

**City Council Building
Chattanooga, Tennessee
March 10, 2009
6:00 p.m.**

Chairman Bennett called the meeting of the Chattanooga Council to order with Councilmen Benson, Berz, Gaines, Gilbert, Page, Pierce, Rico and Robinson present. Special Counsel Phil Noblett, Management Analyst Randy Burns and Council Clerk Carol O'Neal were also present.

PLEDGE OF ALLEGIANCE/INVOCATION

Following the Pledge of Allegiance, Councilman Page gave invocation.

MINUTE APPROVAL

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

SPECIAL PRESENTATION: MARSHALL FELLOWS

Eleanor Cooper stated that the guests tonight are sponsored by the German Marshall Fund of the United States, headquartered in Washington with offices in Berlin and other parts of Europe. She stated the Fund was founded for the purpose of creating a positive transatlantic relationship and noted that the Fellows have been in Chattanooga four days and will be leaving tomorrow. She invited the Council to identify young Chattanooga leaders to participate and do the other part of the trip and go there; that right now Jeff Cannon of Green Spaces is in Europe and Josh McManus from CreateHere will be leaving later this year. She stated former Fellows from Chattanooga are Jeff Pfitzer, Don Ford and Wade Hinton. At this point she asked Nagieb Khaja to come forward and introduce the other Fellows and present the Honorary Citizenship certificates that have been prepared.

SPECIAL PRESENTATION: MARSHALL FELLOWS
(Continued)

Nagieb Khaja from Denmark stated the purpose of the Fellowship is to develop relationships between Europe and the United States to strengthen understanding between the two parts of the world. He stated they have been traveling all over the states to understand American culture, politics and life; that they started in Washington and had a great experience meeting politicians and people from the grass roots, lobbyists and working in the soup kitchen volunteering. He stated it is a very good initiative and helps them understand the broader America. He stated they have been in Chattanooga for four days and it has really been great to be here; that it is the perfect place to be! He stated if they had stayed in Washington for three weeks he does not think they would have gotten as close to the average American; that this is an excellent opportunity for them to know and be close to Americans and has had that great experience with a family from Chattanooga, Josh and Mitchell Blasingame, who have been so hospitable. He stated that it has been so overwhelming the way people have treated them, especially Eleanor who has been introducing them to the community. At this point he presented certificates to each of the Fellows: **Francois Billot**, Vice President, Plants Integration, North America from France; **Lirim Greicevci**, Deputy Chief of Staff, Government of Kosovo; **Georgiana Ilie**, Freelance Journalist from Romania; **Katrin Matschke**, Executive Officer from Germany; **Eduard Vallory** Director-General, Barcelona Graduate School of Economics from Spain; and **Melanie Whittaker**, Senior Administrative Assistant in the Fellowship's Berlin office.

Melanie Whitaker stated that she works with the German Marshall Fund and commended Chattanooga. She stated for the past ten years Chattanooga has been a fantastic host for European Fellows who always come back raving about Chattanooga! She stated it is great Chattanoogaans have opened their homes and let them stay and take part in your way of life; that they take back so much!

Chairman Bennett stated that Chattanooga is honored that the Fellows have spent four days here and are glad to hear that it has been a wonderful visit for them.

Councilman Page also expressed thanks for their presence in Chattanooga, as well as thanks to Eleanor Cooper, noting that she is the brightest, most knowledgeable and biggest ambassador for the city and county than anyone he has ever met! He stated he has seen her intellect in telling "this country boy" how to go to China and meet people! He stated she has done so much for our city and expressed thanks to her for what she has done. He stated he does not know what makes her "tick" as she keeps going just like the Energizer bunny!

TEMPORARY EXCEPTION TO CITY CODE

On motion of Councilwoman Berz, seconded by Councilman Pierce,
AN ORDINANCE TO PROVIDE A TEMPORARY EXCEPTION TO CHATTANOOGA CITY CODE, SECTION 2-161(c)(2) AND (7) FOR EMPLOYEES ASSIGNED TO THE 9-1-1- COMMUNICATION BOARD
passed second and final reading and was signed in open meeting.

SPECIAL POLICEMEN

Councilman Benson made the motion to move Resolution (d) forward on the agenda; Councilwoman Gaines seconded the motion; the motion carried.

Councilman Benson stated that he asked that the Resolution be moved forward in deference to Judge Russell Bean who was present to swear-in the persons once it is adopted.

On motion of Councilman Benson, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE APPOINTMENT OF SHEENA BENAVENTE, JORDAN BUFFAT, DIANNA BURROW, CHRIS GAYTON, REBEKKA GAYTON, AND CINDY GLOVER AS SPECIAL POLICEMEN (UNARMED) FOR ANIMAL CARE TRUST D/B/A/ MCKAMEY ANIMAL CARE AND ADOPTION CENTER, INC., TO DO SPECIAL DUTY AS PRESCRIBED HEREIN, SUBJECT TO CERTAIN CONDITIONS

was adopted.

After the Resolution was adopted Judge Bean swore-in the officers in open Council meeting.

ADOPT AND ENACT A NEW CODE

On motion of Councilwoman Berz, seconded by Councilman Rico,
AN ORDINANCE ADOPTING AND ENACTING A NEW CODE FOR THE CITY OF CHATTANOOGA, TENNESSEE, INCLUDING THE CHATTANOOGA ZONING ORDINANCE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN; PROVIDING A PENALTY FOR THE VIOLATION THEREOF; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE; AND PROVIDING WHEN SUCH CODE AND THIS ORDINANCE SHALL BECOME EFFECTIVE

passed first reading.

AMEND ZONING ORDINANCE

On motion of Councilman Rico, seconded by Councilman Page,
**AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED,
KNOWN AS THE ZONING ORDINANCE, ARTICLE V, SECTION 1210 TO
DEFINE OPEN SPACE FOR RESIDENTIAL PLANNED UNIT DEVELOPMENT**
passed first reading.

AMEND ZONING ORDINANCE

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 VI,
SECTIONS 204(A) AND (E) TO INCLUDE R-3 RESIDENTIAL ZONE WITHIN
THE SPECIAL EXCEPTIONS PROCESS FOR TWO-FAMILY DWELLINGS**
passed first reading.

CLOSE AND ABANDON

MR-2007-070: ONS Partnership

On motion of Councilman Rico, seconded by Councilman Pierce,
**AN ORDINANCE CLOSING AND ABANDONING A STORM AND
SANITARY EASEMENT ON A TRACT OF LAND LOCATED AT 200
MANUFACTURERS ROAD, MORE PARTICULARLY DESCRIBED HEREIN
AND AS SHOWN ON THE MAP AND DRAWINGS ATTACHED HERETO
AND MADE A PART HEREOF BY REFERENCE**
passed first reading.

REZONING

2008-218: Jay M. Philippose

Pursuant to notice of public hearing, the request of Jay M. Philippose to rezone the 7400 block of Ziegler Road and the 1700 block of North Joiner Road 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 this request is for development of an office complex. He stated Planning recommends approval as submitted and Staff recommends denial. He stated concerns were that there would be increased demand of new office development and would impact circulation and vehicle movement. He stated the Staff understands that office development is approved in the land use plan however the increased burden that may be placed on infrastructure and the street network in the area may not be in the best interest of the area at this time. He stated it could be alleviated in the Goodwin Road connection north of the site; that once the proposed extension of Goodwin Road to Jenkins is complete it would help alleviate traffic in the area. He stated the land use plan indicates it is appropriate but there is concern about the increased demand it may place on the area. He stated there was no opposition to the request at the Planning Commission.

Councilman Benson stated that this is located in the district he represents and it is a very difficult decision for him and wants each of the Council members to listen and make up their own minds regardless of how he makes up in his mind in this situation. He stated the matter was approved at Planning with no neighborhood opposition; that the applicant met with the neighborhood and they noted they would generally prefer to have "known" than "unknown" with the many curb cuts that could come if R-1 were on the street facing them. He stated the Planning Commission went against the Staff as the Staff had concerns about traffic. He stated since this ties traffic it has become even more of a concern; that they are having a terrible problem at East Brainerd Elementary getting in and out as only 25 cars could held at a time and there are about 100 cars on Brainerd Road blocking traffic during the afternoon. He stated the Traffic Engineer says it does increase traffic down on East Brainerd Road and was wondering and hoping he is not right; that they are not going to let curb cuts come off on anything except Ziegler. He stated that he is scared about what will happen if it is rezoned right now and wants to hear from the Traffic Engineer again; that he (Benson) is very hesitant about voting against the experts and the neighborhood has no problem with it. He stated it is a logical extension as there are offices already zoned across the street and they would be required to build a berm facing the fact street with trees on top. He stated if this is approved today he wants it to be the same size berm that was put on the other project and conditioned with no outlet on anything except Ziegler.

REZONING (Continued)

John VanWinkle stated that they reviewed the traffic study on this case; that the conclusion of the consultant for the developer's assumption was that essential traffic coming off Ziegler to Gunbarrel does not prevent the ability of traffic to come out. He stated that it is expected most traffic would take a direct shot to the Gunbarrel light signal that becomes problematic. He stated the consultants did not propose a signal; that they (public works) looked at it and disagree as it does warrant a signal due to adding 51 percent more traffic to Ziegler. He stated the bigger issue is adding more traffic in an area already saturated with traffic can not be added without putting in some improvements. He stated if this is recommended for approval there should be certain conditions; that for the short term a signal should be installed on Gunbarrel to connect to the signal system on a dedicated right-of-way to bring Joiner and Ziegler up to standard. He stated for the longer term it is very important a connector road from Goodwin is extended to Jenkins and most important connect it to Ring Road. He stated there are a lot of things going on in East Brainerd and we need to do the responsible thing and try to accommodate traffic that is continuing to be added as more development occurs.

Councilman Benson stated this is the first time since serving on the Planning Commission or on the Council that he can think of that we used traffic or lack of infrastructure as a reason to close down on development. He stated what we are doing is precedential; that we do not need more traffic, we need more development. He stated the infrastructure is not there and should not be rezoned and if that had been the case we never would have had Hamilton Place; that there were two lanes on Gunbarrel when that was finished. He stated to do the infrastructure before development means we have to have a lot of money up front – a whole lot! He asked how we get that money up front and all at once to continue with development unless we raise taxes. He stated the way it is now we get in the business, raise taxes, then the infrastructure, indicating that he does not know the answer!

Councilman Rico expressed agreement with Councilman Benson in letting traffic dictate this rezoning; that if it were R-1, houses would be built and there would still be traffic! He stated we can not built nothing on the premise we do not want any more cars; that it is not right.

Councilwoman Berz stated that the Council is looking at proper land use and planning; that Mr. Haynes made a comments when we opened up saying this is an R-1 district zoning area and they asked for different zoning. She asked when does it become inappropriate to stop changing from R-1 to commercial; that there has to be some protection in those areas.

REZONING (Continued)

Councilwoman Berz stated then she heard Councilman Benson say the folks said rather than this staying R-1 they are afraid of what they might get; that no one in R-1 should be scared of what they will get. She stated the third thing is do we look at infrastructure any time somebody builds a new development and we have to be cost benefit analysts to see what it costs the city to meet the needs of that road to accommodate the needs of this new development. She stated that we are at a point we better be doing smart land use planning.

Mr. Haynes stated taking infrastructure into consideration of planning issues is very much a part of planning; that this proposal is compatible or appropriate for the area; that we are talking about land use and whether it is compatible with what is there. He stated across the street is an existing residence, to the north is residential and the rear fronting Gunbarrel is mostly existing office.

Councilwoman Berz inquired as to when creeping commercial stop.

Mr. Haynes stated that is the magic question at Planning; that the recommendation was really to be respectful as engineering and the experts look at infrastructure. He stated there is not a formula and that is what land use plans are for to give guidance in that area; that he thinks the Plan supports office use or medium density residential; that he can not remember.

Councilman Page stated that he is interested in what the community plan says about this which would be his driving decision about what to do; that it raises the question of the "chicken and the egg", which came first – infrastructure driving development or the development driving infrastructure. He stated they can not develop because it is bringing more traffic and each Council member has had to make calls and votes about certain development projects that we thought would increase traffic, whether it is better for the greater good to go ahead and approve those. He stated he does not know the answer to it; that he does want an answer to his question from his colleagues. He thanked Councilman Benson for his open dialogue and again asked what the community plan says about it – that will determine his vote.

Councilman Benson stated that the community plan calls for it to be low density and does not call for commercial. He stated this is not commercial, it is for a medical facility; that there are medical facilities on both sides and has pretty well kept that corridor as medical facilities – low activity offices. He stated he is not ready to vote on this until the entire Council realizes and thinks about it; that he has served eighteen years on the Planning Commission and does not recall ever turning down a request for development because of an infrastructure problem.

REZONING (Continued)

Mr. Haynes stated if this is approved it will set a precedent for future office requests.

Councilman Benson made the motion to defer the matter until some studies are done and to see what other cities are doing as this will have a great impact on this city. He stated we do have an impact fee to precede it and if there is an impact fee we should get the money up front and widen the roads that are a problem; that we do not have that in this state. **Councilwoman Gaines seconded the motion.**

Mr. Haynes stated he can not answer the questions; that his only question is if this is approved what direction is Staff to follow; that they do look at other ordinances and regulations.

Councilman Benson stated since he made the motion to defer he would like for the entire Planning Commission to discuss this with Staff to see if we are going in the future to approve or disapprove projects because of some infrastructure problem, whether it is a sewer line, streets, stormwater or other things. He stated we need to know otherwise he does not know what we do about future rezonings in some of these districts if we look to traffic as a problem.

Chairman Bennett stated that she was thinking when the new Publix was presented, normally when Staff comes back the Traffic Engineer says we can do that and the road can sustain it; that we need to configure the entrance and exits in order not have a negative impact on the community.

Councilman Benson amended the motion to defer 60 days and take it back to Planning. He noted that the development industry is present tonight and wanted the Council to be very cautious.

Steve Billingsley, Architect, was present representing the applicant, Dr. Philippose. He stated the matter was deferred at the Planning Commission in order for the traffic study to be done and felt they were wasting money up front. He stated their property does not touch Ziegler or the Gunbarrel intersection; that they (others) are trying to get a traffic signal. He stated their property does not increase traffic on Gunbarrel and there is a brand new strip center on Gunbarrel that is totally empty with an empty parking lot and out parcels in front that will be built on.

REZONING (Continued)

Mr. Billingsley asked how the Council could delay something when there are out parcels there; that he is trying not to be cynical and asked how long does government take to make a decision on this, noting that he should not have said that; however, he is skeptical. He stated that the property at the corner at Joiner is already zoned R-4 and the property beside is office; that he is trying to get zoning that is consistent with what is there. He stated they are limiting the entrance and from day one there was no entrance on Joiner as it is a narrow road. He referenced the berm landscape separation that has been requested and noted that the property immediately north of his property is owned by Wilkins Resource Group which will eventually become commercial. He stated this property is sandwiched between Ziegler and they want to sell their property to a developer; that his client is a doctor not a developer. He stated his client's intent is to build a building on the northwest corner for his practice and develop over time. He stated that he does not know what the time is with the economy; that this is not the Ken Defoor developer leveling land and putting up five buildings; that they have six acres that can support 60,000 square feet with 45,000 feet of parking.

Councilman Rico expressed agreement with what has been said and noted that the Council is holding up a person's property rights; that we are making a decision not to do because of traffic and this is wrong. He stated more studies will not help; that we know what the problem is – if it is developed there will be more cars, but development in any way will be the same problem. He asked the Council to make a decision for the applicant's sake.

Councilwoman Gaines echoed Councilman Rico's comments stating she would like to know what the plan says and noted that it seems the Council may be "barking up the wrong tree" as there might be legal ramifications in moving on this site because of traffic. She stated in looking at the Staff's comments as to the "why nots" there is something quite disturbing because of the negative impact of infrastructure.

Special Counsel Noblett stated every time there is a request to rezone property basically that changes the law in Chattanooga; that this particular matter is currently zoned with a density for R-1 and the request is to change that zone to R-4. He stated as a Council, when asked to change the law, we have to listen to all sides presented and listen to experts and then make a legislative decision whether it is appropriate or not to change from R-1 to R-4. He stated the Council has to listen to advise of risks on traffic and concerns for what might be for future infrastructures and make the best legislative decision. He stated that is the Council's duty to consider the applicant and folks in the area.

REZONING (Continued)

Chairman Bennett stated that she stands corrected if it is her thought the request is in conflict with the land use plan.

Mr. Haynes stated that it is in conflict; that the plan calls for low density residential.

Councilman Benson stated that it is supposed to stay R-1.

Mr. Haynes responded, "no, low density residential". He stated R-1 is what it is now; the land use plan does not recommend specific zones just land uses. He stated low density residential can go just about in any zone.

Councilman Benson asked if the office would be in conflict.

Mr. Haynes responded "it would".

At this point, Councilman Benson withdrew his previous motion to defer 60 days.

Councilman Rico made the motion to approve the request, however, the motion failed for lack of a second.

Councilman Page made the motion to deny the request based on the Community Plan; Councilwoman Berz seconded the motion.

On motion of Councilman Page, seconded by Councilwoman Berz,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE THE 7400 BLOCK OF ZIEGLER ROAD AND THE 1700 BLOCK OF NORTH JOINER ROAD, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM R-1 RESIDENTIAL ZONE TO R-4 SPECIAL ZONE, SUBJECT TO CERTAIN CONDITIONS

was denied.

CLOSE AND ABANDON

MR-2009-004: Tammy Hass

On motion of Councilman Rico, seconded by Councilman Page,
AN ORDINANCE CLOSING AND ABANDONING AN ALLEY LOCATED IN THE NORTH LINE OF THE 2700 BLOCK OF EAST 17TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
passed first reading.

CLOSE AND ABANDON

MR-2009-005: Tammy Hass

On motion of Councilman Rico, seconded by Councilman Pierce,
AN ORDINANCE CLOSING AND ABANDONING AN ALLEY LOCATED IN THE SOUTH LINE OF THE 2700 BLOCK OF EAST 17TH STREET, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE
passed first reading.

REZONING

2009-021: Mike Hedges

Pursuant to notice of public hearing the request of Mike Hedges to rezone part of the tracts of land located in the 3300 and 3400 blocks of Chandler Place came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilman Benson,
AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO REZONE PART OF THE TRACTS OF LAND LOCATED IN THE 3300 AND 3400 BLOCKS OF CHANDLER PLACE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWING ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, FROM M-2 LIGHT INDUSTRIAL ZONE TO R-3 RESIDENTIAL ZONE, SUBJECT TO CERTAIN CONDITIONS
passed first reading.

AMEND CONDITION

2009-022: Mike Price MAP Engineers

Pursuant to notice of public hearing, the request of Mike Price MAP Engineers to amend condition #13 imposed in Ordinance No. 12111 on property located at 7624, 7626, 7628 and 7630 Standifer Gap Road came on to be heard.

The applicant was present; there was no opposition.

On motion of Councilman Rico, seconded by Councilman Benson,

AN ORDINANCE TO AMEND ORDINANCE NO. 6958, AS AMENDED, KNOWN AS THE ZONING ORDINANCE, SO AS TO AMEND CONDITION #13 IMPOSED IN ORDINANCE NO. 12111 ON PROPERTY LOCATED AT 7624, 7626, 7628 AND 7630 STANDIFER GAP ROAD, BEING MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP AND DRAWINGS ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE, SUBJECT TO CERTAIN CONDITIONS

passed first reading.

AD VALOREM TAXES

On motion of Councilman Rico, seconded by Councilwoman Gaines,

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE PROVIDENT LIFE AND ACCIDENT INSURANCE COMPANY PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES

was adopted.

EMINENT DOMAIN

On motion of Councilman Rico, seconded by Councilman Page,

A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST CORRAL OF COLUMBUS, LLC FOR A TEMPORARY CONSTRUCTION EASEMENT AT 4506 HIXSON PIKE, TAX MAP NO. 110P-A-001, TRACT NO. A-001, RELATIVE TO CONTRACT NO. E-03-028-202, HAMILL ROAD AT HIXSON PIKE ROADWAY IMPROVEMENTS PHASE 2

was adopted.

AGREEMENT

On motion of Councilman Rico, seconded by Councilman Page,
A RESOLUTION AUTHORIZING THE ADMINISTRATOR OF THE DEPARTMENT OF PUBLIC WORKS TO ENTER INTO AN AGREEMENT WITH VOLKERT & ASSOCIATES, INC. FOR PROFESSIONAL SERVICES RELATIVE TO CONTRACT NO. E-03-028-103, HAMILL ROAD IMPROVEMENTS (HIGHWAY 153 TO HIXSON PIKE) PHASE 2 AND 3, IN AN AMOUNT NOT TO EXCEED SIXTY-FOUR THOUSAND FIVE HUNDRED DOLLARS (\$64,500.00)
was adopted.

GRANT

On motion of Councilman Gilbert, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO APPLY FOR AND, IF AWARDED, TO ACCEPT A GRANT FROM THE BENWOOD FOUNDATION IN THE AMOUNT OF EIGHTEEN THOUSAND SEVEN HUNDRED DOLLARS (\$18,700.00) TO BE USED TO UPGRADE THE CHILD IDENTIFICATION PROGRAM FROM STANDARD INK TO DIGITAL
was adopted.

OFFER TO PURCHASE

On motion of Councilman Rico, seconded by Councilwoman Gaines,
A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN "OFFER TO PURCHASE" WITH ORLANDI LABORATORIES RELATIVE TO LOT 18 OF THE ENTERPRISE SOUTH INDUSTRIAL PARK AND FURTHER AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONVEY SAID PROPERTY
was adopted.

REQUEST FOR FEDERAL FUNDS

On motion of Councilman Gilbert, seconded by Councilwoman Berz,
A RESOLUTION AUTHORIZING THE MAYOR TO SUBMIT A REQUEST FOR FEDERAL FUNDS FOR FACILITIES TO HOUSE THE REGIONAL EMERGENCY FIRE TRAINING FACILITY AT ENTERPRISE SOUTH, THE CHATTANOOGA POLICE DEPARTMENT FIREARMS TRAINING FACILITY, AND THE HICKORY VALLEY ROAD BRIDGE REPLACEMENT PROGRAM
was adopted.

SPECIAL EXCEPTIONS PERMIT

2009-019: Ward Properties, LLC

Councilman Gilbert stated that a letter was received from the applicant requesting withdrawal however he **made the motion to deny the request for withdrawal as well as the special exceptions permit request.**

Councilwoman Berz seconded the motion stating that people have worked long and hard to clean up the area.

On motion of Councilman Gilbert, seconded by Councilwoman Berz,

A RESOLUTION APPROVING A SPECIAL EXCEPTIONS PERMIT FOR A TWO-FAMILY DWELLING IN R-1 RESIDENTIAL ZONE FOR WARD PROPERTIES, LLC ON A TRACT OF LAND LOCATED AT 3816 MONTVIEW DRIVE, MORE PARTICULARLY DESCRIBED HEREIN AND AS SHOWN ON THE MAP ATTACHED HERETO AND MADE A PART HEREOF BY REFERENCE

was denied.

OVERTIME

Overtime for the week ending February 26, 2009 totaled \$66,863.74 and for the week ending March 5, 2009 totaled \$8,737.54 for a grant total of \$75,601.28 for the two weeks.

PERSONNEL

The following personnel matters for the various departments were reported:

CHATTANOOGA FIRE DEPARTMENT:

- **KELLY LILES** – Return from Family Medical Leave, Firefighter Senior, effective March 1, 2009.
- **DAMIEN VINSON** – Military Leave (Not to exceed 454 days), Firefighter Senior, effective February 28, 2009.
- **DENNIS SCHIAVON** – Suspension (2 days without pay), Fire Lieutenant, effective March 3-5, 2009.

PERSONNEL (Continued)

- **DEANGELO NEWSON** – Suspension (1 day without pay), Senior Firefighter, effective March 4, 2009.

PARKS AND RECREATION DEPARTMENT:

- **MAURICE WHITE** – Termination, Crew Worker 1, effective February 26, 2009.
- **ELLEN SHARP** – Suspension (10 days without pay), Zookeeper 2, effective February 14-18, 20-24, 2009.

CHATTANOOGA POLICE DEPARTMENT:

- **BENJAMIN TODD RICHARDS** – Medical Leave of Absence Extension, Police Officer, effective March 15, 2009.
- **DANIEL B. JONES** – Return to Duty from Military Leave, Police Officer, effective January 12, 2009.
- **SHEILA CAMERON, APRIL MILLSAPS, SADA STRICKLAND** – Hire, Police Records Technician, Range 5, \$22,046.00 annually, effective February 9, 2009.
- **MARION K. HUNTOON** – Resignation, School Patrol Officer, effective February 23, 2009.
- **RHONDA DARLING** – Return to Duty from Medical Leave, Police Officer, effective February 27, 2009.
- **DAVID G. O'MALLEY** – Retirement, Police Officer, effective March 2, 2009.
- **JEFFREY T. GAINES** – Military Leave, Police Sergeant, effective March 3 – May 8, 2009.
- **CHRISTOPHER S. LAWSON** – Military Leave, Police Officer 2, effective March 8 – July 29, 2009.

PERSONNEL (Continued)

PUBLIC WORKS DEPARTMENT:

- **JERRY MARTIN** – Family Medical Leave, Crew Worker 2, City Wide Services, effective February 20 – May 15, 2009.
- **TERRY W. DAVIS** – Promotion, Plant Operator 2, Waste Resources, Range 11, \$29,544.00 annually, effective February 27, 2009.
- **ERIC L. THREAT** – Resignation, Electrician 1, Traffic Operations, effective February 27, 2009.
- **JEFFERY D. HUNTER** – Family Medical Leave, Crew Worker 1, City Wide Services, effective February 25 – May 20, 2009.
- **DON R. FOWLKES** – Retirement, Chief Electrical Inspector, Land Development Office, effective February 26, 2009.

FINANCE DEPARTMENT:

- **CRISTY CREEL** – Lateral Transfer, Management & Budget Analyst 1, Range 17, \$41,999.98 annually, effective February 10, 2009.

EDUCATION, ARTS AND CULTURE DEPARTMENT:

- **RAYMOND W. ROBINSON** – Resignation, Business Manager-Civic Facilities, effective January 29, 2009.

DONATION

Adm. Steve Leach stated that the spring quarter Water Quality Program will have a Stream Corridor Evaluation Program Workshop on March 13 and duly reported that donations for food for the morning break will be sponsored by David Mathews Surveying Mapping and Engineers in the amount of \$250.00 and food for lunch will be sponsored by Aquaterra Engineering, LLC in the amount of \$360.00.

Chairman Bennett thanked Adm. Leach for the public works department's support and clean-up of Pineville and Mountain Creek Roads.

DONATION

Chief Randy Park duly reported the donation six (6) Life Preservers and six (6) recharge kits estimated at \$720 dollars and noted that the items would be used in the Fire Boat. He also acknowledged that the Department had the smoke detector give away in Lookout Valley this past Saturday and that Councilwoman Bennett walked around with them. He stated 74 smoke alarms were installed, 58 batteries were replaced and 251 safety information packets were distributed with the help of the Red Cross. He expressed thanks to everyone who supported them.

CHALLENGE COIN

Chief Williams presented the latest presentations of the Challenge Coin to officers of the Chattanooga Police Department. He stated Coins were presented to the following: **Sgt. Craig Thompson, Officers Patrick Hubbard, Matt Rogers, Ty Cooper, Brian Angel, Adam Cavitt, Curtis Penney and civilian Beverly Gilliland.** Presentations were also made to **Officers Robin Davenport, and Scott Crider,** as well as **Sgt. Barry Burns and Officers Lauren Bacha, Brian Wood, Zach Moody and Jeremy Williams.** He reported that **Sgt. Avery Gibb and Officers Michael Favors and Timothy Pickard** also received Coin awards.

At this time Chief Williams recognized the Department's Training staff for their accomplishments during 2008. He noted that several of the classes overlapped while they were running two academies at one time and conducting in-service training, as well. He stated the Training Staff graduated ten officers from the Academy class 2007-2; graduated sixteen officers from Academy class 2008-1; graduated seven lateral officers from Academy class 2008-2; graduated 22 cadets from class 2008-3, which concluded in February of 2009. He stated they trained over 400 police officers during sixteen weeks of state mandated in-service training; trained over 200 police officers in several Basic Patrol Rifle Classes and trained all police department police officers on in-car video camera policy, procedures and operation. He stated they have been going hard all year and are pretty much "pooped" by the end of the year! He stated that he wanted to give them credit for their hard work as training is the foundation of everything they do because if they are not trained right, initially, and given updates, it would be one of the "pay me now or pay later deals"! He stated the Department is very big on proper training.

Chairman Bennett expressed how proud the Council is of the Department's accomplishments.

CHALLENGE COIN (Continued)

Councilman Benson stated that he is really encouraged to hear Chief Williams come down and recognize officers for their achievement and apprehensions; that it is very discouraging to hear the amount of criminal activity we are not only having but also heard the officers are putting them in jail and catching them two weeks later and does not know what we can do about that. He asked what can citizens of this city and Council members do to help do this job.

Chief Williams responded several citizens groups continue to have folks band together within their communities and neighborhood watch to reach out to each other and call whenever they see something going on or looks suspicious; to call them as that is what they are there for so they can come and catch the person while the crime is happening and, hopefully, prevent it. He stated the biggest frustrations are repeat offenders; that the court watch group keeps up with them and most of these are people they (police) have seen many, many times before committing the same or increasingly violent offenses. He stated the Council's support is always with them and is always appreciated. He stated when the Council allows him to present the Challenge Coin awards and brag on themselves helps out a great deal and is a big morale boost! He stated the Challenge Coin has been good for the department for personnel to know they are appreciated because they sure do take a "beating" in the media and certain regions!

Councilman Gilbert expressed appreciation to Chief Williams and his staff noting that a lot of times people read and hear the negatives in the newspaper and on television and it is actually nice to hear things of this nature that the department is doing a great job. He stated it is his hope it will make it to the newspaper and again commended Chief Williams on doing a good job!

Councilman Page stated he would be leaving after being on the Council eight years and the Challenge Coin is one of the most important things he has seen come before this Council; that he always saw the disciplinary problems, however to hear the good stories is very important to him. He expressed thanks to Chief Williams and Councilwoman Bennett, who initiated the presentations before the Council; that it is his thought it is one of the best things that has happened to let the Council and community know of the work the department does.

Chief Williams stated in reference to Councilman Gilbert's comments, Mr. Cooke from the *Times-Free Press* has been putting the Challenge Coin awards in the newspaper lately and that has helped. He stated even though the police officers do not come before the Council when the information is presented, they do like to see their names in the paper!

CHALLENGE COIN (Continued)

Chairman Bennett acknowledged that everyone likes a little recognition.

Councilwoman Gaines expressed thanks to Chief Williams for the department's work in the community and stated that she has received many calls and noted that she sees various incidents happening through her window. She stated she is hearing from different parts of Hamilton County; that she is concerned that ladies are being knocked down at their mailboxes. She stated in this last week she has seen a lot of violence in our city and has changed some of her schedule of going out late. She asked if there is any information or pamphlets that could be shared with the neighborhood associations; that they need to hear some things on a professional mode.

Chief Williams responded if individuals are concerned the patrol office could go by and give them support and instructions at their home. He stated the violence like this past weekend is very frustrating. He mentioned the crime suppression that took place this past weekend in the Brainerd and Tunnel Boulevard areas; that 110 extra officers were on the street, made traffic stops, made arrests and seizures. He stated this is something they usually do on a rotating basis and are now much more specific; that every week they look at the crime statistics and reports and shift to that area and "put an ear out" on criminals in the area. He stated they can not be everywhere but would address and shift their assets around.

Councilwoman Gaines inquired as to what can be done with reference to ladies calling from outlying areas; that she is frightened to see the heightened robberies.

Chief Williams stated if the persons do not go to certain parts of town known to have gangs fighting and shooting, this is a very safe city with the exception of areas where there is recurring violence. He stated the persons should do the simple things, such as not park with keys left in their cars; that they should simply lock their doors. He stated in some of the home invasions people just walk up on the porch and the door is unlocked.

Councilwoman Gaines acknowledged that some may be gang related and referenced the recent burglary of a judge's home. She stated there seems to be a trend some of the gang activity has heightened into a more upscale fashion.

Chief Williams stated that group was not gang related as most are confined to four-or-five areas and usually involve drugs proceeds and turf.

CHALLENGE COIN (Continued)

Chairman Bennett thanked Chief Williams for the department's hard work.

REFUND

On motion of Councilman Pierce, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund of gross receipts tax:

HOMEWORX SUPPLY OF TN, License No. 85488-3, \$1,452.02

REFUNDS

On motion of Councilman Pierce, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refunds of water quality fees and/or property taxes were approved:

SHOPPES AT ATRIUM LLC	\$17,623.49
WILLIAM M. HULLANDER	1,175.54
ARP-GOLD - SHALLOWFORD ROAD	2,814.54
CHATT REAL ESTATE INVESTORS	33,367.84
GFS PARTNERSHIP	5,738.28
GREGORY C. HEMMINGS	2,459.32
ROBERT L. COOK	1,322.52
3 AMIGOS LAND COMPANY	1,030.20
PHILLIP KERNES	1,129.32
SLEEP CENTERS OF AMERICA	1,128.14
STEWART INC.	4,013.42
URBAN RENAISSANCE GROUP, LLC	2,202.00
URBAN RENAISSANCE GROUP, LLC	2,202.00

REFUND

On motion of Councilman Pierce, seconded by Councilwoman Gaines, the Administrator of Finance was authorized to issue the following refund due to County Assessor's Office reduced assessment for owner occupied duplex:

DWIGHT D. & CANDACE WATERHOUSE \$1,010.70

PURCHASES

On motion of Councilwoman Gaines, seconded by Councilman Page, the following purchases were approved for use by the various departments:

GENERAL SERVICES:

HARRY LEWIS CHRYSLER (Next lowest, best bid)
R0116316/B0005676

2009 Dodge Charger (*Rescind Jan. 20, 2009 approval to Prebul Auto Group*)

\$19,186.00

PARKS AND RECREATION DEPARTMENT:

SOUTHERN ATHLETIC FIELDS (Lowest and best bid)
R0119034/B0005828

Contract for Infield Conditioner for Softball Fields

\$298.00 per Pallet Unit Price

HUMAN SERVICES DEPARTMENT:

AMERIFOODS (Best bid)
R0118012

\$76,700.00 (Approximate annually)

PURCHASES (Continued)

INFORMATION SERVICES:

AIRNET
R0119373

Maintenance Co-Location

\$13,417.50

HEWLETT PACKARD
R0119600

150 Hewlett Packard Lap Top Computers

\$581,098.50

PUBLIC WORKS DEPARTMENT:

SIEMENS WATER TECHNOLOGY
P0024852

Liquid Calcium Nitrate Contract (Change order)

\$264,550.00 – Contract Approved 7/25/06
335,450.00 – Change Order #1, 3/11/08
200,000.00 – Change Order #2
\$800,000.00 – New Annual Expenditure Limit

UNIVAR USA (Lowest and best bid)
R0118289/B0005771

Sodium Hydroxide, Blanket contract

\$3.02 per gallon unit price

PURCHASES (Continued)

CAPITOL WHOLEALE FENCE COMPANY (Only bidder)
R0117344/B0005740

Fencing and Fencing Material per Ordinance 10913

(Price information available and filed with minute material of this date)

MATERIAL MATTERS INC. (Single source)
R0119822/R0119827

Biosolids Management System Support and Licensing Services per TCA 6-56-304.2

\$30,000.00

HIGHWAYS, INC. AND SOUTHEASTERN MATERIALS, INC. (Dual contracts)
R0119266/B0005837

Asphaltic Concrete (*Dual contracts will help promote fuel efficiency and better utilization of worker man house by allowing the work crews to go to the nearest supplier.*)

(Price information available and filed with minute material of this date)

Councilwoman Berz clarified that all purchases were thoroughly discussed in Committee; that the Council is not making frivolous decisions.

EARLY VOTING FOR RUN-OFF ELECTION

Special Counsel Noblett stated that the City Attorney talked with Mr. Knowles on the issue of early voting. He stated that he needs authorization that the Council is willing to have fifteen (15) days of early voting for the run-off election, March 28 – April 8 at one location, the Election Commission office.

On motion of Councilman Benson, seconded by Councilwoman Gaines, authorization was duly approved for early voting for the run-off election at one location (the Election Commission office) for March 28 – April 8, 2009.

HEARING: MAURICE HORTON

Special Counsel Noblett stated due to previous conversation with Mr. Horton's attorney, the Council has agreed to reschedule the hearing for Monday, April 6 beginning at 9 a.m.

CHAIRMEN FOR SCHEDULED HEARINGS

Special Counsel Noblett stated that chairmen need to be selected for the hearings scheduled for March 23, 30 and April 6.

Councilwoman Gaines volunteered to chair the hearings scheduled for March 23 (Chris Walker) and April 6 (Maurice Horton).

Councilwoman Berz volunteered to chair the hearing scheduled for March 30 (Maurice Smith, Jr.).

COMMITTEES

Councilman Page scheduled a meeting of **the Economic Development Committee for Tuesday, March 17 following the Legal and Legislative Committee.**

Councilwoman Berz stated that the **Budget, Finance and Personnel Committee would meet on Tuesday, March 24 at 1:30 p.m.** to complete discussion and decision making on the auditor issue.

Councilman Benson stated that the **Legal and Legislative Committee would convene on Tuesday, March 17;** that Judge Bean asked to make a presentation to us.

NEXT WEEK'S AGENDA: MARCH 17, 2009

Chairman Bennett stated all items heard on first reading tonight will be back for second reading next week. She read through the items on the remainder of the agenda which has been spread upon the minutes:

Ordinances – First Reading:

Resolutions:

- a) A resolution authorizing payment to the United States Conference of Mayors for 2009 dues in the amount of \$12,242.00.

NEXT WEEK'S AGENDA: MARCH 17, 2009
(Continued)

- b) A resolution authorizing the Department of Parks and Recreation to accept a donation from the Benwood Foundation and the Lyndhurst Foundation in the amount of \$18,453.60 to be used for the administrative costs of the Chattanooga Public Art Program.
- c) A resolution authorizing the Administrator of the Department of Parks and Recreation to enter into an agreement with Scenic City Aquatic Club to rent the Warner Park swimming pool for the purposes of the Chattanooga Invitational Swimming Meet to be held June 5-7, 2009, for the amount of \$1,500.00.
- d) A resolution authorizing the Administrator of the Department of Parks and Recreation to enter into an agreement with Scenic City Aquatic Club to rent the Warner Park swimming pool for the purposes of practice from May 18, 2009 through August 8, 2009, for the amount of \$2,000.00.
- e) MR-2008-030 City of Chattanooga, c/o Dan Thornton. A resolution authorizing the Director of General Services to enter into a Lease Agreement with Barry Garrison for property located at 5522 Clear Creek Road, more particularly described herein and as shown on the map attached hereto and made a part hereof by reference, to maintain a garden on the property.

DEBORAH SCOTT

Deborah Scott, 4600 Mountain Creek Road, stated that she is a candidate for the District 2 City Council run-off. She stated that the Council just decided to close all early voting sites except Amnicola as a way to save money, which has some merit. She stated if she was able to speak earlier she was going to remind the Council that 400 residents voted in early voting at Northgate Mall. She stated in this election her opponent in the race outpolled her at the Amnicola site two-to-one; that she (Scott) outpolled Ms. Bennett at the Northgate site two-to-one. She made the Council aware that five potential unintended consequences could occur as a result of using only the Amnicola site and noted that many elderly residents routinely vote in early voting at the Northgate site. She stated Northgate is used in early voting for District 1 and now that will be closed. She stated there is the potential for great confusion to residents who typically vote at the early voting site at Northgate and did that only less than a week ago; that it is likely to decrease participation in the site as there was low participation to begin with; and the Council may have actually altered the outcome of the election itself.

DEBORAH SCOTT (Continued)

Councilman Benson asked for clarification that 400 persons voted at the Northgate site. Mrs. Scott responded "398 voters at Northgate Mall".

Councilman Benson stated if there were 400 votes again it would cost us \$70 per voter at Northgate if 400 is divided into \$30,000 (the amount per voting site); that the Council tries to be good custodians of the citizens' money. He stated that we need to encourage and educate people to go over the C. B. Robinson Bridge, go two miles and save \$30,000 in taxes.

Mrs. Scott stated that she realizes the Council has difficult decisions in balancing money and the ability or right to vote.

Chairman Bennett expressed that she did not have the figures with her, noting that the North Woods area only had a total of 85 votes actually cast for District 1 votes at Northgate; that she is not sure how those numbers break out in terms of what is actually District 1 and another district.

Councilwoman Gaines stated that it was her understanding that the decision for the location for the run-off was made by the Election Commission.

Special Counsel Noblett responded "correct"; that the Election Commission recommended only one location be open at this point in time.

Mrs. Scott asked whether anyone on this body (Council) actually approached that body (Election Commission) to request anything of that nature.

Special Counsel Noblett responded "no one from this body". He stated the City Attorney wrote a letter.

Mrs. Scott asked if a Council person approached (them). Special Counsel Noblett again responded "no, the City Attorney did".

Councilman Pierce clarified that the precincts would be open on voting day.

Councilman Page stated that Mrs. Scott would have some merit if the precincts were not open on Election Day. He stated he understands the concern regarding the elderly as he lives in that area and Northgate is an area people use quite a bit; that it is a good place and busy place to vote. He stated just having one early voting site will not change the voting patterns at all, frankly, as the elderly can still go to Northgate.

DEBORAH SCOTT (Continued)

Councilman Page stated people can vote on Election Day at Northgate; that there are many districts that do vote in one precinct and come from all parts of the city. He stated it is a good place but is not included in the run-off, noting that the Council certainly wants to be fair.

DR. WAYNE SCOTT

Dr. Wayne Scott stated he truly would not live in this city if he believed there has been some manipulation of the election; that that is not what Deborah was implying. He stated that he has an answer to Councilmen Bennett and Benson, noting that 349 votes in District 1 were cast at the Northgate early voting site and to keep in mind there were 42 votes separating Scott and Bennett. He stated that it is his thought an argument could be made having that site open could alter the election. He commented that if Northgate were located next to the Patten Towers low income high rise it is unlikely they would vote anywhere other than Northgate Mall.

Chairman Bennett noted "that is not in District 1".

Dr. Scott asked that the Council forget that (comment) and go back to his original concerns.

ADJOURNMENT

Chairman Bennett adjourned the meeting of the Chattanooga Council until Tuesday, February 17, 2009 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)**