

**City Council Building  
Chattanooga, Tennessee  
November 13, 2007  
6:00 p.m.**

Chairman Page called the meeting of the Chattanooga Council to order with Councilmen Benson, Gaines, Pierce, Rico and Robinson present; Councilmen Bennett and Franklin were out of the city in attendance at the National League of Cities Convention. City Attorney Randall Nelson, Special Counsel to the Council Roger Dickson, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

#### **PLEDGE OF ALLEGIANCE/INVOCATION**

Following the Pledge of Allegiance, Councilwoman Robinson gave invocation.

#### **MINUTE APPROVAL**

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

#### **POST EMPLOYMENT BENEFITS**

Chairman Page stated at today's Public Works Committee meeting Mayor Littlefield was present and indicated the matter with regard to former Councilwoman Rutherford has been dissolved. He stated that the Mayor agreed with moving the city forward with not offering the post employment benefits of health care. He acknowledged the presence of Judge Walter Williams, attorney for Mayor Littlefield, and Legal Counsel for the Council, Roger Dickson. He stated in a private session of attorney/client prior to tonight's Council meeting it was stated in order to finally put a "period" to this acknowledgement needs to be made in open assembly.

## POST EMPLOYMENT BENEFITS (Continued)

**Chairman Page** asked Donna Kelley to come forward and noted that Ms. Kelley has been Director of Personnel for a number of years and has done fine work for the city. He stated to clarify any possible confusion regarding any foreknowledge Attorneys Williams and Dickson were part of the meeting this afternoon. As a way of record keeping and final closure, he **asked Ms. Kelley the following question: Is it correct that administration has decided to recognize the City Council's acceptance of Ms. Rutherford's resignation from the City Council effective October 1, 2007 and that as a result Ms. Rutherford will not receive post separation health and hospitalization benefits from the city either as a former member of the Council or as an employee of the city?**

Special Counsel Dickson interjected "except as COBRA may apply".

Atty. Williams approached the microphone and stated that the Council minutes reflect October 9 as the date in which the Council accepted Councilwoman Rutherford's resignation. He stated it is his belief it is the Mayor's intent to honor the Council's action based on the October 9 minutes in which the resignation was accepted by the Council which was motioned by Councilman Benson and seconded by Councilman Pierce.

Atty. Dickson stated that the October 9 date is the day the resignation was accepted as of October 1 when it was submitted. He expressed his thought that something fairly irrelevant was being argued; that the Council's position always has been indicated as accepting the effective date of October 1.

Atty. Williams stated that the matter is probably moot as Atty. Dickson says; that benefits continue until the end of October whether we use October 1, 9 or 16, it does not matter, clarifying that benefits for a city employee who resigns continues until the end of the month.

Atty. Dickson stated to be consistent with the minutes and what the Council has done, he would say the Council accepted her resignation as effective and acted upon on October 9 and again on October 16 effective October 1, the day it was submitted.

Councilman Benson stated that he made the motion that the Council reaffirm the resignation of Marti Rutherford from the Council as of October 1; that the reaffirmation was made on October 16.

Atty. Dickson stated as Atty. Williams has said it is a moot point whether the date was October 1 or 9, it does not affect her ineligibility or eligibility.

**POST EMPLOYMENT BENEFITS (Continued)**

Chairman Page stated that the question has been asked and is a matter of public record. At this point he asked Ms. Kelley to respond.

**Donna Kelley responded, "Yes, that statement is correct".**

Chairman Page expressed thanks to the Council, Mayor and Donna Kelley and noted that the public is glad to get this over with.

Ms. Kelley responded, "I think so".

Chairman page expressed appreciation to Attorneys Dickson, Williams and (Zachary) Greene for their help.

**(Attys. Dickson and Greene left the meeting at this point.)**

**AMEND ZONING ORDINANCE**

City Attorney Nelson stated that this ordinance has been changed as directed in Public Woks Committee this afternoon to make it available on one permit per lot.

On motion of Councilman Rico, seconded by Councilwoman Gaines,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, BY AMENDING ARTICLE V, SECTION 103 AND ARTICLE V1, SECTION 114, TO INCLUDE PROVISIONS FOR A SPECIAL EXCEPTIONS PERMIT FOR TWO-FAMILY DWELLINGS IN THE R-1 RESIDENTIAL ZONE UNDER CERTAIN CONDITIONS**

passed first reading; **Councilman Pierce voted "no".**

**REZONING**

**2007-178: Eric Myers, Elemi Architecture**

Pursuant to notice of public hearing, the request of Eric Myers, Elemi Architecture, to rezone tracts of land located at 615, 617, and 619 Hamilton Avenue came on to be heard.

The applicant was present; there was no opposition.

**REZONING (Continued)**

Greg Haynes, Director of Development Services with the Regional Planning Agency (RPA), stated that the purpose for this rezoning is for a six unit condominium. The site plan that was submitted at the time of application was displayed by PowerPoint and Mr. Haynes noted that the Planning Commission recommends approval subject to two conditions: the site plan and site and building elevations. He stated the site and building elevations are primary requests so residents could get a "feel" and see what the exterior would look like. He stated there were three conditions at Planning however the third condition was removed which required that the applicant meet with the neighborhood which was done.

Councilwoman Robinson stated since Councilwoman Bennett is not present, she wanted to get a bit of information as far as the C-7 zone and the land use, neighborhood and North Shore Plans to make sure members of the Council are comfortable with it.

Eric Meyers of 1413 Market Street stated that he would like to develop six multi-family attached dwellings on Hamilton facing Hamilton Avenue; that it is on property that stretches between Hamilton and North Market. He stated he would reserve the commercial part facing North Market for long term development and at such time would present the C-7 depending on the outcome of the design process and study. He stated that he has been working with Justin Steinmann and has met with the Hill City Neighborhood Association. He stated R-3 would give him the ability to do six multi-family attached dwellings; that he is currently working on elevations and is not ready to make it public, yet, but probably would within the next month or so.

On motion of Councilman Rico, seconded by Councilwoman Gaines,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE TRACTS OF  
LAND LOCATED AT 615, 617, AND 619 HAMILTON AVENUE, MORE  
PARTICULARLY DESCRIBED HEREIN, FROM R-2 RESIDENTIAL ZONE TO R-  
3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2007-179: Andrew H. McPeters**

Pursuant to notice of public hearing the request of Andrew H. McPeters to rezone a tract of land located at 2864 Eblen Drive came on to be heard.

**REZONING (Continued)**

The applicant was present; there was no opposition.

On motion of Councilman Benson, seconded by Councilman Rico,  
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,  
KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE A TRACT OF  
LAND LOCATED AT 2864 EBLIN DRIVE, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM R-1 RESIDENTIAL ZONE TO M-1  
MANUFACTURING ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**REZONING**

**2007-181: Chattanooga Neighborhood Enterprise c/o Bob McNutt**

Pursuant to notice of public hearing, the request of Chattanooga Neighborhood Enterprise c/o Bob McNutt to rezone a tract of land located at 1806 Madison Street came on to be heard.

A representative for the applicant was present; there was no opposition in attendance.

On motion of Councilwoman Robinson, 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 1806 MADISON STREET, MORE PARTICULARLY  
DESCRIBED HEREIN, FROM M-1 MANUFACTURING ZONE TO C-3  
CENTRAL BUSINESS ZONE, SUBJECT TO CERTAIN CONDITIONS**  
passed first reading.

**SHEPHERD COMMUNITY LAND USE PLAN**

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADOPTION OF THE SHEPHERD  
COMMUNITY LAND USE PLAN**  
was adopted.

**AGREEMENT**

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION ESTABLISHING THE "ART OF CHANGE" PROGRAM AND  
AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE  
CHATTANOOGA AREA REGIONAL TRANSPORTATION AUTHORITY  
("CARTA") AND THE UNITED WAY OF CHATTANOOGA TO ASSIST IN  
THE IMPLEMENTATION OF THE PROGRAM**  
was adopted.

**CONTRACT**

On motion of Councilwoman Robinson, seconded by Councilwoman Gaines,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE  
DEPARTMENT OF NEIGHORHOOD SERVICES AND COMMUNITY  
DEVELOPMENT TO EXECUTE A CONTRACT WITH THE URBAN LEAGUE OF  
GREATER CHATTANOOGA RELATIVE TO THE 2008 EARNED INCOME  
TAX CREDITS CAMPAIGN IN AN AMOUNT NOT TO EXCEED THIRTY  
THOUSAND DOLLARS (\$30,000.00)**  
was adopted.

**AGREEMENT**

On motion of Councilman Rico, seconded by Councilwoman Robinson,  
**A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE  
DEPARTMENT OF PUBLIC WORKS TO EXECUTE AN AGREEMENT WITH  
JPD DEVELOPMENT, LLC RELATIVE TO CONTRACT NO. W-07-002-101,  
WILLIAMS STREET SEWER REPAIR, IN AN AMOUNT NOT TO EXCEED ONE  
HUNDRED NINETY-NINE THOUSAND TWO HUNDRED NINETY DOLLARS  
(\$199,290.00)**  
was adopted.

**UNIFIED COMMUNICATIONS AGREEMENT**

Councilman Benson asked which municipalities have agreed to this.

Don Allen, Chairman of the Board of the 911 District, stated that this will be the first one.

Councilman Benson stated that he knows a new formula has been drawn since the last contract and asked what happens if one opts out of this.

**UNIFIED COMMUNICATIONS AGREEMENT**  
**(Continued)**

Mr. Allen stated in all truthfulness, if the city and county decide not to go into this, it will work; that if anyone decides not to do it and goes with what they own, it will continue to work. He stated the city and county are the two largest entities in the dispatch business that represent . . .

Councilman Benson interrupted and stated what he is getting to is if a municipality does not agree to pay their share of the rate and opts not go with it, will they be serviced.

Mr. Allen stated they would have to create their own dispatch; that they would have to hire their own dispatch and run their own center which would be a larger cost to them.

Councilman Benson asked what the larger cost would be.

Mr. Allen responded that it would be five-fold over what we are offering.

Councilman Benson stated they would not be provided service.

Mr. Allen stated that the 911 Board is not in the dispatch business or call taking business; that they are offering an opportunity at the invitation of Mayors Littlefield and Ramsey to start this unification to provide that service for them. He stated if they elect not to they still have to do their dispatching and that is their option.

Councilman Benson asked if everyone on the Council is clear on this.

Chairman Page asked if the cost to the city remains the same no matter what happens without the other municipalities.

Mr. Allen stated as presented in Committee two-to-three weeks ago, it would be as presented.

Councilman Benson stated that that locks us in; that the cost will not have to go up if some municipalities do not participate.

Mr. Allen stated if some entities decide not to come it will not affect the cost to the county or city but it will affect them (other municipalities).

Councilman Benson stated it would affect them negatively which is all the more reason for them to come in. Mr. Allen responded that that is their view on it.

**UNIFIED COMMUNICATIONS AGREEMENT**  
**(Continued)**

On motion of Councilman Rico, seconded by Councilman Pierce,  
**A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A UNIFIED COMMUNICATIONS AGREEMENT BETWEEN THE CITY OF CHATTANOOGA, HAMILTON COUNTY GOVERNMENT, THE HAMILTON COUNTY 9-1-1- EMERGENCY COMMUNICATIONS DISTRICT, AND/OR THE CITIES OF EAST RIDGE, RED BANK, SIGNAL MOUNTAIN AND COLLEGEDALE**  
was adopted.

**OVERTIME**

Overtime for the week ending November 9, 2007 totaled \$74,770.94.

**PERSONNEL**

The following personnel matters were reported for the various departments:

**PUBLIC WORKS DEPARTMENT:**

- ◆ **ANTHONY D. CUNNINGHAM** – Suspension (2 days without pay), Equipment Operator, City Wide Services, effective November 9-12, 2007.
- ◆ **HENRY SAND, JR.** – Terminated, Crew Worker, City Wide Services, effective November 9, 2007.

**CHATTANOOGA POLICE DEPARTMENT:**

- ◆ **GARY MARTIN** – Suspension (one day without pay), Police Officer, effective November 5, 2007.
- ◆ **WILLIAM BISHOP** – Resignation, Police Officer, effective November 8, 2007.
- ◆ **JEANNIE SNYDER** – Voluntary Reduction in Rank, Captain, Pay Grade 4/Step 7, \$63,279.00 annually, effective November 9, 2007.



**COMMUNITY DEVELOPMENT CITIZENS ADVISORY  
COMMITTEE**

On motion of Councilman Rico, seconded by Councilman Pierce, the following Appointments/Reappointments were approved:

- ◆ Reappointment of **JANICE PULVER** (representing Council District 1) and **BONNIE CUMMINS** (representing Council District 3) for terms expiring September 17, 2009
- ◆ Reappointment of **DR. JAN PRINTZ** (representing Council District 6), for a term expiring September 30, 2008.
- ◆ Appointment of **JOSEPH O. LEWIS** (representing District 9) for a term expiring September 30, 2010.
- ◆ Appointment of **PHILLIP THOMPSON** (representing Chattanooga Neighborhood Enterprise, agency representative), **JANNA JAHN** (representing Chattanooga Housing Authority, agency representative), and **MISSY CRUTCHFIELD** (representing Education, Arts & Culture, agency representative) with no term limits.

**HOTEL PERMITS**

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

**AMERICA'S BEST INN** – 7717 Lee Highway, Chattanooga, TN

**SLEEP IN** – 2351 Shallowford Village Dr., Chattanooga, TN

**PURCHASE**

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

**FDM SOFTWARE SYSTEM (Single source)**  
**R0104062**

Software Maintenance and Support per TCA 6-56-304.2

\$47,323.30

**PURCHASES (Continued)**

**LEATHER ONE (Lowest and best bid)**  
**R0103122/B0004570**

Sofas and Chairs

\$16,443.00

**REFUND**

On motion of Councilman Rico, seconded by Councilman Pierce, the Administrator of Finance was authorized to issue the following refund due to amended report from Hamilton County Assessor's TMA audit:

**TENN-GA STONE GROUP TWO LP** \$1,804.56

**HEARING: OFFICER DERRICK STEWART**

City Attorney Nelson stated that a request for a hearing for Police Officer Derrick Stewart has been received and noted that he did not know the punishment or crime. He stated that Council could set the hearing and he would check into it.

**A hearing for Officer Stewart was scheduled for Monday, December 3 at 9 a.m. with Councilmen Gaines, Pierce, and Benson serving as the panel; Councilwoman Robinson volunteered as Alternate.**

**COMMITTEES**

Councilman Benson stated that the **Legal and Legislative Committee would meet on Tuesday, November 20 at 3 p.m.**

In the absence of Councilwoman Bennett, Councilwoman Robinson scheduled a meeting of the **Education, Arts and Culture Committee for Tuesday, November 20 immediately following Legal and Legislative.**

## DISTRICT 6 VACANCY

Councilman Benson stated that the Legal and Legislative Committee would not take up the matter of the District 6 vacancy at its meeting next Tuesday and asked the Clerk of Council to make contact with the four applicants after the qualifying deadline on Thursday (November 15) and ask that they be present at next Tuesday's Council meeting and be prepared to give a five minute presentation, after which the Council would vote and swear-in the person.

City Attorney Nelson stated that he would have someone present to swear-in the person.

Councilman Benson stated the Shepherd downzoning is coming up and another encroachment south of Brainerd Road that was presented at the Planning Commission meeting yesterday and the District needs to be represented. He stated the Council could listen to a five minute presentation from each, take a vote and get them sworn-in so they can sit on the dais and begin to have representation for District 6.

City Attorney Nelson asked if there would be a full Council present next week. The Clerk of Council responded "yes".

City Attorney Nelson stated five people will have to agree on the final choice and it might take two-or-three rounds.

Councilman Benson stated that the voting would continue until there are five votes.

Councilman Rico expressed concern about bringing someone on the Council "out of the blue" who would have no clue as to what will be talked about or voted on and asked if that is fair.

Councilman Pierce stated that they do not have to vote.

Councilman Benson stated that the Council should make certain that the person lives in the district.

Councilman Rico stated that does not mean they would know what is going on.

Councilman Benson reiterated that the District needs to be represented.

**DISTRICT 6 VACANCY (Continued)**

Councilwoman Robinson stated that she would like to believe that all candidates are familiar with what is going on in their District which should be one of the reasons they are offering their service. She stated "they may not be one hundred percent up to date, but neither are we" (Council members)!

Chairman Page stated that they would not have to vote on every item if they are not familiar.

**ADJOURNMENT**

Chairman Page adjourned the meeting of the Chattanooga Council until Tuesday, November 20, 2007 at 6:00 p.m.

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**CHAIRMAN**

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**CLERK OF COUNCIL**

**(A LIST OF NAMES OF PERSONS IN ATTENDANCE IS  
FILED WITH MINUTE MATERIAL OF THIS DATE)**