

City Council Building
Chattanooga, Tennessee
September 4, 2007
6:00 p.m.

Chairman Page called the meeting of the Chattanooga Council to order with Councilmen Bennett, Benson, Gaines, Pierce, Rico, Robinson and Rutherford present; Councilman Franklin was absent due to personal commitment. 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 Rico gave invocation.

MINUTE APPROVAL

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

CLOSE AND ABANDON

MR-2007-080: Michael J. Stewart for Allison Craik Davis, Jr.

On motion of Councilman Rico, seconded by Councilwoman Bennett
**AN ORDINANCE CLOSING AND ABANDONING PART OF AN
UNOPENED ALLEY LOCATED ON THE SOUTH LINE OF THE UNOPENED
1000 BLOCK OF WINTER STREET, MORE PARTICULARLY DESCRIBED
HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE
A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS**
passed second and final reading and was signed in open meeting.

CLOSE AND ABANDON

MR-2007-092: James & Judith Sutherland

Councilmen Rico and Rutherford made the motion and second to deny this request noting that it is recommended for a temporary use permit.

CLOSE AND ABANDON (Continued)

Councilman Pierce asked if the mater should be referred back to Committee.

Councilman Rico stated that the matter had been discussed in today's Public Works Committee meeting.

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
AN ORDINANCE CLOSING AND ABANDONING AN UNOPENED RIGHT-OF-WAY LOCATED ON THE NORTH LINE OF AN UNOPENED PORTION OF THE 1800 BLOCK OF OLD SAND PIT ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was denied.

TEMPORARY USE

Adm. Leach stated that the Public Works Department looked at this request and the mapping reflects that the closure would land lock a piece of property accessed by single family residents. He stated the temporary use would allow them to use the property's right-of-way for what they need to use it for and if the properties are ever combined it could come back for a permanent closure. He stated the recommendation is for temporary closure.

On motion of Councilman Benson, seconded by Councilman Rico,
A RESOLUTION TEMPORARILY CLOSING AN UNOPENED RIGHT-OF-WAY LOCATED ON THE NORTH LINE OF AN UNOPENED PORTION OF THE 1800 BLOCK OF OLD SAND PIT ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was adopted.

LIFT CONDITIONS

2007-128: Palmetto 8, LLC

Pursuant to notice of public hearing, the request of Palmetto 8, LLC to lift condition numbers 1 and 2 imposed in Ordinance 11521 (Case No. 2004-012) on tracts of land located in the 800 block of East 8th Street and Flynn Street came on to be heard.

LIFT CONDITIONS (Continued)

On motion of Councilman Rico, seconded by Councilwoman Rutherford,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, SO AS TO LIFT CONDITION
NOS. 1 AND 2 IMPOSED IN ORDINANCE NO. 11521 (CASE NO. 2004-
012) ON TRACTS OF LAND LOCATED IN THE 800 BLOCK OF EAST 8TH
STREET AND FLYNN STREET, MORE PARTICULARLY DESCRIBED HEREIN**
passed first reading.

REZONING

2007-129: Palmetto 8, LLC

Pursuant to notice of public hearing the request of Palmetto 8, LLC to rezone part of a tract of land located at 832 East 8th Street came on to be heard.

The applicant was present; there was no opposition.

Councilmen Rutherford and Rico made the motion and second to approve this request.

Councilman Pierce asked to be brought up-to-date on what is happening with the request.

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that this simply rezones a portion of a project that was currently R-4; that it rezones what is presently on the site to C-3 to match the rest of the zoning of the property. He stated the purpose for the rezoning is for an eighteen unit condominium.

Councilman Pierce stated he would have to ask that the matter be tabled one week as he has not looked at it. At this point he **made the motion to table one week; Councilman Benson seconded the motion.**

Councilman Benson stated that it looks like a spot zone.

Mr. Haynes responded, "no, it is not"; that the applicant is Palmetto 8 and the request is to rezone to C-3 to match the rest of the zoning for townhouses under construction.

Councilman Pierce asked if this is part of the same townhouse development. Mr. Haynes responded "yes".

REZONING (Continued)

Councilman Benson asked for clarification that this is an extension of the development. Mr. Haynes again responded "yes".

At this point Councilmen Pierce and Benson withdrew their motion and second to table.

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 PART OF A TRACT OF LAND LOCATED AT 832 EAST 8TH STREET, MORE PARTICULARLY DESCRIBED HEREIN, FROM R-4 SPECIAL ZONE TO C-3 CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

CONTRACT

On motion of Councilwoman Gaines, seconded by Councilman Pierce,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. S-07-009-201, TELEVISED INSPECTION OF PRIVATE SEWER SERVICE LINES, TO ROTO ROOTER PLUMBING SERVICES, INC. IN THE AMOUNT OF TWENTY-TWO THOUSAND NINE HUNDRED TWENTY-FIVE DOLLARS (\$22,925.00), PLUS A CONTINGENCY AMOUNT OF TWO THOUSAND SEVENTY-FIVE DOLLARS (\$2,075.00), FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS (\$25,000.00)

was adopted.

CHANGE ORDER

On motion of Councilwoman Rutherford, seconded by Councilwoman Robinson,

A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NO. 2 RELATIVE TO CONTRACT NO. W-04-006-201, MISCELLANEOUS SANITARY SEWER REQUIREMENTS, WITH MAYSE CONSTRUCTION COMPANY, INC., WHICH CHANGE ORDER INCREASES THE CONTRACT AMOUNT BY SEVENTY-ONE THOUSAND SIX HUNDRED NINETEEN AND 26/100 DOLLARS (\$71,619.26), FOR A REVISED CONTRACT AMOUNT NOT TO EXCEED SIX HUNDRED FIFTY-SIX THOUSAND TWO HUNDRED EIGHTY-SEVEN AND 65/100 DOLLARS (\$656,287.65)

was adopted.

ZONING STUDY - HIGHLAND PARK COMMUNITY

Councilman Pierce inquired as to where the funds come from to do zoning studies.

Mr. Haynes explained that the funds actually come from the Planning Agency; that the only funds ever needed for zoning studies are for small mail-outs to property owners. He stated he is not in charge of this particular study and is not sure how many property owners there are or if there are a lot. He stated if there are several hundred RPA sometimes requests assistance for the mailing cost.

Councilman Pierce stated what he is getting at is that he asked for a study of the Fortwood area and it seems there are no funds to do the study; that funds would have to be raised. He asked why we keep putting studies on the agenda if RPA is not in a position to do them.

Mr. Haynes stated this was a request from the Council; that RPA is not putting them on the agenda. He stated RPA accepts the assistance of funds if they are offered.

Councilman Pierce stated in some areas studies are done and there is no problem with funding, then other areas have to raise funds to do what is necessary to do what has been asked for. He stated if there are no funds to do a study we need to quit putting them on the agenda.

Mr. Haynes reiterated that the only funds needed are for mailing.

Councilwoman Gaines addressed Councilman Pierce's inquiry by stating that she and representatives of RPA met with residents from the Highland Park community and to her knowledge this study would only involve thirty-to-thirty-five homes. She stated she does not know if that determines the price, but did not think about the price of the study when the request was made and thought it was just up to the Planning staff. She stated this study is a re-tweaking of that general area; that there are changes that need to be included in the study that involves the Tennessee Temple area.

Mr. Haynes stated that it is his thought the RPA budget could handle thirty people.

Councilwoman Gaines stated that she wanted to explain to Councilman Pierce what the study is about.

ZONING STUDY – HIGHLAND PARK COMMUNITY
(Continued)

Councilman Pierce stated that he has no problem with a Council person making the request for a study for their district. He stated if there are no funds it needs to be said no more studies would be done.

Councilwoman Gaines stated that this matter was discussed in Committee last week and an RPA staff member presented it.

On motion of Councilwoman Rutherford, seconded by Councilwoman Gaines,

**A RESOLUTION DIRECTING THE CHATTANOOGA-HAMILTON COUNTY
REGIONAL PLANNING AGENCY TO CONDUCT A ZONING STUDY FOR
CERTAIN PROPERTIES IN THE HIGHLAND PARK COMMUNITY**

was adopted.

PERMANENT EASEMENT

On motion of Councilman Rico, seconded by Councilwoman Gaines,

**A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A PERMANENT
EASEMENT OF APPROXIMATELY FOUR (4) ACRES LOCATED ON A
LARGER TRACT OF LAND AT 4065 CAINE LANE FROM THE TRUST FOR
PUBLIC LAND TO BE USED AS PART OF THE SOUTH CHICKAMAUGA
GREENWAY, AND EXPRESSING THE GRATITUDE OF THE MAYOR AND
CITY COUNCIL FOR SAID EASEMENT**

was adopted.

CONTRACT

On motion of Councilwoman Gaines, seconded by Councilman Rico,

**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE
DEPARTMENT OF PARKS AND RECREATION TO ENTER INTO A
PERSONAL SERVICES CONTRACT WITH TERRY TOMASELLO TO
MANAGE THE CITY'S PUBLIC ART PROGRAM FOR A TERM OF EIGHTEEN
(18) MONTHS IN AN AMOUNT NOT TO EXCEED SIXTY THOUSAND
DOLLARS (\$60,000.00), WHICH CONTRACT AMOUNT IS TO BE SHARED
EQUALLY BY THE CITY, THE LYNDBURST FOUNDATION AND THE
BENWOOD FOUNDATION**

was adopted.

CONTRACT

On motion of Councilwoman Rutherford, seconded by Councilman Rico,
A RESOLUTION AUTHORIZING THE AWARD OF CONTRACT NO. R-07-005-201, WARNER PARK BALLFIELD COMPLEX, TO TALLEY CONSTRUCTION COMPANY, INC. IN THE AMOUNT OF FOUR MILLION FOUR HUNDRED FORTY-FOUR THOUSAND FORTY AND 16/100 DOLLARS (\$4,444,040.16), PLUS A CONTINGENCY AMOUNT OF THREE HUNDRED SEVENTY-SIX THOUSAND TWO HUNDRED FIFTY-NINE AND 84/100 DOLLARS (\$376,259.84), FOR A TOTAL AMOUNT NOT TO EXCEED FOUR MILLION EIGHT HUNDRED TWENTY THOUSAND THREE HUNDRED DOLLARS (\$4,820,300.00)

was adopted.

AGREEMENT

On motion of Councilwoman Rutherford, seconded by Councilwoman Bennett,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH LOSE & ASSOCIATES, INC. RELATIVE TO CONTRACT NO. W-05-007-105, DESIGN OF STORMWATER PUMP STATION AND DETENTION PONDS – WARNER PARK BALLFIELD COMPLEX, IN AN AMOUNT NOT TO EXCEED ONE HUNDRED TEN THOUSAND ONE HUNDRED FIFTY-SIX AND 17/100 (\$110,156.17), FUNDED THROUGH TDEC STATE REVOLVING FUND (SRF) LOAN PROGRAM SRF #2007-204

was adopted.

OVERTIME

Overtime for the week ending August 31, 2007 totaled \$81,435.55.

PERSONNEL

The following personnel matters were reported for the various departments:

PUBLIC WORKS DEPARTMENT:

- **CHARLES G. FULTS** – Resignation, Crew Worker, City Wide Services, effective August 20, 2007.

PERSONNEL (Continued)

- **DENISE EDWARDS** – Resignation, Crew Worker, City Wide Services, effective August 24, 2007.
- **EDWARD S. COLEY** – Retirement, Equipment Operator, Sr., City Wide Services, effective August 31, 2007.
- **WILLIAM P. WARE, JR.** – Family Medical Leave, Equipment Operator, Sr., City Wide Services, effective August 24 – November 16, 2007.
- **RONNIE JOHNSON** – Lateral Transfer, Heavy Equipment Operator, City Wide Services, Pay Grade 10/Step 4, \$30,671.00 annually, effective September 7, 2007.

CHATTANOOGA POLICE DEPARTMENT:

- **CHRISTIAN LORENZEN** – Resignation, Police Officer, effective August 30, 2007.
- **MATTHEW MANNING** – Termination, Communications Officer Trainee, effective August 30, 2007.

PURCHASE

On motion of Councilwoman Rutherford, seconded by Councilman Rico, the following purchase was approved for use by the Parks and Recreation Department:

COMPETITION ATHLETIC SERVICES (Lowest and best bid)
R0101235/B0004380

Resurfacing of Tennis Courts at Warner Park

\$11,350.00

RECREATION CENTER HOURS OF OPERATION

Councilman Pierce inquired as to the Friday and Saturday closing hours of the Southside Recreation Center.

RECREATION CENTER HOURS OF OPERATION
(Continued)

Adm. Zehnder stated that there has been a change in the hours of operation of the center. He stated he would get all the particulars to Councilman Pierce as he did not have the information with him.

Councilman Pierce stated that Adm. Zehnder did not have to do that as he wanted to get his point over. He stated the impression he has been given is that the center is closing at 4 p.m. on Friday and Saturday and it seems these are the days extended hours should be observed to stay open longer.

Adm. Zehnder stated that the recreation staff came up with the recommendation of the hours of operation; that they were looking at attendance figures when persons actually do come. He stated they are putting in hours according to the usage; that on Friday evening anyone would think with people off and able to do things the center would be full however statistics to support this are to the contrary. He stated one of the "gives and takes" is to open on Saturday when kids are available, out of school and have more time. He stated he is not sure the closing time is 4 p.m. on Fridays, however, cutting hours in the evening on Friday is dictated by attendance and he was rather amazed by that, also. He stated he would share the information with Councilman Pierce since he asked.

PURCHASE

On motion of Councilwoman Robinson, seconded by Councilwoman Rutherford, the following purchase was approved for use by the Neighborhood Services and Community Development Department:

MUNICIPAL SOFTWARE CORPORATION (Single source)

R0102050

Software Maintenance per TCA 6-56-304.6

\$10,000.00

PURCHASE

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

TEMPLE, INC. (Single source)

R0101975

Signal Assembly per TCA 6-56-304.2

\$18,626.00

HOTEL PERMITS

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

HAMPTON INN, 3641 Cummings Highway, Chattanooga, TN

PARK CITY HOTEL, 2747 Cannon Avenue, Chattanooga, TN

PETTIT HOUSE B & B, 109 Ochs Highway, Chattanooga, TN

RIGHT WAY INN MOTEL, 6200 Fisk Avenue, Chattanooga, TN

HEARING: STEVEN K. HARGIS

City Attorney Nelson stated that a request for hearing has been received from Steven K. Hargis regarding his discharge from Neighborhood Services. He stated before a hearing is set he would like to have a conversation with Mr. Hargis and his attorney as this request may have some of the same problems as that of Officer Goodine.

DISTRICT 6 RESIDENCY

City Attorney Nelson reported that a meeting of the Legal and Legislative Committee was held at 2 p.m. today to discuss the District 6 residency problem. He stated the "long and short" of the meeting is that the *Tennessee Code* seems to put the primary onerous on him to do an investigation and if it is found there is reasonable cause the matter would proceed in court.

DISTRICT 6 RESIDENCY (Continued)

City Attorney Nelson stated the City Council's authority falls along the line that they are given power to determine eligibility of the members and there is a provision in the *Charter* that says if somebody is removed from their district the position becomes immediately vacant. He stated as of yet we have insufficient facts to proceed and it is anticipated an investigation will take at least three weeks and that is all that can be said about that. He stated it has been determined that any action taken by a member who was sitting, even though perhaps technically ineligible, that person's votes would still be counted because they would be an *officer de facto* and not *de jure* and the Tennessee Courts decision would support that view.

COMMITTEES

Councilman Benson stated that the **Legal and Legislative Committee is scheduled to meet on Tuesday, September 11 at 3 p.m.** He stated two weeks after that the City Attorney would be back with a report regarding the District 6 residency issue.

Councilman Benson commended the City Attorney for the precise, businesslike manner in which he has responded to this challenge of membership on the Council. He stated that it is his thought, also, that the whole Council handled the matter very well today and should move slowly and deliberately so all would feel better about the outcome. He stated that he wanted to compliment the City Attorney for the way he handled the matter rather than being rash or rushing in too fast. City Attorney Nelson expressed thanks for Councilman Benson's comments.

COMMUNITY IMPACT TOUR

Councilwoman Robinson stated that the Council has been asked by the Community Impact group to participate in a tour of neighborhoods they are focusing on. She stated this tour would serve to inform the Council of work they are doing and how they interface with other housing initiatives in the community, such as CNE and others. She stated the tour is scheduled for Monday, September 17 beginning at 10 a.m.; that she would remind the Council again next week and will place a note in their mailboxes.

ADJOURNMENT

Chairman Page adjourned the meeting of the Chattanooga Council until Tuesday, September 11, 2007 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)**