANK FOR TWO PARCELS OF PROPERTY TOTALING 4,159 SQUARE FEET OF PROPERTY DESIGNATED AS PARCELS 1 AND 2 IN EXHIBIT B ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

OVERTIME

Overtime for the week ending December 8, 2006 totaled \$88,967.45.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **CARLTON W. CAMERON** – Voluntary Demotion, Crew Worker, City Wide Services, Pay Grade 6/Step 11, \$32,318.00 annually, effective December 1, 2006.
- **WILLIAM C. BOYD** – Resignation, Heavy Equipment Operator, City Wide Services, effective November 30, 2006.
- **JEROME HINES** – Family Medical Leave, Crew Worker, Sr., City Wide Services, effective December 1, 2006 – February 23, 2007.
- **WARREN TILLISON** – Requested Lateral transfer, Crew Worker, Stormwater, Pay Grade 3/Step 11, \$26,598.00 annually, effective December 8, 2006.
- **JESSE L. HARVEY, JR.** – Involuntary Demotion, Crew Worker, Stormwater, Pay Grade 3/Step 8, \$23,575.00 annually, effective December 8, 2006.

CHATTANOOGA FIRE DEPARTMENT:

- **MICHAEL R. MOORE** – Family Medical Leave, Captain, effective December 7, 2006 – March 1, 2007.

HOTEL PERMITS

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines, the following hotel permits were approved:

BUDGET MOTEL, 3535 Cummings Highway, Chattanooga, Tennessee

LAQUINTA INN NO. 931, 7017 Shallowford Road, Chattanooga, Tennessee

MOTEL 6 NO. 700, 7707 Lee Highway, Chattanooga, Tennessee

COMMITTEES

Councilman Benson reminded Council members of the meeting of the **Legal and Legislative Committee on Tuesday, December 19 at 3 p.m.** He stated that the police department expressed a desire to look into a proposed ordinance about the resale of copper and other things ending up in salvage yards and noted that a proposed ordinance would be discussed next week.

Councilwoman Bennett scheduled a meeting of the **Budget Committee for Tuesday, December 19 at 4 p.m.**

NLC CONVENTION

Councilwoman Bennett expressed appreciation for the opportunity to attend the NLC Convention in Reno, Nevada last week and noted that she toured the homeless center there and has a list of legislative items NLC will be lobbying on behalf of municipal governments.

HOTEL DEVELOPMENT PROPOSED PROJECT

Councilwoman Rutherford inquired as to whether there is additional information about the big hotel development that is to be developed down by the River.

Councilwoman Robinson asked if she is referring to the project from the people from Florida.

Councilwoman Rutherford responded "yes, on the water side".

Mr. Haynes stated that the property was rezoned for manufacturing and then C-2; that someone could check with the inspection department to see if a permit had been issued for a project at that location. He stated other than a previous zoning case (2005-125) for that site Planning would not know the status of the project.

Councilwoman Rutherford stated that she would like to know as it will be a marvelous project if it is going forward.

MERRY CHRISTMAS

Chairman Pierce wished everyone a Merry Christmas and Happy New Year and noted that this would be the last meeting he would chair this year as he will not be present next week. He encouraged department heads to take advantage of his absence in the event they had add-ons for the agenda!

ROGER SAYNER

Roger Sayner stated that there is a request for a road abandonment in District 1 on Cummings Highway that looks clear and simple and has been tabled for some time. He stated that he wanted to offer insight on the property lines when it comes up; that his property is in back of the property being abandoned and it is not clear who owns it. He stated everyone he has talked to feels the applicant does not have access at this time.

Councilman Benson asked Mr. Sayner if he has spoken with Mr. Payne in engineering.

Mr. Sayner stated he and Bill Payne are in agreement that the property extends over private property and the property in question the Council would give access to is not owned by the person requesting access.

Councilwoman Bennett stated there is a need to go back and look at it as it is not on the Council's agenda. She stated before anything happens the effort will be made to clear it up.

Councilman Pierce if there is any way to notify Mr. Sayner when the matter comes up.

Mr. Sayner stated that he is trying to get everyone on the "same page".

Councilwoman Bennett stated Mr. Leach is present and can help get it straightened out.

Mr. Sayner wished everyone Happy Holidays!

RED BANK STUDENTS

Chairman Pierce recognized the presence of Red Bank High School students Amber Myers and Danielle Ware, both members of the School's government class.

ADJOURNMENT

Chairman Pierce adjourned the meeting of the Chattanooga Council until Tuesday, December 19, 2006 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)**